

# **WISCONSIN REGISTERED APPRENTICESHIP MANUAL**

## **POLICIES AND PROCEDURES OF WISCONSIN REGISTERED APPRENTICESHIP SYSTEM**

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# Contents

Occupations .....	3
Sponsor Registration .....	7
Sponsors .....	8
Program Standards.....	13
Contract .....	18
Minor Apprentices .....	20
Apprentice Selection Procedures.....	21
Apprentice Compensation.....	23
Prior Work and Education Credit .....	25
Related Instruction .....	26
Apprenticeship Completion Award Program .....	30
Recordkeeping.....	32
Equal Opportunity.....	34
Affirmative Action Plan .....	37
Compliance Review.....	41
Quality Assurance Assessment .....	43
Collective Bargaining Agreements .....	45
Layoff and Unassignment.....	46
Sponsor Deregistration & Suspension.....	47
Complaints and Appeals.....	49
Wisconsin Apprenticeship Council.....	54
Public Meetings .....	55
Public Records.....	56
Local Committee Litigation Policy .....	57

# Occupations

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## Apprenticeable Occupations

No apprentice contract can be approved for registered apprenticeship unless the occupation involved has been approved by the Wisconsin Bureau of Apprenticeship Standards (Bureau) as an "apprenticeable" occupation.<sup>1</sup> Such an occupation...

- a) Involves skills that are customarily learned in a practical way through a structured, systematic program of on-the-job supervised learning;
- b) Is clearly identified and commonly recognized throughout an industry;
- c) Involves the progressive attainment of manual, mechanical, or technical skills and knowledge which, in accordance with the industry standard for the occupation, would require the completion of at least 2,000 hours of on-the-job learning to attain;
- d) Requires related instruction to supplement the on-the-job learning.<sup>2</sup>

In order to determine if an occupation meets the aforementioned criteria, the Bureau may survey employers, trade associations and various advisory committees. The Bureau will recognize and approve apprenticeship programs registered with the U.S. Department of Labor (DOL), or a DOL-approved state apprenticeship agency (SAA), that conform with Wisconsin apprenticeship rules and regulations.

## Licensed Occupations

Certain registered apprentice occupations are also licensed through the Department of Safety and Professional Services (DSPS). These occupations are:

- a) Barber,<sup>3</sup>
- b) Cosmetologist,<sup>4</sup>
- c) Electrician,<sup>5</sup>
- d) Plumber,<sup>6</sup>
- e) Automatic Fire Sprinkler Fitter,<sup>7</sup>
- f) Funeral Director,<sup>8</sup> and
- g) Elevator Constructor.<sup>9</sup>

An apprentice in one of the licensed occupations must be registered as an apprentice with the Bureau and obtain a work permit through DSPS prior to beginning employment in the trade. Apprentices must complete all applicable DSPS requirements of their apprenticeship training program before taking the occupation's licensure examination.

**Note:** the elevator constructor apprenticeship is a federal program and apprentices must register through DOL, as opposed to the Bureau.

## Statewide Standards

Wis. Admin. Code Ch. DWD 295 grants authority to the Bureau to adopt statewide apprenticeship standards covering training, procedures, employer and apprentice qualifications, sponsor functions, and other matters related to apprenticeship training in a particular occupation.<sup>10</sup> When the Bureau adopts state

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<sup>1</sup> § DWD 295.15(1)(a)

<sup>2</sup> § DWD 295.15(2)(a)-(d)

<sup>3</sup> § SPS 50.100

<sup>4</sup> § COS 6.01(4)

<sup>5</sup> Wis. Stat. § 101.862

<sup>6</sup> Wis. Stat. § 145.06

<sup>7</sup> § SPS 305.50

<sup>8</sup> Wis. Stat. § 445.04(2)

<sup>9</sup> § SPS 205.991

<sup>10</sup> § DWD 295.02(1)

occupational standards in a given occupation, apprenticeship programs training in that occupation must meet minimum apprentice training requirements to ensure comparable skill attainment.

To gather expert advice on setting state occupational standards, the Bureau uses a network of State Trade Advisory Committees (State Committees) in each industry, trade, or occupation. This model is employed universally for construction occupations and selectively in other sectors like manufacturing, utilities, and emerging professional trades. Alternatively, where no State Committee exists, the Bureau may solicit expertise through other outlets, such as a focus group.

The State Committees are a very important part of the structure that advises the Bureau on the administration of the apprenticeship program and on communicating with all the partners in the apprenticeship program. They have been an integral part of Wisconsin apprenticeship since shortly after its inception. Just as the Advisory Council reviews and recommends overarching apprenticeship policy, the State Committees recommend policy relating to their trade(s).

## **Forming a State Committee**

Many of the existing State Committees have a long-established role within Wisconsin registered apprenticeship and are enduring. However, the need for a new State Committee may arise when one of three circumstances occurs:

- 1) two or more standing state committees merge into a single committee;
- 2) one or more occupations overseen by an existing State Committee are extracted into a new State Committee of a more appropriate scope; or
- 3) a new apprenticeship program is developed for one or more related occupations that are outside the scope of a standing State Committee.

When the Bureau identifies a need for a State Committee, or a request is made of the Bureau to establish one, the Bureau works to identify organizations that represent a cross-section of employers and employees in that occupation or industry. Willing organizations are asked to make member nominations for the State Committee. The Bureau will assign an equal number of employer and employee members from the recommendations and encourage a membership that is representative in respect to both geography and demographics.

When a new State Committee is formed for an apprenticeship program in a new sector lacking apprentice sponsors, the Bureau may assign employers from the development focus group, who were involved in the creation of the apprenticeship but who are not sponsors, until a quorum of sponsors can be attained. The Bureau also may refrain from establishing a permanent State Committee until sponsor participation reaches an operational threshold.

## **Membership of a State Committee**

The membership of a State Committee is comprised of no less than four and no more than 20 members, consisting of an equal number of members representing employer and employee interests. Membership of a State Committee must represent all occupations overseen by that committee, all types of employers active in training apprentices, and a variety of geographic areas of the state. The Bureau may designate consultants to serve as non-voting members, including technical college representatives, apprenticeship coordinators, training instructors, and other interested parties.

## **Employer Members**

Employer members will be nominated by professional organizations involved in the training of apprentices in the affiliated occupations. Such organizations must be actively training apprentices, or have done so within the last two years, to nominate a member. This requirement is waived for organizations involved in the development of a new apprenticeship occupation. Where no professional organization exists, the Bureau may identify and appoint members.

In a construction State Committee, the percentages of employer members representing union employers and non-union employers must approximate the percentages of union and non-union apprentices in the occupation(s) statewide. For example, a 10-member State Committee with 60 percent union and 40 percent non-union apprentices would have six union members and four non-union members.

## **Employee Members**

Employee members are nominated to the Bureau by employee organizations and sponsor in-house apprenticeship committees. In cases where a sponsor has no in-house apprenticeship committee, nominees will be solicited from employers or professional organizations.

## **Terms**

State Committee members will serve terms of three years and may be nominated for additional terms. Memberships will be staggered to maintain continuity. Vacancies may be filled, or members changed during an active term, at the request of the nominating entity. The Bureau may remove a person from membership on a State Committee for one or more of the following reasons:

- 1) Failure to attend at least 75 percent of the committee meetings during the membership term, unless excused by the Bureau for good cause;
- 2) Failure to meet the membership requirements outlined in this section, unless a documented exception is granted by the Bureau; and/or
- 3) Violation of any state apprenticeship statute, rule or standard.

## **State Committee Operations**

### **Meetings**

State Committees meet at least twice per year, or more frequently if requested by the Bureau, in conformity with the Wisconsin Open Meeting Law. The committee will elect two co-chairs: one employer member and one employee member. A quorum exists when at least two employer and two employee members are present. Official meeting minutes will be prepared and catalogued by the Bureau.

### **Duties**

State Committees are designed to arrive at recommendations based on consensus, meaning that the recommendations they make to the Bureau should reflect the interests of the collective group, rather than a simple majority. Reaching consensus does not assume that every member will be in complete agreement, but that a compromise has been reached. Primary State Committee functions are to:

- i. Advise the Bureau and educators, such as the Wisconsin Technical College System (WTCS) and private training centers, on curriculum content and delivery of related instruction concerning the State Committee's apprenticeship programs.
- ii. Make recommendations for revisions to the state minimum standards to the State Committee's affiliated occupations every five years, or more frequently as needed. These minimum standards include:

- a. The provisions of the Exhibit A, with the exclusion of compensation;
  - b. Minimum qualifications for apprentices, such as entrance scores;
  - c. Minimum qualifications for apprentice sponsors; and
  - d. Employer requirements to serve as an apprentice trainer.
- iii. Advise the Bureau on policies and procedures pertaining to the administration of each apprenticeship occupation associated with the State Committee, including matters related to:
  - a. Apprentice reviews;
  - b. Apprentice selection processes;
  - c. Assessing and awarding credit for previous experience and education;
  - d. Local apprenticeship committee operations and meeting frequency;
  - e. Apprentice layoff and transfer policies and procedures;
  - f. The formation and dissolution of local apprenticeship committees;
  - g. Outreach and expansion strategies.

# Sponsor Registration

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To serve as a registered apprenticeship sponsor, a program must seek approval through the Bureau and meet all state registration criteria:

- i. The training is in an apprenticeable occupation,
- ii. The program and its standards are in conformity with DWD 295,<sup>11</sup>
- iii. The program is in compliance with DWD 296.<sup>12</sup>

Employers seeking to sponsor an apprenticeship program as a sole sponsor must be in operation for at least one year prior to registration, demonstrating a stable training environment for apprentices.<sup>13</sup>

## Provisional Registration

When the Bureau determines that a program meets the criteria for registration, the Bureau grants provisional approval.<sup>14</sup> Provisional approval is given to all new sponsors and returning sponsors who have not trained apprentices in the past five years.

Provisional registration is effective for a full apprentice training cycle. For example, programs that are three years in length will have a provisional registration of at least three years. At the end of each year during the provisional training cycle, the Bureau will review the sponsor to determine compliance with apprenticeship training requirements.<sup>15</sup>

Upon completion of the sponsor's first apprenticeship training cycle, the Bureau will conduct a final provisional quality assurance assessment. The assessment will determine if the sponsor has completed its provisional registration period to achieve permanent registration status, or if the program is not operating in conformance to the regulations, in which case the Bureau may pursue program deregistration.<sup>16</sup> When a program's provisional registration is completed and permanent registration is obtained, the Bureau will issue a certificate of registration to the program sponsor.

## Apprentice Application

Sponsors must use the latest version of the Bureau's standard apprentice application and its attachments, or an acceptable alternative which, at a minimum, provides the same information as the standard form.<sup>17</sup> The standard application gathers the information needed to register an apprentice in BASERS and BASIS, create a contract, and meet affirmative action and equal opportunity requirements.

## BASERS

All registered apprenticeship sponsors in the state of Wisconsin must use the Bureau of Apprenticeship Standards Electronic Registration System (BASERS) to register new apprentice contracts. Sponsors should use BASERS to submit and execute contract-related actions where applicable. These actions are finalized when the Bureau affirms and processes them. It is the responsibility of the sponsor to initiate such actions within 40 days, such as for apprentices who have successfully completed their contract, transfers, apprentice assignment changes, new apprentice contracts, and cancellations.<sup>18</sup>

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<sup>11</sup> § DWD 295.01(2)(a)

<sup>12</sup> § DWD 295.01(2)(b)

<sup>13</sup> § DWD 295.02(1)

<sup>14</sup> § DWD 295.01(7)

<sup>15</sup> § DWD 295.01(7)

<sup>16</sup> § DWD 295.01(7)(a)-(b)

<sup>17</sup> § DWD 295.04

<sup>18</sup> § DWD 295.01(4)

# Sponsors

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Apprenticeship sponsors are parties to the apprentice contract, along with the Bureau and the apprentice. Sponsors fall into three categories:

1. Local apprenticeship committees (local committees), which oversee an apprenticeship program in one or more construction occupations for a given geographical area. Local apprenticeship committees, their membership, and geographical jurisdictions are established by the Bureau.<sup>19</sup>
2. Sole sponsors, or employers, who operate an apprenticeship training program within their own company or organization; and
3. Industry committees that manage a non-construction apprenticeship program for multiple employers.

## Local Apprenticeship Committees

Local committees are established by the Bureau and act in an advisory capacity in the operation of an apprenticeship program in the construction sector. Their membership and geographical jurisdiction are designated by the Bureau. Boundaries may be drawn based on several factors, such as union jurisdiction, technical college districts, recruitment areas and population centers, among others.

Multi-trade local committees are allowable, provided that each trade is represented by at least one member of the local committee.

## Joint Local Committee Membership

Joint local committee members consist of equal representation of employers and employees.<sup>20</sup> Joint local committees must have at least four voting members with an equal number of employer and employee members. There shall be two officers (one employer and one employee member) elected by the joint local committee, so that in the event of one's absence from any meeting, the meeting can proceed. At least one employer and one employee member must be present for a quorum. In case of unequal representation at a joint local committee meeting, the group lesser in number shall be entitled to cast the same number of votes as the other group.

The Bureau solicits employer nominations for joint local committee membership from industry or contractor organizations that represent employers that train apprentices, employer-employee organizations, and employers that train in the apprenticeable occupation.<sup>21</sup> When there is no area employer organization, the Bureau may request that the statewide employer organization or State Committee assist in identifying qualified employer members. Employer members must actively work in the trade or represent those who employ skilled workers of that trade and have trained apprentices within the past five years.

The Bureau solicits employee nominations for joint local committee membership from labor unions. Employee members must be active journeyworkers or represent active journeyworkers.

The Bureau reserves the right to take affirmative steps to ensure that underrepresented populations are included in the joint local committee membership to reflect the demographics of the local skilled workforce.

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<sup>19</sup> § DWD 295.03(1)

<sup>20</sup> Wis. Stat. § 106.001(6)

<sup>21</sup> § DWD 295.03(1)



### **Non-Joint Local Committee Membership**

A non-joint local committee consists of members representing employers.<sup>22</sup> Non-joint local committees must also have at least four voting members with two officers elected by the non-joint local committee. The Bureau will select members based on nominations from industry organizations involved with training apprentices or employers that train in the apprenticeable occupation. A quorum exists for non-joint local committees when at least two members are present.

### **Local Committee Member Removal**

The Bureau may remove a person from the membership of a joint or non-joint local committee for one or more of the following reasons:

- a) Failure to attend at least 75 percent of the local committee meetings during the membership term, unless excused by the Bureau for good cause;
- b) Failure to meet the membership requirements outlined in this section, unless an exception is granted by the Bureau; and
- c) Violation of any state apprenticeship statute, rule or standard.

### **Local Committee Functions and Duties**

- i. Recommend standards for the apprenticeship program to the Bureau.
- ii. Administer apprenticeship program in accordance with program standards.
- iii. Comply with all equal opportunity obligations and undertake affirmative action activities outlined in Wis. Admin. Code § DWD 296 and the program's affirmative action plan.
- iv. Recommend approval or denial of employer applications to employ apprentices. This recommendation must be made within 40 days of the employer application, or as soon as practicable per the local committee's regular meeting frequency.<sup>23</sup> If the local committee recommends denial, the employer must be notified in writing of the local committee's recommendation, along with the reasoning behind that recommendation, and informed of their right to request that the Bureau review and revise the local committee's recommendation. If the employer does not request review by the Bureau, the local committee's recommendation becomes final. All requests for review will be investigated by the Bureau with input from the local committee before the Bureau makes its final disposition of the application.
- v. Monitor employers for adherence to program standards and apprenticeship laws and regulations. Any noted discrepancies should be addressed, documented, and brought to the attention of the assigned apprenticeship training representative (ATR).
- vi. Ensure that apprentices receive the required range of work process experience and safeguard the training of apprentices on the job.
- vii. The local committee must ensure program, work and classroom records are kept for each apprentice.
- viii. Establish a system for the related instruction provider and employers to submit regular reports on apprentice grades, attendance, and training progress.
- ix. Review the status and progress of apprentices at least twice during their apprenticeship term, once being before the end of the probationary period, so their progress at work and school can be discussed.
- x. Provide a forum for apprentices to bring complaints alleging that an apprentice contract is not being complied with by another party to the agreement before the local committee and render a decision when warranted.<sup>24</sup> If an issue cannot be resolved, apprentices must be informed of their right to make a complaint to the Bureau within 20 days of the final decision by the local committee.<sup>25</sup>

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<sup>22</sup> Wis. Stat. § 106.001(7)

<sup>23</sup> § DWD 295.01(4)

<sup>24</sup> § DWD 295.20(1)

<sup>25</sup> § DWD 295.20(2)

- xi. Develop additional written policies related to layoff, assignment, attendance, discipline, affirmative action and equal opportunity, etc., when necessary for the administration of the apprenticeship program.
- xii. Consider petitions for credit for prior experience and education and make recommendations to the Bureau for the award of such credit. Any party to the apprentice contract may request for prior experience and education. All credit recommendations of the local committee, approved or denied, must be made in writing, and forwarded to the assigned ATR.
- xiii. Consider and initiate contract actions for review and execution by the Bureau, including registration, cancellation, transfers, and completions.
- xiv. The local committee may appoint a representative, such as an apprenticeship coordinator, who will assume responsibility and authority for certain aspects of the apprentice training program as delegated by the local committee. The local committee must specifically identify the functions delegated to the apprenticeship coordinator.

### **Meetings**

- i. Meet in conformity with the Wisconsin Open Meeting Law, including giving public notice of all meetings at least 24 hours prior to the commencement of the meeting.<sup>26</sup>
- ii. Keep minutes of each local committee meeting and submit copies of those minutes to the Bureau.
- iii. Allow for remote attendance and participation for all meetings, unless technological limitations do not allow for such attendance.
- iv. Notice of all meetings of the local committee must be provided to all committee members, related instruction provider, and the Bureau representative.
- v. Only designated local committee members have the standing to vote on local committee business. Consultants, guests, and other attendees, including Bureau representatives, do not have the authority to cast a vote at local committee meetings.
- vi. A meeting may be called by either a committee member, the Bureau, or the related instruction provider.
- vii. Local committees must meet at least twice per year, or more frequently as dictated by the state and local standards.

### **Sole Sponsor Programs**

An apprenticeship program sponsored by an individual employer is a sole sponsor program. Under this model, apprenticeship training is conducted at one location or, in the case of a multi-site sole sponsor, at multiple locations controlled by a single employer. A sole sponsor program may be operated unilaterally by management, or in conjunction with a union.

#### ***Collective Bargaining Agreement***

When a sole sponsor apprenticeship program is being established where a collective bargaining agreement is in effect, the apprenticeship program must not be in conflict with the collective bargaining agreement. If the sponsor registration process is undertaken cooperatively between the employer and an employee union, both parties will need to review and sign the program standards.

Where a collective bargaining agreement exists and the union is not part of the initial sponsor registration process, the Bureau will provide the union a copy of the application for registration and the proposed program standards. The union will then have 45 days to comment on the

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<sup>26</sup> Wis. Stat. §§ 19.81 and 19.84

application and proposed standards before the Bureau takes final action regarding the sponsor registration.<sup>27</sup>

### **Sole Sponsor Duties**

A sole sponsor must undertake the following activities in the implementation and oversight of its apprenticeship program. The sole sponsor should clearly delineate the parties (i.e. human resources, management, etc.) responsible for execution of each duty to ensure ongoing compliance and registration.

- i. Draft, and modify as needed, program standards for review and approval by the Bureau.
- ii. Administer the apprenticeship program in accordance with program standards.
- iii. Review the status and progress of apprentices at least twice during their apprenticeship term, once being before the end of the probationary period, so their progress at work and school can be discussed.
- iv. Ensure that apprentices receive the required range of work process experience and safeguard the training of apprentices on the job.
- v. The sole sponsor must maintain programs records, such as apprentice applications, active apprentices, apprentice progress records, demographic data, transfers, etc., and ensure the Bureau has ready access to those records.
- vi. Ensure that classroom records are kept for apprentices and submitted to the sole sponsor for review.
- vii. Consider and initiate contract actions for review and execution by the Bureau, including registration, cancellation, transfers, and completions.
- viii. Recommend credit for previous experience and education to the Bureau in conformity with Bureau policies and procedures.
- ix. Comply with all equal opportunity obligations and undertake affirmative action activities outlined in Wis. Admin. Code Ch. DWD 296 and the program's affirmative action plan (if applicable).
- x. Provide a process for apprentices to bring forth complaints—and resolve when warranted. If an issue cannot be resolved, apprentices must be informed of their right to submit a complaint as outlined in Wis. Admin. Code § DWD 295.20.
- xi. Develop policies related to layoff, assignment, attendance, discipline, affirmative action and equal opportunity, etc., when necessary for the administration of the apprenticeship programs.

### **In-House Apprenticeship Committee**

If a sole sponsor has more than one location where apprentices are stationed, or more than five apprentices in the program, the Bureau recommends utilizing an in-house apprenticeship committee (in-house committee).<sup>28</sup> Likewise, the applicable state standards for certain apprenticeship occupations may require the formation of an in-house committee for a sole sponsor and outline specific duties required of that in-house committee and its members. The Bureau can assist the sole sponsor in establishing procedures to form and operate an in-house committee.

When an in-house committee is established, the in-house committee will take the primary lead in executing the sole sponsor duties of the apprenticeship program or delegating those duties, such as to the employer's management or human resources personnel. An in-house committee may also appoint a representative as a full-time apprenticeship coordinator who assumes responsibility and authority for operation of the apprentice training program as is delegated by the in-house committee.

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<sup>27</sup> § DWD 295.01(10)

<sup>28</sup> § DWD 295.03(2)

## **In-House Committee Membership & Operations**

In-house committees must conform to the meeting and membership requirements set by the applicable state standards. If there are no applicable state standards, the Bureau advises that in-house committees meet at least twice each year and keep minutes for their meetings—to be made available to the Bureau upon request. Each in-house committee should have a minimum of four voting members. Membership should include at least one member with direct knowledge of the skilled apprenticeship occupation. An in-house committee may oversee apprenticeship programs with multiple trades, provided that each occupation, or major occupation group, is represented by at least one committee member with knowledge of that occupation. That committee member's attendance and participation is encouraged when an apprentice from that skilled occupation is being reviewed by the in-house committee.

### ***Joint In-House Committee***

An in-house committee for a jointly managed apprenticeship program should have an equal number of members representing employers and employees. Where the collective bargaining agreement establishes an in-house committee, the sponsor will follow the terms of that agreement, provided that they are not in conflict with state statutes or apprenticeship rules.

## **Industry Committee**

An industry committee is a sponsor which operates a registered apprenticeship program on behalf of multiple employers, generally in the same sector or occupation. Industry committees must abide by the all the sole sponsor duties detailed in this chapter, in addition to:

- a) Provide advanced notice to the designated ATR of scheduled industry committee meetings; meetings are to be open for the ATR to attend, including virtually, and scheduled so as to avoid conflicts with the ATR's schedule.
- b) Recommendations for apprentice-related contract actions originating from the sponsor are finalized only at formal industry committee meetings or by an industry committee-designated apprenticeship coordinator. All recommendations are subject to review and final approval by the Bureau.
- c) Process apprentice applications in a timely manner.
- d) Review and recommend for approval or disapproval employer requests to train an apprentice. This recommendation must be within 40 days, or as soon as practicable per the industry committee's regular meeting frequency. If approval is recommended, the Bureau may proceed with the preparation of the contracts. If, however, the industry committee recommends denial, the industry committee shall refer the employer to the Bureau.<sup>29</sup>
- e) An industry committee must receive regular progress records for each apprentice from both the employer and the training provider. It is the industry committee's responsibility that adequate classroom and work records are kept for each apprentice.
- f) Information from employers and supervisors should be considered as part of each apprentice review, so that all viewpoints are available to the industry committee.
- g) Ensure the confidentiality of all information and matters brought forth before the industry committee, especially those related to apprentice performance, progress, and other sensitive matters.

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<sup>29</sup> § DWD 295.01(4)

# Program Standards

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In order to train apprentices in Wisconsin, all sponsors must have a set of written standards, which is approved by the Bureau, representing the terms and conditions of employment, training, and supervision of apprentices.<sup>30</sup> Apprenticeship program standards must adhere to:<sup>31</sup>

- a. Requirements outlined either by state law, administrative rule, or Bureau policy, which are applicable to all programs, and
- b. State occupational standards adopted by the Bureau, usually based on recommendations from a State Apprenticeship Trade Advisory Committee, for a given occupation.

Program standards must contain provisions addressing the following mandatory elements.<sup>32</sup>

## 1) Skilled Occupation

Standards must identify the skilled occupation, or occupations, in which apprentices will be trained.<sup>33</sup> Each occupation must meet the criteria of an apprenticeable occupation.<sup>34</sup>

## 2) Term of Apprenticeship

The sponsor must indicate, for each occupation, the basis for tracking apprentice progress: competency, time, or a hybrid. Regardless of the tracking method, an apprenticeship must entail at least one year of work experience and related instruction.<sup>35</sup>

### Competency-Based

The occupation must be approved for administration as a competency-based apprenticeship by U.S. DOL. If not, the sponsor must consult the Bureau to determine if it is suitable as a competency-based occupation. The program standards must detail:<sup>36</sup>

- a. The on-the-job learning component of the apprenticeship program;
- b. The required competencies to be mastered during the apprenticeship;
- c. How demonstration of the competencies will be determined, including written and hands-on evaluations that occur in a controlled setting that permit accurate and verifiable results;
- d. The related instruction, which must comply with the apprenticeship statute, regulations, and rules.

### Time-Based

The traditional method of apprenticeship delivery, consisting of at least 2,000 hours of on-the-job learning. This approach monitors an apprentice's progress through tasks described in a work process schedule for the occupation.<sup>37</sup>

### Hybrid

Measures skill attainment through a combination of a specified minimum number of hours of on-the-job learning and successful demonstration of competencies as described in Exhibit A to the apprenticeship contract.<sup>38</sup>

## 3) Work Processes

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<sup>30</sup> § DWD 295.02(2)(a)

<sup>31</sup> § DWD 295.02(2)

<sup>32</sup> § DWD 295.02(2)(b)

<sup>33</sup> § DWD 295.02(2)(b)(1)

<sup>34</sup> § DWD 295.15

<sup>35</sup> Wis. Stat. § 106.01(1)

<sup>36</sup> § DWD 295.02(2)(b)3

<sup>37</sup> § DWD 295.02(2)(b)2

<sup>38</sup> § DWD 295.02(2)(b)4

Standards must contain a schedule of work processes associated with the apprenticeship occupation.<sup>39</sup> The work processes are an outline of supervised work experience that the apprentice will receive through on-the-job learning.

#### **4) Related Instruction**

The provision for organized, related and supplemental instruction relevant to the occupation must be outlined in the standards and include a minimum of 144 hours of paid related instruction per year for the first two years of the program. Programs which are longer than two years must have at least 400 hours of paid related instruction during the term of the apprenticeship.<sup>40</sup> Instruction may be delivered through the classroom, occupational or industry courses, electronic media, or other instruction approved by the Bureau. Instructors must meet educational and occupational requirements established by the Bureau and WTCS.<sup>41</sup>

#### **5) Progressive Wage Scale**

Program's standards must clearly outline a progressive wage scale.<sup>42</sup> The entry wage cannot be less than the minimum wage identified in the federal Fair Labor Standards Act, unless a higher wage is required under Wisconsin's wage and hour laws or by a collective bargaining agreement. The schedule of wages must progressively increase commensurate with skilled acquired by the apprentice.<sup>43</sup> The apprentice wage must average at least 60 percent of the skilled wage rate over the course of the apprenticeship.<sup>44</sup>

#### **6) Progress Reviews and Recordkeeping**

Sponsors are responsible for conducting periodic review and evaluation of apprentice work and educational progress and for maintaining apprentice related progress records. The method and frequency of these reviews will be detailed in the program standards.<sup>45</sup> Sponsors must review an apprentice's progress at least twice during the course of the apprenticeship terms, including once before the end of the probationary period.

#### **7) Numeric Ratio Description**

Program standards must identify a numeric ratio of apprentices to journeyworkers that is consistent with proper supervision, training, safety, and continuity of employment. The ratio language shall be specific as to its application to the job site, workforce, department, or plant—with the sponsor's workforce being the preferred manner of expressing the ratio for Wisconsin registered apprenticeship programs.<sup>46</sup> The ratio shall not exceed one journeyworker per apprentice, except where a collective bargaining agreement applies, then the ratio prescribed in the agreement may be used.<sup>47</sup>

#### **8) Probationary Period**

The length of the probationary period for the apprentice, in relation to the full apprenticeship term, must be designated in the program standards.<sup>48</sup> The probationary period cannot exceed 25 percent of the length of the program, or one year, whichever is shorter.

#### **9) Statement of Safety**

The program standards must include a statement regarding how the sponsor will ensure adequate and safe training for apprentices concerning equipment, facilities, on the job, and in related instruction.<sup>49</sup>

#### **10) Minimum Applicant Qualifications**

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<sup>39</sup> § DWD 295.02(2)(b)5

<sup>40</sup> Wis. Stat. § 106.01(6)(b)

<sup>41</sup> § DWD 295.02(2)(b)6

<sup>42</sup> § DWD 295.02(2)(b)7

<sup>43</sup> 29 CFR § 29.5(8)

<sup>44</sup> § DWD 295.05(1)

<sup>45</sup> § DWD 295.02(2)(b)8

<sup>46</sup> § DWD 295.02(2)(b)9

<sup>47</sup> Wis. Stat. § 106.015(2)

<sup>48</sup> § DWD 295.02(2)(b)10

<sup>49</sup> § DWD 295.02(2)(b)11

The minimum qualifications for an apprentice applicant must be stated in the standards.<sup>50</sup> State apprenticeship regulations require that all apprentices be at least 16 years of age.

### **11) Apprentice Contract**

Programs must utilize a written apprenticeship contract, which meets the requirements of Wis. Stat. § 106.01.<sup>51</sup> The contract must incorporate by reference the complete apprenticeship program standards.

### **12) Advanced Standing or Credit**

The program standards must contain provisions detailing the terms of awarding advanced standing or credit for demonstrated competency, experience, training, or skills in the occupation.<sup>52</sup> If advanced standing or credit is made available for applicants, it must be available to all applicants uniformly. The wages paid to apprentices awarded advanced standing must be in accordance with the program's schedule of wages.

### **13) Transfer Provisions**

The program standards will outline the terms dictating transfer of an apprentice, either between apprenticeship programs or between employers within an apprenticeship program. A transfer must be based on agreement between the apprentice, affected sponsor(s), and the Bureau. The following must apply:

- i. The apprentice must be provided a transcript of related instruction and on-the-job learning by the local committee or sponsor. When transferring between programs, the transcript must contain the comprehensive accomplishments, credits, and hours of training completed by the apprentice and form the basis for the new sponsor to award credit for the prior experience.
- ii. The transfer must be to the same occupation.
- iii. A new apprenticeship contract must be executed when a transfer occurs between program sponsors.<sup>53</sup>

An apprentice who has completed probation before transferring to another employer within the same apprenticeship program cannot be required to undergo a new probationary period. If an apprentice has not completed the probationary period, then they will only need to complete the remaining probationary hours.

Where the apprentice is entering into a new apprenticeship agreement under a new sponsor, an additional probationary period may be required by the new sponsor. The period can be up to 25 percent of the remaining apprenticeship term, not to exceed one calendar year.<sup>54</sup>

### **14) Apprentice Supervision**

The program standards must include provisions for the assurance of qualified training personnel and adequate supervision of the apprentice on the job.<sup>55</sup> The sponsor must ensure that apprentices are trained in the core work processes for the occupation, and that the apprentice's employer (which is the sponsor in the case of a sole sponsor program) employs at least one full-time journeyworker or qualified supervisor or other individual to oversee the training. This arrangement must be clear to the apprentice and the person(s) responsible.

### **15) Completion Certificate**

The program standards must include provisions related to the recognition of successful completion of the apprenticeship.<sup>56</sup> Initiation of the completion process is the responsibility of the sponsor, who must notify

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<sup>50</sup> § DWD 295.02(2)(b)12

<sup>51</sup> § DWD 295.02(2)(b)13

<sup>52</sup> § DWD 295.02(2)(b)14

<sup>53</sup> § DWD 295.02(2)(b)15.a-b

<sup>54</sup> § DWD 295.02(2)(b)10

<sup>55</sup> § DWD 295.02(2)(b)16

<sup>56</sup> § DWD 295.02(2)(b)17

the ATR when an apprentice has completed all components of the contract (on-the-job-learning, paid related instruction, and any special provisions). Meanwhile, the related instruction provider will verify that the apprentice has satisfactorily completed their related instruction. Before issuing a completion certificate to the apprentice, the Bureau will confirm that the apprentice has satisfactorily completed all contract requirements.

## **16) Interim Credentials**

Program sponsors that utilize the competency-based or hybrid approach for progression through an apprenticeship can choose to incorporate interim credentials linked to attaining competency in specific knowledge, skills, and abilities associated with recognized, discrete components of the occupation. Sponsors must clearly identify the interim credentials in their program standards.<sup>57</sup> The sponsor must demonstrate how the credentials link to industry-recognized components of the occupation and establish the process for assessing the apprentice's demonstration of competency. The inclusion of interim credentials in a sponsor's standards is subject to approval by the Bureau. The Bureau will issue the interim credential when assured by the sponsor that the apprentice has satisfied the requirements.<sup>58</sup>

## **17) Agency Identification**

Program standards must clearly identify the apprenticeship registration agency, which in Wisconsin is Department of Workforce Development, Bureau of Apprenticeship Standards.<sup>59</sup>

## **18) Program Registration, Cancellation & Modification**

Program standards must contain provisions for the registration, cancellation, and deregistration of the program; along with prompt submission of any modification or amendment of the program standards to the Bureau for approval.<sup>60</sup> A copy of any Bureau-approved modification to the standards will be furnished to each affected apprentice. An existing apprentice contract affected by the amendment of standards will not be altered, unless all parties consent.

## **19) Contract Registration, Modification & Notice**

Program standards must address the registration of apprentice agreements and their modification or amendment. Additionally, standards must state that proper notice will be given to the Bureau in the case of apprentice completion, transfer, unassignment, or cancellation, along with the reasons behind such actions or requests.<sup>61</sup>

## **20) Probationary Contract Cancellation**

Standards must state that cancellation of the contract during the probationary period can be executed by either party without a stated cause or justification. Doing so does not have an adverse impact on the sponsor's completion rate as it relates to regulatory oversight.<sup>62</sup>

## **21) Equal Opportunity Standards**

All program standards must include a statement that the program will be operated and administered in conformity with state and federal apprenticeship equal opportunity and affirmative action provisions (detailed in Wis. Admin. Code Ch. DWD 296 and 29 CFR 30).<sup>63</sup> The standards must also include:

- i. The most recent version of the Bureau's equal opportunity pledge, including the pledge prescribed in 29 C.F.R. § 30.3 and requirements of the Wisconsin Fair Employment Act;
- ii. An affirmative action plan, if applicable;

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<sup>57</sup> § DWD 295.02(2)(b)18

<sup>58</sup> § DWD 295.001(11)

<sup>59</sup> § DWD 295.02(2)(b)19

<sup>60</sup> § DWD 295.02(2)(b)20

<sup>61</sup> § DWD 295.02(2)(b)21

<sup>62</sup> § DWD 295.02(2)(b)22

<sup>63</sup> § DWD 296.10(1)



- iii. A procedure for apprentice selection that conforms with Wis. Admin. Code § DWD 296.10 and explains in detail the methods utilized by the sponsor in choosing apprentices for program openings.

## **22) Complaint Procedures & Contacts**

Standards must include the contact information, including name, address, telephone number and email address, for the appropriate individual with authority under the program to receive, process and resolve complaints.<sup>64</sup>

## **23) Recordkeeping**

The program standards must address the preservation and maintenance of all records within the apprenticeship program concerning apprenticeship, as required by the Bureau and applicable regulations.<sup>65</sup>

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<sup>64</sup> § DWD 295.02(2)(b)24

<sup>65</sup> § DWD 295.02(2)(b)23

# Contract

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The apprenticeship contract details the stipulations of the apprenticeship training program and incorporates the program standards by reference. The contract must be agreed to and signed by the sponsor, the director of the Bureau (on behalf of the Department), and the apprentice (or in the case of a minor, the parent or guardian).<sup>66</sup> The contents of each apprentice contract are not valid unless approved by the Bureau.<sup>67</sup> The Bureau generates each contract. The contract face template, created by the Bureau, is in accordance with Wis. Admin. § 295.07.

## Exhibit A

Each apprenticeship contract will include a document designated as "Exhibit A." An Exhibit A is developed for each occupation associated with a program sponsor and included in the program standards. The Bureau approves the content of the Exhibit A through its authority to set local and state apprenticeship standards.<sup>68</sup> The Exhibit A contains a synopsis of the following requirements of the apprenticeship, as approved by the Bureau, and in accordance with the program standards and Wis. Admin. § 295.07.

### *Term of apprenticeship*

The term may be based on competency, time, or a hybrid of the two. If time-based, then the number of hours, months or years necessary to complete the apprenticeship program are stated. If competency based, the Exhibit A includes a description of the skills to be attained and any on-the-job learning component. A hybrid program will state the number of hours to be spent by the apprentice on the job along with a description of the skills to be attained.<sup>69</sup>

### *Probationary period*

The period and stipulations of the probationary period, which can either be expressed in hours or months.<sup>70</sup>

### *School attendance*

The number of hours of paid related instruction and the related instruction provider.<sup>71</sup>

### *Work process schedule*

The basic job tasks of the apprenticeship program. For a time-based program, the approximate time the apprentice will spend on each work process. For a competency-based program, a description of the skill sets to be attained. A hybrid program will contain a combination of both. The schedule must be comprehensive enough to reflect the intent to train the apprentice in all primary job tasks of the related occupation. The schedule need not be followed in the sequence outlined in the Exhibit A.<sup>72</sup>

### *Minimum compensation to be paid*

The graduated wage scale, including the skilled wage rate, to be paid to the apprentice.<sup>73</sup>

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<sup>66</sup> § DWD 295.07(3)(a)

<sup>67</sup> § DWD 295.07(1-2)

<sup>68</sup> § DWD 295.02(1)

<sup>69</sup> § DWD 295.07(3)(e)1

<sup>70</sup> § DWD 295.07(3)(h)1

<sup>71</sup> § DWD 295.07(3)(e)2

<sup>72</sup> § DWD 295.07(3)(f)

<sup>73</sup> § DWD 295.07(3)(g)

### ***Credit provisions***

A description of any advanced standing work or education credit awarded to an apprentice and the wage commensurate with that advanced standing.<sup>74</sup>

### ***Special provisions***

The special provisions describe additional stipulations or requirements of the apprenticeship program not contained elsewhere in the apprentice contract. For example, this section may detail additional unpaid instructional hours that the apprentice is required to take on their own time, required industry or employer certifications, training courses mandated by the Bureau.

## **Contract Completion**

To complete the apprenticeship program, apprentices must satisfy the work, competency, and related instruction requirements, as well as any special provisions, outlined in their contract. Initiation of the completion process is the responsibility of the sponsor, who must notify the ATR when an apprentice has completed all components of the contract (on-the-job-learning, paid related instruction, and any special provisions). Meanwhile, the related instruction provider will verify that the apprentice has satisfactorily completed their related instruction.

Before issuing a completion certificate to the apprentice, the Bureau will confirm that the apprentice has satisfactorily completed all contract requirements.

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<sup>74</sup> § DWD 295.07(3)(L)

## Minor Apprentices

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Any person 16 years of age or older may enter into an apprentice contract. For an apprentice who has not reached 18 years of age, a parent or legal guardian must approve of and sign the apprentice contract. If there is no guardian, a deputy of the Department may sign the contract.<sup>75</sup>

Minors are generally prohibited from employment in occupations deemed hazardous under Wis. Admin. DWD § 270.12, but minors performing service within the provisions of an apprenticeship contract registered with the Department are exempted from those prohibitions.<sup>76</sup> However, minor apprentices are not exempted from all child labor protections. For example, minor apprentices are still subject to the restrictions on the number of hours of labor they may perform.<sup>77</sup>

Similarly, federal law provides workplace protections for minors, such as prohibitions against engaging in the hazardous occupations enumerated under 29 CFR §§ 570.51-570.68. There are some exemptions from these prohibitions for minor apprentices who are registered with the Department or DOL and which meet certain criteria as outlined in the federal requirements.<sup>78</sup>

## High School Seniors

High school students are only eligible to become part of an apprentice contract if they are at least 16 years old, enrolled in grade 12 of a public school, and meet a number of special conditions. High school applicants must meet the applicable minimum qualifications to be an apprentice in that occupation, with the exception of a high school diploma or equivalency requirement, as long as the high school they attend does the following:

- i. Certifies that the student is expected to graduate by the end of the current school year;
- ii. Certifies that the apprenticeship training schedule will not adversely affect the student's graduation;
- iii. Agrees to award high school credit for the student's related instruction during the first year of the apprenticeship;
- iv. Agrees to award high school credit to the student for on-the-job training completed during the first year of the apprenticeship.<sup>79</sup>

In addition, the employer must agree to employ the high school apprentice on a part-time basis during periods when school is in session throughout the first year of the apprentice contract. At a minimum, the student must complete at least 450 hours of on-the-job training during that first year while maintaining their status as an active high school student.<sup>80</sup> No later than one year after the apprenticeship term begins, the student must furnish proof of high school graduation or equivalency, at which point they must transition to full-time employment consistent with the standard apprenticeship work expectations for that occupation.<sup>81</sup>

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<sup>75</sup> Wis. Stat. § 106.01(1)

<sup>76</sup> DWD § 270.14(1)

<sup>77</sup> DWD § 270.11

<sup>78</sup> 29 CFR § 570.50(b)

<sup>79</sup> Wis. Stat. § 106.07(2)(a-d)

<sup>80</sup> Wis. Stat. § 106.07(3)(a)

<sup>81</sup> Wis. Stat. § 106.07(4)

# Apprentice Selection Procedures

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A selection procedure is considered any measure, combination of measures, or procedure used as a basis for entry into a registered apprenticeship program. These procedures may entail traditional paper and pencil tests, performance tests, training programs, educational and work experience requirements, physical requirements, interviews, or application forms. A sponsor's procedures for the selection of apprentices are included in the written plan for standards of apprenticeship submitted to and approved by the department under § DWD 295.02.<sup>82</sup>

A sponsor may utilize any method, or combination of methods, for selection of apprentices if the selection method meets the requirements under 29 CFR § 30.10(b) and does not violate Wisconsin's fair employment laws. This means, the selection process must:

- i. Be uniformly and consistently applied to all applicants and apprentices within each selection procedure utilized.<sup>83</sup>
- ii. Not discriminate in regard to an applicant's race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, disability, conviction or arrest record, marital status, or membership in the armed forces.<sup>84</sup>
- iii. Comply with the federal Uniform Guidelines on Employee Selection Procedures (UGESP), which requires the sponsor to evaluate the impact of the selection procedure on race, sex, and ethnic groups and to demonstrate job-relatedness and business necessity for selection procedures that result in adverse impact in accordance with UGES.<sup>85</sup>
- iv. Comply with the Americans with Disabilities Act, meaning it must not screen out or tend to screen out an individual with a disability or a class of individuals with a disability, unless the selection criteria is shown to be job-related for the position in question and is consistent with business necessity.<sup>86</sup>

Common selection procedures include, but need not be limited to:

- First-come, first-served (of eligible applicants);
- Rank order based on scores from one or more qualification standard;
- Random selection from pool of eligible applicants;
- Selection from pool of current employees; and
- Direct entry into the apprenticeship program.

Sponsors may elect to utilize multiple selection procedures in their program, for example incorporating a direct-entry method to their standard selection method in order to integrate underutilized populations from a certified pre-apprenticeship program, Job Corps graduates, or veterans from qualifying military occupations or training programs.

Sponsors should maintain records or other information which will disclose the impact which its selection procedures have upon employment opportunities of persons by identifiable race, sex, or ethnic groups. See the federal Uniform Guidelines on Employee Selection Procedures (41 CFR § 60.3) for additional information.<sup>87</sup>

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<sup>82</sup> § DWD 296.10(1)

<sup>83</sup> 29 CFR § 30.10(b)(2)

<sup>85</sup> 29 CFR § 30.10(b)(1)

<sup>85</sup> 29 CFR § 30.10(b)(1)

<sup>86</sup> 29 CFR § 30.10(b)(3)

<sup>87</sup> 41 CFR § 60-3.4A

## **Application Forms**

Sponsors must use the Bureau's standardized apprentice application form and its attachments, or utilize an acceptable alternative that attempts to gather, at a minimum, the information gathered in the standardized form and its attachments.<sup>88</sup> The apprentice application form attachments include:

- a) Voluntary EEO Form
- b) Voluntary Disability Disclosure Form (for sponsors with affirmative action programs only)<sup>89</sup>

## **Family-Owned Construction Business**

An owner of a construction business which is owned by one person or jointly by two persons related by blood or marriage may select a son or daughter for an apprenticeship opening provided they meet the qualifications for the trade, and the business has met the requirements for training apprentices.<sup>90</sup> The son or daughter may then be registered as an apprentice, without regard to a program's selection procedures. This cannot be used to displace an apprentice already registered to that business and must not conflict with a collective bargaining agreement affecting the business.<sup>91</sup>

## **Home Schooled Applicants**

A sponsor may require an apprentice applicant to present a high school diploma or its equivalent, in accordance with statewide occupational standards set by the Bureau. For a home-schooled applicant, the Bureau's policy is as follows:

### ***Wisconsin***

For applicants that completed instruction in a home schooling program in Wisconsin, the applicant must provide [Form PI-1206](#) for each year of enrollment and proof of completion, such as a transcript and home-issued diploma.

### ***Out of State***

For applicants in a home schooling program in another state, they must present proof of completion of a secondary school education in a home school setting that complies with the state law of the state in which such program was completed.

If the applicant is unable to provide acceptable documentation, that individual is treated as any other applicant who is unable to provide documentation of a high school diploma or equivalency.

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<sup>88</sup> § DWD 295.04

<sup>89</sup> § DWD 296.11

<sup>90</sup> § DWD 295.10(2)

<sup>91</sup> § DWD 295.10(1)-(4)

# Apprentice Compensation

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## Hours of Work

Apprentices are to be employed as full-time employees and assigned the same number of hours as skilled workers in the same trade—up to 55 hours per week of combined paid related instruction and work. Because successful completion of an apprenticeship requires a major commitment from both the apprentice and the employer, the Bureau will not approve any apprenticeship program or contract that provides for less than full-time employment, except in the case of high school apprentices or other extenuating circumstances.

## Apprentice Wages

The apprentice wages must average at least 60 percent of the journeyworker or skilled wage rate over the term of the apprenticeship, and no apprentice can be paid less than the applicable state or federal minimum wage.<sup>92</sup>

The contract must provide for a progressive schedule for wage increases over its term.<sup>93</sup> A common method used to present the apprentice wage schedule in the contract is to connect it to the skilled wage, typically as a percentage. This automatically accounts for adjustment to the apprenticeship wage in the event that the skilled wage changes. When the apprentice wage is governed by a bargaining agreement, that agreement governs and supersedes the apprentice contract.<sup>94</sup>

### *Related Instruction*

Apprentices are to be paid their regular wages during paid related instruction. Apprentices must be paid for the minimum number of related instruction hours, or the related instruction hours specific in the contract, whichever is greater.<sup>95</sup> The employer may require an apprentice to take additional instruction on their own time, unpaid.<sup>96</sup> Any unpaid related instruction associated with the apprenticeship program must be referenced in the Exhibit A under the special provisions section. Unpaid instruction may only be incorporated after the availability of the required paid hours of related instruction is assured.

## Skilled Wage Rate

In establishing the skilled wage rate for the construction sector, where a collective bargaining agreement exists, the rate specified in the agreement applies.<sup>97</sup> However, in the construction sector, when a bargaining agreement does not apply, the Bureau uses wage data as the basis for establishing the skilled rate. The wage rate is based on an average (mean) of the wage data collected for that occupation and organized by geographical area of the appropriate local committee. The Bureau will not normally approve a skilled rate for apprenticeship purposes more than 20 percent below the journeyworker rate in the area. Because of varied geographical jurisdictions, the skilled wages for the same trades and occupations may differ. The Bureau reviews the skilled wage rate annually and adjusts it accordingly.

Similarly, in other industry sectors where collective bargaining is undertaken for an individual program, such as for a sole sponsor, the skilled wage rate established in that agreement applies. When a bargaining agreement does not exist to establish a skilled wage rate for an individual program, the skilled wage rate is calculated by rate paid to the greatest number of competent journeyworkers in that establishment.<sup>98</sup>

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<sup>92</sup> § DWD 295.05(1)

<sup>93</sup> § DWD 295.05(1)

<sup>94</sup> § DWD 295.06(1)

<sup>95</sup> Wis. Stat. § 106.01(6)(a)

<sup>96</sup> Wis. Stat. § 106.01(6)(c)

<sup>97</sup> § DWD 295.05(2)

<sup>98</sup> § DWD 295.05(3)

## **Overtime Pay**

Apprentices are permitted to work overtime.<sup>99</sup> However, the total number of hours of paid related instruction and work that a sponsor may assign to an apprentice must not exceed 55 in a given week.<sup>100</sup> Unpaid related instruction is not included in the calculation of the 55-hour limit. In addition, the sponsor and employer must consider if quality training can be maintained or if the apprentice's progress in the apprenticeship program is adversely impacted when determining the extent to which to assign overtime work.

If the apprentice works overtime, their rate of pay must increase by the same percentage as the journeyworker's rate of pay increases during overtime work in the same industry or establishment.<sup>101</sup> For example, if a journeyworker's rate for overtime is time and one-half (150 percent) or double time (200 percent), then an apprentice's rate must increase by the same percentage.

### ***Related Instruction Overtime Exemption***

Generally speaking, Wisconsin's wage and hour regulations dictate that employees must be paid at least time and one-half for hours worked in excess of 40 in a week.<sup>102</sup> However, time spent attending related instruction need not be counted as work time for the purpose of computing overtime, unless required by an applicable bargaining agreement.<sup>103</sup>

## **Fringe Benefits**

Any fringe benefits paid to employees of the employer in the same job occupation as the apprentice must also be paid to the apprentice. This policy does not mean the same level of benefits must be provided to apprentices as fellow employees, but the same type of benefits must be available.

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<sup>99</sup> Wis. Stat. § 106.01(7)

<sup>100</sup> Wis. Stat. § 106.01(6)(b)

<sup>101</sup> Wis. Stat. § 106.01(7)

<sup>102</sup> § DWD 275.03

<sup>103</sup> § DWD 274.04(6)



## **Prior Work and Education Credit**

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Apprentices may be eligible for credit for both prior work experience and related instruction. Apprenticeship contracts, in the Exhibit A, must contain a statement of any advanced standing awarded to the apprentice.<sup>104</sup> If the application of any prior credit advances the apprentice to a higher wage, then that wage must be applied.

### **Registered Apprenticeship Credit**

Progress achieved by the apprentice, in both work and related instruction, under a previous Wisconsin registered apprentice contract in a commensurate occupation must be recognized under the new contract and awarded to the apprentice. Parties may petition the Bureau (through the assigned ATR) if they seek an exception to this policy due to extenuating circumstances. Such a request must be made in writing and contain a clear explanation as to the basis for the exception. The Bureau will make the final determination in awarding past apprenticeship credit to apprentices. This credit (unless denied) must be applied at the beginning of the contract.

### **Work Credit**

Apprentices may be granted credit for previous work experience associated directly with the occupation. Such credit should only reflect actual work time or training in the occupation. Credit may be awarded for up to, but not including, the final year of the term of apprenticeship. Credit should be granted prior to the end of the probationary period, or at least as soon as a proper evaluation can be made of the credit request. Work credit requests must be in writing to, and approved by, the Bureau (generally through the assigned ATR).

### **Paid Related Instruction Credit**

The apprentice may request credit for paid related instruction from the sponsor. If the sponsor recommends advanced standing for paid related instruction, the Bureau will contact the provider of related instruction to conduct an assessment of the apprentice's previous school experience. A test, portfolio, or skills demonstration may be used for evaluation of the apprentice's past educational attainment.

The provider of related instruction will notify the Bureau once the assessment or evaluation is completed. If advanced standing is recommended by the related instruction provider, the Bureau will apply the awarded hours as credit toward the apprentice's contract completion and notify the provider of related instruction, the apprentice sponsor, and the apprentice of this action. If the application of the credit advances the apprentice to a higher wage, then that wage must be applied by the employer. If the Bureau does not award credit toward the apprentice's contract, it will notify the parties involved of this determination.

### **Unpaid Related Instruction Credit**

The apprentice or sponsor may also request credit for unpaid related instruction. However, in the case of unpaid related instruction, the sponsor may recommend directly to the Bureau an award of prior credit for the apprentice, without the recommendation of the related instruction provider. The sponsor may choose to request assistance from the provider of related instruction to assess the related schooling. The Bureau will notify the provider of related instruction, the apprentice sponsor, and the apprentice whether or not credit will be given for unpaid related instruction.

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<sup>104</sup> § DWD 295.07(3)(L)

## Related Instruction

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Related instruction is "an organized and systematic form of instruction designed to provide the apprentice with the knowledge of the theoretical and technical subjects related to the apprentice's occupation."<sup>105</sup> It is a required component of every registered apprenticeship training program.<sup>106</sup> Related instruction falls into two categories: paid and unpaid.

### **Paid Related Instruction**

During paid related instruction, employers compensate apprentices at their standard rate of pay.<sup>107</sup> If the apprenticeship duration is for two years or less, 144 hours of paid related instruction is required per year.<sup>108</sup> If the apprenticeship duration is longer than two years, then the paid related instruction must not be less than 400 hours during the term of apprenticeship.<sup>109</sup> However, it is allowable for total hours of paid related instruction to exceed these statutory minimums.

### **Unpaid Related Instruction**

The apprentice and the program sponsor may enter into an agreement requiring that the apprentice take additional unpaid related instruction on the apprentice's own time in excess of the number of paid related instruction hours required by law.<sup>110</sup> Unpaid related instruction is often used to supplement technical subjects not covered in the core curriculum. This type of agreement is outlined in the special provisions section of the apprentice contract.

## Related Instruction Providers

Employers and sponsors have three options for related instruction delivery, subject to approval by the Bureau:

### **1. *WTCS College and Faculty***

Related instruction for most apprenticeships is provided at a Wisconsin technical college by technical college instructors. According to state law, the training of apprentices is part of the primary mission and purpose of the WTCS.<sup>111</sup> Non-apprentices are prohibited from enrolling in apprentice technical instruction courses using the WTCS Aid Code 50.

### **2. *Independent Training Provider (with WTCS Faculty)***

The employer or sponsor may request that related instruction be provided through an independent training center, or virtual platform, and contract with a WTCS college to provide instruction of the curriculum.<sup>112</sup>

### **3. *Independent Training Provider***

The employer or sponsor may request related instruction be delivered through an independent training provider using instructors employed by that provider, the employer or sponsor.

## Independent Training Approval

### ***Review & Inspection***

The Bureau must approve all requests to provide related instruction outside of the WTCS, prior to the implementation of such instruction. As part of the approval process, the Bureau will review program and course outcomes; established competencies; total contractual hours of related instruction; instructor qualifications, administrative and record-keeping procedures; and will inspect the training

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<sup>105</sup> § DWD 295.001(20)

<sup>106</sup> § DWD 295.15(2)(d)

<sup>107</sup> Wis. Stat. § 106.01(6)(a)

<sup>108</sup> Wis. Stat. § 106.01(6)(b)

<sup>109</sup> Wis. Stat. § 106.01(6)(b)

<sup>110</sup> Wis. Stat. § 106.01(6)(c)

<sup>111</sup> Wis. Stat. § 38.001(1m) and (2)

<sup>112</sup> Wis. Stat. § 38.14

center. Independent training centers must maintain labor neutrality. Union or employer association activities or promotional materials must not interfere with or encroach upon classes or undermine the neutrality of the training center for all students. The Bureau will use its routine facility inspections and complaints procedures to identify and investigate possible violations of this policy. In addition, sponsors must ensure centers are available and accessible to apprentices regardless of race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, or disability.<sup>113</sup>

### ***Withdrawal from WTCS***

Current programs or sponsors that want to change related instruction from WTCS to an independent training center or provider must notify the Bureau and the impacted technical college district's apprenticeship office. Notification must be provided in writing as soon as possible, but no later than March 1, for the coming school year. Failure to provide proper notification may result in the temporary denial of any proposed changes to related instruction delivery or location.

### ***Partnership Agreement***

If a program or sponsor, current or new, requests to utilize a WTCS instructor to deliver related instruction through an independent training center, the Bureau must review and approve the partnership agreement between the program or sponsor and local WTCS college.

## **Qualifications for Instructors**

Apprenticeship instructors must be a subject matter expert, which is an individual, such as a journeyworker, who is recognized within an industry as having expertise in a specific occupation.<sup>114</sup> Instructors must also have training in teaching techniques and adult learning styles.<sup>115</sup>

### **WTCS Instructors**

Each person employed by a local technical college district and responsible for the delivery of classroom instruction of one or more apprenticeship programs must meet the minimum qualifying criteria for academic credentials, occupational experience, and continuing professional development according to the standards and policies set by the local college, in accordance with the WTCS Board, Wisconsin administrative code, and the Higher Learning Commission—an educational accreditation institute. Detailed WTCS instructor requirements are identified in Wis. Admin. Code § TCS 3.04.

### **Independent Instructors**

An instructor not employed by WTCS must meet two general requirements related to professional experience and also teaching techniques. The Bureau will assess each instructor's qualifications.

1. ***Professional Experience:*** The instructor must be a subject matter expert, such as journeyworker. In addition, the instructor must demonstrate completion of a registered apprenticeship program in their field or occupation in addition to 4,000 hours, but not less than two years, of relevant, post-apprenticeship experience in the occupation or industry. If the instructor did not complete a registered apprenticeship training program, they must possess the equivalent hours in relevant education and training plus 4,000 hours, but not less than two years, in relevant professional experience in the occupation or industry.
2. ***Teaching Techniques:*** This can be accomplished through the 30-hour, WTCS-delivered Teaching Methods course, or equivalent. If the instructor does not have training in teaching techniques and adult learning styles before the instructor has started to teach apprentices, these required classes must occur within two years of the onset of those initial classes.

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<sup>113</sup> § DWD 296.03(2)(d)2.

<sup>114</sup> § DWD 295.02(2)(b)6

<sup>115</sup> § DWD 295.02(2)(b)6

## Schedule

Apprentices must receive at least four hours of instruction per week, or the equivalent, during each week that the designated school providing instruction for the program is in session.<sup>116</sup> Program sponsors may design their apprentice instruction for four hours per week, one day per week, one day every other week, or in a block of time. The total number of hours of related instruction and work assigned to an apprentice in one week may not exceed 55 hours.<sup>117</sup>

## Delivery Modality

The delivery modality is subject to Bureau approval and may entail in-person or distance education, such as through virtual formats, or other methods approved by the Bureau.<sup>118</sup> The delivery modality of related instruction is determined by the related instruction provider, in consultation with their local program sponsors. If the related instruction provider is a WTCS college, the Bureau must be consulted and make the final determination if the college and majority of local sponsors substantially disagree on acceptable method of instruction.

## Curricula

Apprenticeship program curricula document the learning to be accomplished through related technical instruction. Curricula include specified program and course outcomes and competencies that, in combination with the additional work-based learning components included in the Exhibit A, define the occupational training outcomes of an apprenticeship program.

Documented curricula ensure consistency of related technical instruction for each unique apprenticeship occupation recognized by the Bureau of Apprenticeship Standards regardless of assigned provider of related instruction, location, instructor, program type, mode of delivery, scheduling configuration, or sponsor.

### *Public Domain Curricula*

Public domain curricula are developed in whole or in part with government funding. Material products are copyrighted to the institution(s) that created them but are available for use by other entities according to applicable public copyright license and attributions

### *Proprietary Curricula*

Proprietary curricula is developed and owned by one or more private entities, commonly an industry organization or labor union. Use of the curricula is restricted to entities authorized by the curriculum owner. Proprietary curricula is delivered in a manner consistent with documented content and format. All proprietary materials, including text and workbooks, handouts, and exams remain the property of the sponsor.

## Curriculum Approval

When a new apprenticeship program is developed the program and course outcomes, established competencies, and the total contractual hours of related instruction are subject to review and approval by the Bureau. The Bureau will consult the apprentice sponsor and State Committees, when applicable, during the process. The Bureau will also consult industry advisory committees established by the Bureau, the Wisconsin Technical College System, or the provider of related instruction. Apprenticeship related

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<sup>116</sup> Wis. Stat. § 106.01(6)(b)

<sup>117</sup> Wis. Stat. § 106.01(6)(b)

<sup>118</sup> § DWD 295.02(2)(b)6.

technical instruction provided through a WTCS college require local District Board and WTCS Board approval in advance of local implementation.<sup>119</sup>

### **Curriculum Modification**

Bureau approval is required for modification to previously approved curriculum that rises to the level of divergence from the approved program and course outcomes, established competencies, or the total contractual hours of related instruction.

Bureau approval is not required for modifications to course configuration, lesson plans, lesson sequencing, student assessment techniques, teaching resources, reference materials, or other learning activities. These are selected and determined at the discretion of the related instruction provider and the instructor, except when defined as part of a proprietary curriculum or a third-party accredited program.

### ***Sponsor Notification and Approval***

Sponsor notification and approval is required when modifying proprietary curriculum. Any changes, additions, or deletions must be approved by the program sponsor prior to implementation. Instructors and apprenticeship coordinators may exercise discretion over routine or minor changes to related instruction delivery including instructor changes, class size, stacked classes, classroom location, classroom equipment, and instructional methodology.

### **Apprentice Attendance and Progress**

Related instruction providers must submit reports on the attendance and grades of each apprentice to the Bureau and the apprentice sponsor.<sup>120</sup> The employer or sponsor should address notices of any school absence by an apprentice and caution the apprentice that absence from school may lead to termination of the apprenticeship contract. In addition, the employer or sponsor should address deficiencies in the apprentice's school assignments and grades and notify the apprentice that discipline or termination may occur if such deficiencies are not corrected.

It is the sponsor's responsibility, in coordination with the related instruction provider, to ensure apprentices are released from work to attend their required related instruction. Failure to allow an apprentice to attend related instruction is in violation of the apprenticeship contract.

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<sup>119</sup> Wis. Stat. §§ 38.001

<sup>120</sup> Wis. Stat. § 106.01(6)(d)

# Apprenticeship Completion Award Program

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The Apprenticeship Completion Award Program (ACAP) reimburses apprentices and sponsors for tuition costs associated with related instruction.<sup>121</sup>

## Qualifying Expenses

Tuition costs are defined as any fee that is charged for an apprentice to participate in their related instruction.<sup>122</sup> This includes tuition as well as fees such as apprentice materials fees, insurance fees, and student ID fees.

The following expenses are ineligible for reimbursement:

- i. Work related costs (clothing, safety equipment, union dues or initiation fees, commuting costs).
- ii. Education expenses not related to apprenticeship related instruction
- iii. Class materials: i.e., books, notebooks, class supplies
- iv. Journey worker or practitioner exam fees
- v. Parking fees or transcript fees
- vi. Paid related instruction wages paid by the employer
- vii. Licenses and credentials
- viii. Expenses incurred outside of the contract period

## Reimbursement

The reimbursement is awarded to the entity or individual who incurred the cost of the related instruction tuition, which can be the sponsor, the apprentice, or both.<sup>123</sup> When both the sponsor and apprentice incurred tuition costs, the reimbursement will be made proportionally to the amount incurred. However, the \$1,000 cap applies to both the sponsor and apprentice reimbursement collectively.

**Note:** public sector sponsors are excluded from receiving ACAP reimbursements by law.<sup>124</sup>

There are two times during the apprenticeship contract when a tuition reimbursement can be claimed.

- a) *First year:* Upon successful completion of the first year of the registered apprenticeship program, a reimbursement can be claimed of 25 percent of tuition costs incurred, up to \$250.<sup>125</sup>
- b) *Completion:* Upon successful completion of the registered apprenticeship program, a reimbursement can be claimed of 25 percent of tuition costs incurred, up to \$1,000 (including any first-year reimbursement received).<sup>126</sup>

## Notification

The Bureau will notify all parties of their ACAP eligibility by correspondence after the first year and again upon completion of the apprenticeship program. ACAP applications must be submitted within 60 days of the ACAP eligibility notification date. If an application is received after 60 days of the eligibility notification, the Bureau cannot guarantee payment of an award.<sup>127</sup>

## Funding Availability

The Bureau awards ACAP payments on a first-come, first-serve basis throughout each fiscal year (July 1 through June 30). Applicants who receive their eligibility notices after the point in which ACAP funding has been exhausted for the fiscal year, will not receive an award.<sup>128</sup>

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<sup>121</sup> Wis. Stat. § 106.05(2)

<sup>122</sup> Wis. Stat. § 106.05(1)(b)

<sup>123</sup> § DWD 295.25(3)

<sup>124</sup> § DWD 295.25(1)(a)

<sup>125</sup> § DWD 295.25(5)(b)

<sup>126</sup> § DWD 295.25(5)(a)

<sup>127</sup> § DWD 295.25(3)(c)

<sup>128</sup> § DWD 295.25(5)(d)

## **Child Support**

Apprentices who are delinquent on child support payments are disqualified from receiving ACAP reimbursements, unless the applicant can furnish:

- i. Proof of an acceptable repayment agreement, approved by the county child support agency that has been kept current for the six months preceding the ACAP application; or
- ii. A statement from the Department of Children and Families, dated within seven working days of the ACAP application, that the applicant is not delinquent on child support and does not owe past expenses.<sup>129</sup>

The sponsors of ineligible apprentices, which incurred the costs of related instruction, are allowed to receive ACAP reimbursements associated with the contract of the ineligible apprentice.

## **Application**

Applicants must submit a completed ACAP form to the Bureau, along with a W-9 form and the following documentation of tuition expenditures:

- a) Receipts from registrars and proof of payment.
- b) Sponsor invoice, and proof of payment to apprentice for reimbursement amounts, direct school payment receipts, and school paid letter receipts
- c) Confirmation from the sponsor stating that the apprentice has completed either the first year under the apprenticeship contract, or has successfully completed the full apprenticeship contract
- d) Copies of bank statements or credit card statements reflecting tuition invoice payments

Unacceptable documentation of tuition expenditures:

- a) Pictures of documents, such as taken from a cell phone
- b) Pictures from internal financial software
- c) Copies of cash register receipts indicating charges
- d) Company letters stating reimbursement policies
- e) Copies of check registers
- f) Invoices without proof of payment

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<sup>129</sup> Wis. Stat. § 106.05(3)(b)

# Recordkeeping

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Sponsors must maintain apprenticeship records necessary to demonstrate compliance with federal equal employment opportunity standards for a period of five years from the date that the record was created or the date of the relevant personnel action, whichever is later.<sup>130</sup> The Bureau also requires sponsors to maintain and produce the apprenticeship records enumerated below for a period of five years for contract dispute purposes and to ensure program quality and for conformity under Wis. Admin. Code § DWD 295 and Wis. Stat. § 106.<sup>131</sup> Sponsors must coordinate with related instruction providers and apprentice employers (if separate from the sponsor) to ensure the maintenance and preservation of vital apprenticeship records not held directly by the sponsor. Apprenticeship records include, but may not be limited to:

## ***For All Sponsors***

- i. Training records should include hours of on-the-job learning by category and competency, paid and unpaid related instruction hours, and progress at both school and on the job.
- ii. Records related to apprentice selection, including applications, tests and test results, interview notes, and the justification for selection or rejection of each applicant
- iii. Attendance logs for the periodic equal opportunity information sessions;
- iv. Proof that the equal opportunity pledge has been appropriately published and posted;
- v. Records indicating each individual's completion of anti-harassment training and the training's content;
- vi. A copy of the program's universal outreach and recruitment sources;
- vii. Apprentice or applicant requests for reasonable accommodation;
- viii. Copies of apprentice-related complaints of unlawful harassment or discrimination submitted to the sponsor;
- ix. Demographic data for apprentices and applicants (race, ethnicity, and gender), using the Bureau's equal opportunity supplemental form as a template;
- x. Information concerning the operation of the apprenticeship program, including job assignment, promotion, demotion, layoff or termination, discipline, rate of pay and other forms of compensation or conditions of work, hours of training provided and other records pertinent to a determination of compliance;
- xi. Apprentice transfers and reassignments;
- xii. Active apprentice rolls.

## ***Sponsors with Affirmative Action Programs***

- xiii. Documentation of the sponsor's targeted outreach, recruitment, and retention activities;
- xiv. Completed disability disclosure forms submitted to the sponsor;
- xv. Records related to the annual review of personnel processes;
- xvi. Copies of the workforce analysis (if not conducted with assistance from the Bureau);
- xvii. Detailed notes or log from meetings where affirmative action is discussed as an agenda item.

**Note:** In connection with each compliance record, sponsors must identify the race, sex, ethnicity, and, when known, the disability status of each apprentice and apprentice applicant.<sup>132</sup>

## **Confidential Medical Information**

Any information obtained under § DWD 296 regarding the medical condition or history of an applicant or apprentice must be collected on separate forms, maintained in separate medical files, and treated as a confidential medical record. The only instances when this may be shared by a sponsor is in communicating necessary work restrictions or accommodations to a supervisor or manager, informing

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<sup>130</sup> § DWD 296.12(4)

<sup>131</sup> § DWD 295.02(2)(b)25

<sup>132</sup> § DWD 296.12(2)



first aid or safety personnel when a disability may require emergency treatment, and cooperation with government officials engaged in the enforcement of equal opportunity laws or regulations.<sup>133</sup>

### **Record Access**

Sponsors must allow the Bureau access to apprenticeship records required under Wis. Stat. § 106 and Wis. Admin. Code § DWD 295 and 296 and provide them in an electronic format if requested.<sup>134</sup> Records should be submitted within 10 business days of the request. Non-compliance may result in a corrective action plan, suspension, or deregistration.

### **Related Instruction Records**

The provider of related instruction must maintain registration, attendance, progress, and grade records for each apprentice, as certified by the classroom or training instructor. Records of related instruction must be maintained for at least five years from the most recent action or active date of the apprentice, except for apprentice transcripts which must be kept indefinitely.

Registration, attendance, progress, and grade records must be made available to the Bureau and the parties to the apprentice contract.<sup>135</sup> The apprentice's signature on the contract authorizes the assigned provider of paid and unpaid related instruction to release progress, grades, and attendance reports to the Bureau, sponsor, and employer while the contract is in effect.

The Bureau, the employer of record, or the applicable apprenticeship committee must be provided with timely and regular reports on attendance, progress, and grades on each apprentice as requested. The terms and manner of exchanging such reports may be mutually agreed on between the related instruction provider and the apprenticeship committee or the sponsor.

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<sup>133</sup> § DWD 296.12(5)(a-c)

<sup>134</sup> § DWD 296.12(6)

<sup>135</sup> Wis. Stat. § 106.01(6)(d)

# Equal Opportunity

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All registered apprenticeship sponsors in the state of Wisconsin, regardless of the size of the program, are required to comply with state and federal affirmative action and equal opportunity requirements.

## Unlawful Discrimination

Registered apprenticeship regulations explicitly prohibit discrimination on the basis of:

- |              |                        |                            |
|--------------|------------------------|----------------------------|
| a) race,     | d) national origin,    | g) age (40 or older),      |
| b) color,    | e) sex,                | h) genetic information, or |
| c) religion, | f) sexual orientation, | i) disability.             |

Additionally, Wisconsin employment laws prohibit discrimination on the basis of:

- a) conviction record,
- b) arrest record,
- c) marital status,
- d) veteran status,
- e) use of lawful products,
- f) use of qualifying family  
or medical leave.

## Assignment of Responsibility

Each apprenticeship sponsor must designate an individual within the apprenticeship program to oversee equal opportunity compliance, including recordkeeping and submitting reports to the Bureau when necessary.<sup>136</sup>

The sponsor should notify the Bureau within 10 days if the individual vacates their position or is otherwise unable to complete their duties.

## Universal Outreach and Recruitment

Sponsors must ensure that universal outreach and recruitment efforts are undertaken annually and in anticipation of each apprenticeship opening and job announcement. Accordingly, each program must develop a list of recruitment sources to reach and generate referrals from all demographic groups in the sponsor's *relevant recruitment area* and update the list annually.<sup>137</sup> Sponsor's must provide these entities advance notice, preferably 30 days, of any apprenticeship opportunities or job announcements.<sup>138</sup> This notice shall include documentation of the sponsor's equal opportunity pledge.

***Relevant Recruitment Area*** is defined as the geographical area from which the sponsor usually seeks or reasonably could seek apprentices. Programs that exclusively recruit and select apprentices from their incumbent workforce, should disseminate information about the apprenticeship program and pertinent opportunity announcements to all internal recruitment pools and potential applicants.

The recruitment list maintained by the sponsor must contain each referral source's name, mailing address, telephone number and email address.<sup>139</sup> Examples of recruitment sources include local workforce investment boards, job centers, high-schools, social media platforms, internet-based jobsites, community-based organizations, local technical and community colleges, vocational training programs, pre-apprenticeship programs and federal youth job training programs.

## Harassment, Intimidation and Retaliation

Each sponsor must:

- i. Develop and implement procedures to receive and resolve complaints about harassment and intimidation on the basis of membership in a protected class, and complaints about retaliation against any applicant or apprentice for filing a harassment complaint, opposing harassment or intimidation, or participating in an investigation or other proceeding related to equal opportunity laws.<sup>140</sup>
- ii. Provide anti-harassment training to all individuals administering the apprenticeship program, including apprentices and journeyworkers who train them. Sponsors are encouraged to use the anti-harassment training materials available through DOL. If sponsors opt to use their own anti-harassment training it must meet the criteria in § DWD 296.03(2)(d)1(a.-c.)
- iii. Ensure all facilities and apprenticeship activities are available to all apprentices. However, if a sponsor provides restrooms or changing facilities, they must provide separate or single-user restrooms and changing facilities for privacy between sexes.<sup>141</sup>

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<sup>136</sup> § DWD 296.03(2)(a)1-3

<sup>137</sup> § DWD 296.03(2)(c)1

<sup>138</sup> § DWD 296.03(2)(c)3

<sup>139</sup> § DWD 296.03(2)(c)2

<sup>140</sup> § DWD 296.03(2)(d)3

<sup>141</sup> § DWD 296.03(2)(d)2

## **Dissemination of Equal Opportunity Policy**

Each sponsor must inform apprentice applicants, apprentices, and individuals associated with the administration and operation of the apprenticeship program of its commitment to equal opportunity. The sponsor must ensure and aid the sponsor in meeting its nondiscrimination and affirmative action obligations.<sup>142</sup>

The sponsor must guarantee completion of the following activities:

- i. Publish the equal opportunity pledge in its standards of apprenticeship as well as in apprentice and employee handbooks, policy manuals, newsletters, or other documents circulated by the sponsor related to the apprenticeship program.<sup>143</sup>
- ii. Post the equal opportunity pledge on bulletin boards, including through electronic media, or any other location accessible to all apprentices and applicants for apprenticeship.<sup>144</sup>
- iii. Conduct orientation and periodic information sessions, at least once per year, for individuals connected with the administration and operation of the apprenticeship program, including apprentices and journeyworkers who regularly work with apprentices.

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<sup>142</sup> § DWD 296.03(2)(b)

<sup>143</sup> § DWD 296.03(2)(b)1

<sup>144</sup> § DWD 296.03(2)(b)2

# Affirmative Action Plan

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Registered apprenticeship programs that contain five or more apprentices must prepare and maintain a written affirmative plan outlining their affirmative action program (unless the sponsor can provide satisfactory evidence of compliance with an existing federal affirmative action plan described in 29 CFR § 30.4(d)(2)).<sup>145</sup>

The definition of an affirmative action program in 29 CFR § 30.4 states: *"An affirmative action program is more than mere passive nondiscrimination. Such a program requires the sponsor to take affirmative steps to encourage and promote equal opportunity, to create an environment free from discrimination, and to address any barriers to equal opportunity in apprenticeship."*

A complete affirmative action program for a sponsor must contain six components.<sup>146</sup> Sponsors may use the Bureau's affirmative action template for completing their written plan, or use their own template so long as it contains the mandatory elements of an affirmative action plan. Newly certified apprenticeship programs must complete a written affirmative action plan within two years of registration with the Bureau.<sup>147</sup> The six components of a written plan are:

1. Invitations to disclose a disability.
2. Utilization goals for individuals with disabilities;
3. Utilization analysis for race, sex, and ethnicity;
4. Establishment of utilization goals for race, sex, and ethnicity;
5. Targeted outreach, recruitment, and retention activities;
6. Annual review of personnel processes.<sup>148</sup>

## 1. Invitation to Disclose a Disability

An affirmative action program must administer the Bureau's official voluntary disability disclosure form, or an acceptable alternative, at three different junctures—pre-offer, post-offer and annually.

**Pre-offer:** The disclosure form must be provided to each applicant upon application to the program or when being considered for an apprenticeship. The form may be included with the application materials for apprenticeship but must be separate from the application.<sup>149</sup> The Bureau's standard apprentice application materials include a copy of this form, available for the sponsor to use.

**Post-offer:** Any time after acceptance into the registered apprenticeship program, but before beginning the apprenticeship, the sponsor must again provide the applicant with the disclosure form.<sup>150</sup>

**Annual:** On behalf of the sponsor, the Bureau sends each registered apprentice in the state a disability disclosure form and invites them to complete it.

The opportunity should be given to the applicant or apprentice to fill out the form privately. The voluntary disclosure forms are not to be provided to officials involved with interviewing, testing, hiring, supervising, or assigning applicants. Any hard copies of the forms must be stored in a confidential data analysis file that is separate from the apprentice's personnel or medical file.<sup>151</sup> The forms must be kept for a period of five years from receipt.<sup>152</sup>

Many disabilities do not require any work accommodation, but it is important to let applicants and apprentices know they can request a reasonable accommodation from the sponsor, employer, or related

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<sup>145</sup> § DWD 296.04(1)(a)

<sup>146</sup> § DWD 296.04(3)(a)

<sup>147</sup> § DWD 296.04(3)(c)

<sup>148</sup> § DWD 296.04(2)(a-f)

<sup>149</sup> § DWD 296.11(1)

<sup>150</sup> § DWD 296.11(2)

<sup>151</sup> § DWD 296.11(5)

<sup>152</sup> § DWD 296.12(4)

instruction provider, which is separate from the voluntary disclosure form which is used for anonymous data tracking.

## 2. Utilization Goal and Activities (disability)

DOL has set a utilization goal of 7 percent for participation of qualified individuals with disabilities in an apprenticeship program for each major occupation group.<sup>153</sup> DOL has sole authority to adjust this goal. A sponsor, with assistance from the Bureau, will perform a workforce analysis to tally the number of apprentices with a self-disclosed disability for each occupation in their program. If individuals with disabilities are represented in a sponsor's registered apprenticeship program in any given major occupation at a rate less than the utilization goal of 7 percent, the sponsor must take the following measures.<sup>154</sup>

**Identification of problem areas:** determine if impediments to equal opportunities exist, and where they exist. In its identification efforts, a sponsor must consider the results of its assessment of personnel processes and the effectiveness of its outreach and recruitment efforts.<sup>155</sup>

**Action-oriented programs:** initiate targeted outreach, recruitment, and retention activities described in Wis. Admin. Code § DWD 296.08 to correct any problem areas identified in its review of personnel processes and outreach and recruitment efforts.<sup>156</sup>

An apprentice workforce analysis is to be completed at each compliance review, and again if three years have passed without a compliance review. Newly registered apprenticeship programs must conduct their first workforce analysis within two years of registration with the Bureau.

## 3. Utilization Analysis (race, sex, ethnicity)

At least every three years, and at each compliance review, a workforce analysis must be conducted.<sup>157</sup> An availability analysis will be conducted at each compliance review, collaboratively between the sponsor and the Bureau.<sup>158</sup>

The **workforce analysis** examines the gender, race, and ethnicity of apprentices for each occupation (per Standard Occupational Classification (SOC)) in the program.<sup>159</sup>

The **availability analysis** is the gender, race, and ethnicity of the qualified labor force in the sponsor's relevant recruitment, which is "the geographical area from which the sponsor usually seeks or reasonably could seek apprentices."<sup>160</sup> Local committees use their jurisdictional areas.

The **utilization analysis** compares the availability analysis and workforce analysis. If significant disparity is identified the sponsor must establish a utilization goal for the affected demographic and occupation.<sup>161</sup>

**Note:** The Bureau uses the 80 percent/whole person method to identify significant disparity, meaning if utilization is less than 80 percent of availability, by a margin of one whole person, then a goal must be set.

## 4. Utilization Goals (race, sex, ethnicity)

The sponsor must set a utilization goal for every major occupation group for which a significant disparity exists for women, Hispanics or Latinos, or any minority race. The goal must be at least equal to the figure

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<sup>153</sup> § DWD 296.07(1)

<sup>154</sup> § DWD 296.07(2)

<sup>155</sup> § DWD 296.07(6)

<sup>156</sup> § DWD 296.07(7)

<sup>157</sup> § DWD 296.05(3)

<sup>158</sup> § DWD 296.05(5)(f)

<sup>159</sup> § DWD 296.05(2)

<sup>160</sup> § DWD 296.05(1)

<sup>161</sup> § DWD 296.05(6)

calculated in the availability analysis.<sup>162</sup> The setting of a utilization goal does not constitute a finding under in Wis. Admin. Code Ch. DWD 296 or admission of discrimination.<sup>163</sup>

Utilization goals serve as objectives attainable by applying every good faith effort toward the affirmative action program activities and are used to measure the effectiveness of a sponsor's outreach, recruitment, and retention efforts.<sup>164</sup> The following principles are to be applied to utilization goals:<sup>165</sup>

- a) Goals are not quotas that are considered either a ceiling or a floor for the selection of a particular group. Quotas are expressly forbidden.
- b) Goals are not justification to extend preference to any individual, select an individual, or adversely affect an individual's status as an apprentice, on the basis of that individual's race, sex, or ethnicity.
- c) Utilization goals shall not create set-asides for specific groups and are not intended to achieve proportional representation or equal results.
- d) Utilization goals may not be used to supersede eligibility requirements for apprenticeship. Affirmative action programs prescribed in this chapter do not require sponsors to select an individual who lacks qualifications to participate in the registered apprenticeship program successfully or select a less-qualified person in preference to a more qualified one.

## 5. Targeted Outreach, Recruitment and Retention

A sponsor that has found underutilization and established at least one utilization goal must perform targeted outreach and recruitment activities for that demographic group.<sup>166</sup> The activities must be aimed at generating an increase in applications and improving retention in the targeted group. At a minimum, a sponsor must perform the following activities for each group for which underutilization was found:<sup>167</sup>

- i. Distribute general information about the apprenticeship, such as the minimum entry requirements, availability of apprenticeship opportunities, nature of the work, and the equal opportunity pledge to organizations serving the underutilized group. These organizations may be community based, local high schools, vocational schools, technical colleges, job centers and other workforce system entities.
- ii. Advertise openings for apprenticeship through advertisements in appropriate media with wide circulation in the relevant recruitment area.
- iii. Collaborate with local school boards, vocational education system, and state certified pre-apprenticeship programs to target students of the underutilized group and prepare them to meet the minimum standards and entry criteria for the program,
- iv. Establish partnerships to enlist the assistance of certified pre-apprenticeship programs, community-based organizations, advocacy organizations, and other appropriate types of entities, in recruiting qualified individuals for apprenticeship.

### *Selection Cycle Review*

In the written affirmative action plan, the sponsor must identify the specific targeted outreach, recruitment, and retention activities planned for the upcoming program year. After each apprentice selection cycle, the sponsor must evaluate and document the effectiveness of these activities.

Documentation of the activities must be maintained by the sponsor to demonstrate compliance. Targeted outreach, recruitment and retention activities are to be refined and modified as needed.<sup>168</sup>

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<sup>162</sup> § DWD 296.06(1)

<sup>163</sup> § DWD 296.06(2)

<sup>164</sup> § DWD 296.06(3)

<sup>165</sup> § DWD 296.06(3)(a-d)

<sup>166</sup> § DWD 296.08(1)

<sup>167</sup> § DWD 296.08(1)(a)1.-4.

<sup>168</sup> § DWD 296.08(1)(a-d)

## 6. Annual Review

On an annual basis the sponsor must engage in a comprehensive review of its apprenticeship program in an effort to identify any potential discriminatory personnel practices.<sup>169</sup> The review must examine the personnel processes related to:

- Apprentice qualifications, application, and selection procedures;
- Wages;
- Outreach and recruitment activities;
- Advancement opportunities;
- Promotions;
- Work assignments;
- Job performance;
- Work process rotations;
- Disciplinary actions;
- Handling of requests for reasonable accommodations;
- Program accessibility for individuals with disabilities, including the use of communication technology.<sup>170</sup>

In instances where the sponsor is not the direct employer of the apprentice, such as a local committee, and the personnel practice is a direct function of the employer, not the sponsor, then the sponsor should rely on its working knowledge of employers' personnel practices in its review. The sponsor should also use information gathered as part of its regular recordkeeping responsibilities and through its complaint process to identify problematic personnel practices that may exist among its affiliated employers. Additionally, the sponsor may include its affiliated employers in the review process or enter into agreements with its sponsor to ensure equality in their personnel practices.

The sponsor must document its review and include a description of that review in the affirmative action plan for compliance purposes. If, as a result of the review, any modifications to the program's personnel practices are recommend or enacted, those action must also be recorded in the affirmative action plan.<sup>171</sup> Newly registered sponsors must conduct their first personnel process review within two years of registration.<sup>172</sup>

## Implementation of Affirmative Action Plan

The Bureau provides technical assistance to sponsors in completing their affirmative action plans. All written affirmative action plans must be affirmed by the sole sponsor or local committee. If the sponsor is a local committee, the written plan should be reviewed at a scheduled local committee meeting, so there is an understanding among committee members of the responsibilities associated with the plan.

Local joint or non-joint committees and industry committees must share the plan with their associated trade trainers or employers and clearly communicate what actions each employer must take to ensure the execution of the affirmative action program and compliance with the affirmative action and equal opportunity regulations. Moreover, joint and non-joint local committees, must include affirmative action as an agenda item for each local committee meeting to discuss the planned activities and track progress toward its goals. A record of the activities must be recorded as part of the official local committee minutes or on an approved affirmative action log form.

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<sup>169</sup> § DWD 296.09(1)

<sup>170</sup> § DWD 296.09(1)(a-k)

<sup>171</sup> § DWD 296.09(3)

<sup>172</sup> § DWD 296.09(2)



# Compliance Review

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The Bureau conducts equal opportunity compliance reviews of sponsors with five or more apprentices and an affirmative action program every three years, or sooner when circumstances warrant. The Bureau will evaluate the program for its affirmative action and equal opportunity obligations found in Wis. Admin. Code Ch. DWD 296.<sup>173</sup> Compliance monitoring may be performed remotely, on-site or a combination.<sup>174</sup>

## Contents of Review

The compliance review will examine the following aspects of an apprenticeship program:

- a) The demographics of applicants, apprentices and the surrounding labor market;
- b) Apprentice selection procedures;
- c) Application forms and process;
- d) Recordkeeping;
- e) Personnel processes;
- f) Complaint procedures;
- g) Anti-harassment training;
- h) Affirmative action goals and activities;

## No Findings

If no violations are identified, the sponsor will be notified in writing within 45 days of the end of the review process that no additional action is required.<sup>175</sup>

## Findings

If the compliance review indicates a failure to comply with the affirmative action program or Wisconsin's equal opportunity regulations, or, if the ATR is unable to obtain the information and records needed to complete the compliance review, the Bureau will inform the sponsor in writing, within 45 days of the end of the review period. The written notice to the sponsor will include the following:

- i. The deficiencies identified;
- ii. How to remedy the deficiencies;
- iii. The timeframe within which the deficiencies must be corrected; and
- iv. Enforcement actions that may be taken if compliance is not achieved within the required timeframe.<sup>176</sup>

## Compliance

### Compliance Action Plan

Within 30 days of receiving notice of compliance review findings, the sponsor must implement a compliance action plan and notify the Bureau of the plan.<sup>177</sup> The Bureau will provide technical assistance and guidance to sponsors who must implement a compliance action plan. A compliance action plan must include:

- i. A commitment, in writing, to correct or remediate the identified deficiencies and areas of noncompliance;
- ii. The precise actions to be taken for each deficiency identified;
- iii. The time period within which the cited deficiencies will be remedied and any corrective program changes implemented;

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<sup>173</sup> § DWD 296.13(1)

<sup>174</sup> § DWD 296.13(2)(a-b)

<sup>175</sup> § DWD 296.13(3)

<sup>176</sup> § DWD 296.13(3)(a-d)

<sup>177</sup> § DWD 296.13(4)(a)

- iv. The name of the individual responsible for correcting each deficiency identified;<sup>178</sup>

Upon the Bureau's approval of the compliance action plan, a sponsor may be considered in compliance, provided that the action plan is implemented.<sup>179</sup> A sponsor that fails to implement a compliance action plan within the specified timeframes may be subject to enforcement actions including suspension of its ability to register new apprentices and deregistration.<sup>180</sup> The ATR will continually monitor the sponsor while it is subject to the action plan. If, according to the deadlines timetable contained in the compliance action plan, the sponsor continually fails to execute its objectives, and technical assistance is not productive, the sponsor may be subject to enforcement actions such as:

- i. An increase in the frequency of compliance reviews;
- ii. Suspension;
- iii. Deregistration proceedings.

A sponsor that is deregistered by the Department under § DWD 296.15(2)(b)2. may request a hearing as prescribed under § DWD 295.23.<sup>181</sup>

### **Rebuttal**

Alternatively, within 30 days of a finding, the sponsor may submit a written rebuttal to the Bureau. the Bureau will conduct a review of the findings and either:

- a) uphold the notice of compliance review finding, or<sup>182</sup>
- b) modify the compliance review findings in whole or in part.<sup>183</sup>

### **Extension**

A sponsor may request a one-time, 30-day extension to either submit a compliance action plan or rebuttal to the findings of a compliance review.<sup>184</sup>

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<sup>178</sup> § DWD 296.13(4)(d)1.-4.

<sup>179</sup> § DWD 296.13(4)(e)

<sup>180</sup> § DWD 296.13(5)

<sup>181</sup> § DWD 296.16

<sup>182</sup> § DWD 296.13(4)(b)1

<sup>183</sup> § DWD 296.13(4)(b)2

<sup>184</sup> § DWD 296.13(4)(a)

# Quality Assurance Assessment

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A Quality Assurance Assessment is a comprehensive review conducted by the Bureau regarding all aspects of an apprenticeship program's performance.<sup>185</sup> Both provisionally and permanently registered apprenticeship programs are subject to quality assurance assessments. Reviews may be conducted remotely or on-site, at the Bureau's discretion.

## Frequency

Quality assurance assessments are conducted at least once every five years, and more frequently for newly established programs.<sup>186</sup> Assessments are not conducted for an inactive sponsor (one with no current, active apprentice contracts) nor for a construction employer, because it is not the sponsor of the apprenticeship program.

### *Annual Provisional Assessment*

The annual provisional assessment is conducted for all provisional sponsors once a year during the period they carry that status, which typically lasts for one full apprentice training cycle.<sup>187</sup>

This assessment assists the Bureau in identifying any areas where the sponsor may need technical assistance in operating their program and complying with program standards.

### *Final Provisional Assessment*

The final provisional assessment is conducted at the end of the provisional registration and completion of the first full apprentice training cycle. This assessment covers the entire provisional training cycle and determines whether the sponsor successfully operates their apprenticeship program and can be granted permanent registration.<sup>188</sup>

### *Five-Year Assessment*

Sponsors with permanent registration (active) status are assessed at least once every five years.<sup>189</sup>

This review is designed to identify program deficiencies, to provide technical assistance, and to assist the sponsor with program management and expansion. The assessment reviews one-year period of operation prior to the quality assessment review date, though the ATR may expand the timeframe if warranted.

## The Assessment

The assessment contains a series of evaluative questions grouped into sections. Each section evaluates a different aspect of the apprenticeship program and are as outlined below.

- i. **Sponsor Occupations and Apprentices** – Verifies that the apprenticeship occupations and apprentices catalogued in the Bureau's database match those of the sponsor.
- ii. **Program Operation** – An assessment of the apprenticeships program's overall operations and their quality.
- iii. **Related Instruction** – A review of the related instruction administered to apprentices to ensure that it conforms to the Bureau's standards.
- iv. **On-the-Job Learning** – Captures the ATR's assessment of the quality of occupational training given to apprentices.

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<sup>185</sup> § DWD 295.001(16)

<sup>186</sup> § DWD 295.01(8)

<sup>187</sup> § DWD 295.01(7)

<sup>188</sup> § DWD 295.01(7)(a)

<sup>189</sup> § DWD 295.01(8)

- v. **Equal Opportunity** – Examination of the program's execution of the required equal opportunity activities applicable to all sponsors (affirmative action plans and goals are examined separately during the compliance reviews).

## **Deficiencies**

The ATR will address any deficiencies identified during the review with the sponsor and determine what corrective action must be taken.

**Minor deficiencies**, those that can be easily remedied, may be addressed through follow-up communication with the sponsor, or by simply highlighting findings for the sponsor to address at the next quality assessment. In some cases, the ATR may leave the quality assessment as incomplete until those findings are remediated, then finish the assessment.

**Serious violations** may result in an ATR initiating a written corrective action plan. Failure to abide by the corrective action plan may ultimately lead to program deregistration.

# Collective Bargaining Agreements

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Where the conditions of employment of apprentices are stipulated by a collective bargaining agreement, the program will be guided by the agreement provided it is not in conflict with administrative code or statute. Provisions within local collective bargaining agreements must conform to the minimum requirements of the state standards.

## Apprentice-Journeyworker Ratios

In respect to apprentice-journeyworker ratios, state law prohibits the Bureau from prescribing and enforcing a minimum ratio requirement of more than one journeyworker for each apprentice with the exception for apprentices whose employment is governed by a collective bargaining agreement.<sup>190</sup> In such cases, the apprenticeship program may operate under the ratio prescribed in the agreement, so long as it meets the minimum ratio as set by state occupational standards.

## Labor Disputes

It is the Bureau's policy that no apprenticeship actions can be taken with an employer that has an existing labor agreement and is engaged in a labor dispute.

- A labor dispute is defined as a work stoppage, strike, or other dispute that disrupts the training of apprentices as determined by the Bureau.
- An apprentice action is cancellation, reassignment, completion, or other change in an existing contract as well as approval of a new contract.

In cases where all parties agree, this policy may be waived by the Bureau. Only apprentices and apprentice applicants in trades affected by the dispute are covered by this policy. In instances where a vote is in progress to determine if a bargaining agent will represent the employees, the involved labor organization is advised of pending apprentice actions by the Bureau.

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<sup>190</sup> Wis. Stat. § 106.015(2)

# Layoff and Unassignment

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## Layoff

Sponsors should employ apprentices to the extent possible, but when an apprentice has been laid off, the sponsor must notify the Bureau if the lay-off extends more than 30 days. In laying off an apprentice and returning an apprentice to work, the sponsor should follow its lay-off and recall procedures. Layoffs of less than 30 days do not abrogate the apprentice's obligation under the contract, and the apprentice is expected to return to work upon recall notice.

Laid off apprentices must be given the opportunity to return to work before a new apprentice is hired in that trade by the employer. In industries where apprentice layoffs and recalls are governed by bargaining agreements, the terms of the bargaining agreement apply.

## Unassignment

The placement of an apprentice in unassignment status temporarily halts the apprenticeship program, so the apprentice can resume at a later date without the need to go through the application process.

Unassignment is a temporary interruption of the apprenticeship program, normally for 30 days or more.

The initial unassignment cannot exceed one year but may be extended for good cause, when approved by the Bureau. Apprentices are often placed on unassignment for one of the following reasons:

- i. Illness or injury;
- ii. Lack of work;
- iii. Return to post-secondary education;
- iv. Temporarily removed from the program for personal reasons;
- v. Military service, in which case the contract will be extended without penalty;
- vi. A natural disaster or large-scale emergency such as a pandemic;
- vii. For disciplinary reasons, which may deem the apprentice ineligible for work and wages or unemployment benefits and may extend the length of the apprenticeship and delay the completion date;
- viii. If a sponsor or an employer has an approved process for random or scheduled drug testing and an apprentice fails that test, they may be placed on unassigned status until they are in compliance with the drug testing policy and are permitted to return to the job site.

## Related Instruction During Layoff

The Bureau will act to place in "unassigned" status the contract of any apprentice who is out of work for longer than 30 consecutive days. This action places the apprentice contract on hold until such time as the apprentice is recalled to work and the contract activities can resume. In accordance with this policy, and to maintain continuity in related instruction, the apprentice must continue to attend school during the 30-day period following the layoff. The costs associated with paid related instruction during this 30-day period, including apprentice wages, shall be covered by the apprentice's most recent employer prior to the layoff (unless the apprentice has been terminated for violation of the employer's written work rules).

On the 31<sup>st</sup> day following the date of layoff, the obligation of the employer to pay the apprentice for school attendance ends. However, the employer or Bureau may permit a laid-off apprentice to complete the semester that is underway at the time of layoff beyond 30 days. If apprentices are on layoff when a new semester begins the apprentices may be allowed to begin school providing their recall to work is imminent.

# Sponsor Deregistration & Suspension

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## Request of the Sponsor

When a sponsor makes a written request to the Bureau to deregister their apprenticeship program, the Bureau will provide written acknowledgement of the deregistration, its effective date, and notify all affected apprentices of the cancellation within 15 days of the deregistration date.<sup>191</sup> Apprentices will be referred to the Bureau for information regarding transfer to other registered apprenticeship programs.

## Reasonable Cause

Deregistration may be undertaken when a program becomes inactive, is not conforming to its own program standards, or is in violation of Wis. Admin. Code Ch. DWD 295.

Prior to deregistration, a sponsor will be given the opportunity to rectify any such findings.

### *Notice and Extension*

Notice will be sent to the program sponsor by certified mail outlining the concerns of the program, the required remedy for each concern, and that deregistration will occur within 30 days if corrective action is not taken.<sup>192</sup> A sponsor can request an additional 30 days, for good cause, to become compliant. The Bureau will assist the sponsor during the corrective action period to achieve compliance.

### *Notice of Deregistration*

If the sponsor fails to take the required corrective action in the allotted time period, the Bureau may find reasonable cause to deregister the program and will notify the sponsor by certified mail.

### *Hearing*

The sponsor may request a hearing within 15 days of the notice of deregistration, hearings will be held in accordance with Wis. Admin. Code § DWD 295.23 and Wis. Stat. Ch. 227.<sup>193</sup>

### *Non-hearing Order*

If the sponsor does not request a hearing, the Bureau will prepare a report concerning the nonconformity, including findings and recommendation for deregistration, along with relevant documentation and the Department shall make a final order on the basis of the record presented.<sup>194</sup>

### *Reinstatement of Program Registration*

If a program is ultimately deregistered, they may seek reinstatement from the Bureau upon presentation of evidence that the program is operating in accordance with the state's apprenticeship rules and regulations.<sup>195</sup>

## Equal Opportunity Enforcement Action

When Bureau determines that a registered apprenticeship program is not operating in accordance with Wis. Admin. Code Ch. DWD 296, the following process is followed. Noncompliance can be identified as the result of a compliance review, complaint investigation or other means.

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<sup>191</sup> § DWD 295.21(2)(b)

<sup>192</sup> § DWD 295.21(5)(a)-(c)

<sup>193</sup> § DWD 295.21(9)

<sup>194</sup> § DWD 295.21(8)

<sup>195</sup> § DWD 295.22

***Notice***

The Bureau will initially send written notice of noncompliance to the sponsor, identifying the specific violations and offering technical assistance. The sponsor be expected to implement a compliance action plan and correct the violation(s).

The Bureau may also refer violations it has identified to the U.S. Equal Employment Opportunity Commission, the Wisconsin Equal Rights Division, or DOL.

***Suspension***

If the sponsor does not adopt a satisfactory compliance action plan to remediate to issue within 30 days, the Bureau may suspend the sponsor's right to register new apprentices.<sup>196</sup>

***Deregistration***

If the sponsor still has not implemented a compliance action plan within 30 days of a suspension notice, the Bureau may begin deregistration proceedings as outlined under Wis. Admin. Code § DWD 295.21.<sup>197</sup>

***Appeal***

A sponsor that has been issued a deregistration notice for alleged affirmative action or equal opportunity violations may request an appeal hearing within 15 days of receipt of the notice.<sup>198</sup>

***Reinstatement***

A program sponsor that has been deregistered for violations of Wis. Admin. Code Ch. DWD 296 may be reinstated if it is able to demonstrate compliance to the Bureau.<sup>199</sup>

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<sup>196</sup> § DWD 295.15(2)(b)1

<sup>197</sup> § DWD 295.15(2)(b)2

<sup>198</sup> § DWD 296.16

<sup>199</sup> § DWD 296.18



# Complaints and Appeals

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## Contract Complaints

The Bureau administrative office will review written complaints, which allege that another party to the contract is not in compliance with the contract. Such complaints must be submitted to the Bureau by a party to the apprentice contract. The Bureau administrative office will accept contract-related complaints only after a *final local decision* has been rendered.<sup>200</sup>

## Final Local Decision

A *final local decision* means a final decision on the matter by a party to the apprentice contract, such as the apprenticeship sponsor, or the ATR assigned to oversee the apprenticeship program. Apprentices and sponsors are encouraged to bring matters of dispute to the ATR's attention in an attempt to arrive at a resolution locally, prior to filing a written complaint with the Bureau.

## Filing Deadline

After a *final local decision* has been made, the written complaint must be submitted to the Bureau administrative office within 20 calendar days and meet the content requirements of a complaint (outlined below). Complaints submitted after this deadline are at risk of being dismissed by the Bureau.<sup>201</sup>

## Contents of Complaint

Parties who wish to elevate their contract-related complaint to the Bureau's administrative office must ensure the complaint meets the following criteria:

- a. Submitted in written format,
- b. Signed by the complainant or an authorized representative,
- c. Contain the specific grievances along with a detailed account of the relevant facts and circumstances,
- d. Includes copies of pertinent documents and correspondence.<sup>202</sup>

Parties are encouraged to use the Bureau's standard [contract complaint form](#) to ensure the submission contains the necessary information.

## Investigation

Once the contract complaint is received, the Bureau administrative office will investigate the matter and make reasonable efforts to reach a satisfactory resolution between the parties. Where appropriate, the ATR may assist in the investigation and in mediation between the parties toward a resolution.

## Bureau Determination

If the matter cannot be resolved to both parties' satisfaction, the Bureau administrative office will issue an opinion on the complaint based on the findings of its investigation within 90 days of receipt of the complaint.<sup>203</sup> If the Bureau's investigation into the complaint reveals it does not have merit, or that the dispute is unrelated to the provisions of the apprentice contract, the Bureau will dismiss the complaint.<sup>204</sup> Copies of the Bureau's determination will be sent to all interested parties.

## Appeal of Determination

If any party to the contract disagrees with the Bureau's opinion and wishes to pursue the matter through an administrative hearing they must make a timely request for a hearing,<sup>205</sup> within 20 days from the date of the determination. The Bureau will not hold hearings on matters which are unrelated to the provisions

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<sup>200</sup> § DWD 295.20(1)

<sup>201</sup> § DWD 295.20(2)

<sup>202</sup> § DWD 295.20(2)

<sup>203</sup> § DWD 295.20(3)

<sup>204</sup> § DWD 295.20(5)(d)

<sup>206</sup> § DWD 296.03(2)(d)

of the apprentice contract as defined in § DWD 295.20(5). If the Bureau administrative office determines that the alleged violation of the apprentice contract is not appropriate subject matter for a hearing, any dissatisfied party may petition for judicial review to circuit court as outlined in Wis. Stat. §§ 227.52 and 227.53

## **Discrimination Complaint**

Apprentices and apprenticeship applicants facing discrimination, harassment, retaliation and intimidation within an apprenticeship program because of a legally protected status, have recourse to bring their complaint to the following entities:

- a) The apprenticeship program sponsor,
- b) The Bureau of Apprenticeship Standards,
- c) Wisconsin Equal Rights Division (ERD) or U.S. Equal Employment Opportunity Commission (EEOC)

### ***Program Sponsor***

The apprenticeship program sponsor has an obligation under state and federal apprenticeship equal opportunity rules to ensure their program is free from unlawful harassment, retaliation, intimidation and discrimination because of race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information or disability.<sup>206</sup> Complaint procedures will differ from sponsor to sponsor, so apprentices and apprenticeship applicants must contact the program sponsor directly to ensure their complaint is addressed and determine the process they must follow.

### ***Bureau of Apprenticeship Standards***

A complaint must be filed with the Bureau within 300 days of the alleged discrimination, retaliation, intimidation, or failure to follow the state and federal equal opportunity standards of apprenticeship.<sup>207</sup>

### **Contents of Complaint**

Each complaint filed with the Bureau must be in writing and contain all of the following information:<sup>208</sup>

- a. The complainant's name, address, and telephone number, including best method of contact.
- b. All available information to identify the respondent (apprenticeship program sponsor), including name, address, and telephone number.
- c. A description of the events, including the date and location the events took place, and why the complainant believes the actions were discriminatory or failed to follow equal opportunity standards.
- d. The applicant's or apprentice's signature, or the signature of an authorized representative.

The Bureau recommends using the designated [discrimination complaint form](#) to ensure all necessary information is submitted along with the complaint.

### **Procedure**

Once the Bureau receives a written complaint that meets the above criteria, it will initiate an investigation and may contact the parties involved, including relevant witnesses, to obtain additional information if necessary.<sup>209</sup>

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<sup>206</sup> § DWD 296.03(2)(d)

<sup>207</sup> § DWD 296.14(1)(b)

<sup>208</sup> § DWD 296.14(1)(c)1-4

<sup>209</sup> § DWD 296.14(3)(a)1.-3.

Upon completion of the investigation, the Bureau will provide a written explanation of its findings to both the apprentice, or apprenticeship applicant and the apprenticeship program sponsor.<sup>210</sup> If a violation is identified, the Bureau will attempt to resolve the matter administratively. However, if the complaint cannot be resolved to the satisfaction of the complainant, the Bureau will refer the complaint to the Wisconsin Equal Rights Division, U.S. Equal Employment Opportunity Commission, or local enforcement agency with the capacity to investigate and address such a complaint.<sup>211</sup>

The Bureau has the authority to begin proceedings to suspend or deregister an apprenticeship program sponsor based on the results of a discrimination complaint and investigation. At its own discretion, the Bureau may refer a complaint to any of the following agencies:

- a. U.S. Equal Employment Opportunity Commission,
- b. U.S. Attorney General,
- c. DOL Office of Federal Contract Compliance Programs,
- d. Wisconsin Equal Rights Division.<sup>212</sup>

### **Retaliation and Intimidation**

It is unlawful to retaliate against, threaten, coerce, or intimidate an apprentice or apprenticeship applicant because they:

- a) Filed a complaint with the Bureau;
- b) Opposed unlawful discrimination, retaliation or intimidation in the apprenticeship program;
- c) Assisted or participated in an investigation, compliance review, proceeding, or hearing related to equal opportunity law or regulation;
- d) Exercised any rights and privileges provided under Wis. Admin. Code Ch. DWD 296.<sup>213</sup>

### ***ERD & EEOC***

Apprentices or apprenticeship applicants may pursue a formal complaint against their employer or program sponsor through the Wisconsin Equal Rights Division or U.S. Equal Employment Opportunity Commission. The contact information for each agency is:

#### **Wisconsin Equal Rights Division**

<https://dwd.wisconsin.gov/er/contacts.htm>

#### **Equal Employment Opportunity Commission**

<https://www.eeoc.gov/contact-eeoc>

### **Intent to Cancel Notice**

When a party to the apprentice contract requests cancellation of the contract, the Bureau will send a 20-day intent to cancel notice to all parties to the contract. The notice will state that the contract will be cancelled unless the Bureau receives a written objection from any party within the 20-day objection period. The Bureau will include with the notice a standardized objection form, which must be used when any party wishes to object to the proposed action.<sup>214</sup> The intent-to-cancel notice is not sent to apprentices within their probationary period because the procedures outlined in § DWD 295.20(7) do not apply during the probationary period specified in the apprentice contract.

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<sup>210</sup> § DWD 296.14(3)(a)5

<sup>211</sup> § DWD 296.14(3)(b)

<sup>212</sup> § DWD 296.14(3)(c)1.-4.

<sup>213</sup> § DWD 296.17(1)(a-d)

<sup>214</sup> § DWD 295.20(4)(a)

## **No objection**

If the Bureau does not receive an objection to the intent to cancel notice before the expiration of the 20-day objection period, the contract will be cancelled effective the date indicated on the notice of cancellation.<sup>215</sup>

## **Timely objection**

If the Bureau receives an official objection form from any party before the expiration the 20-day objection period, the apprentice contract will remain in its current status while the Bureau considers the objection.<sup>216</sup> Apprentices attending related instruction will continue to do so during review of the objection. If the Bureau determines that the apprentice contract should be cancelled, the cancellation will become effective at the conclusion of the review and the Bureau will issue a cancellation notice. If the Bureau determines it is not appropriate to cancel the contract, it will rescind the intent to cancel notice.<sup>217</sup> If the information provided is unclear or incomplete, the department will investigate further before making the final decision. A decision to cancel or rescind the intent to cancel notice is generally issued by the Bureau within 30 days of receipt of any objection.

## **Cancellation Notice**

In cases where an intent-to-cancel notice is issued and upheld, the Bureau will send a written cancellation notice to all parties of the contract.<sup>218</sup> After cancellation, the apprentice contract is no longer active as of the date indicated on the notice, and the apprentice's status will change to cancelled. Probationary apprentices are not able to appeal contract cancellations.

## **Timely objection**

Any party to the contract who wishes to object to the cancellation notice must make a request for a hearing within 20 days of the date of the cancellation notice.<sup>219</sup> This request can be made by submitting the appeal form attached to the cancellation notice (also available [online](#)) to the Bureau administrative office, addressed to the director.

Upon receipt of a request for hearing, the Bureau will review the basis for the request and determine whether the matter is related to the provisions of the apprentice contract as defined in § DWD 295.20(5). The Bureau will notify the affected parties of its decision along with an explanation of the facts it considered in arriving at its decision. If the Bureau determines that the basis for the appeal is not appropriate subject matter for a hearing, any dissatisfied party may petition for judicial review to circuit court as outlined in Wis. Stats. §§ 227.52 and 227.53

## **Hearings**

The Bureau will review complaints and appeals that concern the terms of the contract, an allegation that a party to the contract is not complying with those terms, and objections to the department's issuance of a cancellation notice. Examples of subject matter which may be appropriate for an administrative hearing through the Bureau include:<sup>220</sup>

- i. That the employer or other party to the apprentice contract has not provided the apprentice the proper on-the-job learning as required in the apprentice contract;
- ii. That the employer or other party to the apprentice contract has failed to provide the apprentice the proper related instruction as required in the apprentice contract;

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<sup>215</sup> § DWD 295.20(4)(b)

<sup>216</sup> § DWD 295.20(4)(c)1

<sup>217</sup> § DWD 295.20(4)(c)3

<sup>218</sup> § DWD 295.20(4)(d)

<sup>219</sup> § DWD 295.20(4)(d)

<sup>220</sup> § DWD 295.20(5)(b)1-5

- iii. That the employer or other party to the apprentice contract has assigned the apprentice to perform job duties which do not provide the proper on-the-job learning as required in the apprentice contract;
- iv. That the employer or other party to the apprentice contract has failed to pay the wages as required in the apprentice contract;
- v. That the apprentice is not satisfactorily progressing in the on-the-job learning or related instruction required under the apprentice contract.

An administrative hearing is not appropriate when the subject of the complaint or matter in dispute is unrelated to the provisions of the apprenticeship contract. This includes but is not limited to:<sup>221</sup>

- i. Employee absenteeism or tardiness at work or school;
- ii. Employee use of drugs or alcohol on the job at work or school;
- iii. Insubordination;
- iv. Refusal to perform work as assigned;
- v. Employee violations of the employer's printed work rules.

If an administrative hearing is warranted in response to a cancellation objection or complaint, the Bureau will appoint a hearing examiner, who was not involved in the initial investigation, and notify the parties to the contract at least 20 days prior to the date of the hearing.<sup>222</sup> The Bureau will strive to hold a hearing within 90 days of when an examiner is appointed and issue a final decision within 30 days after the conclusion of the hearing.

At the hearing, only appropriate, apprenticeship program-related subject matter, as outlined above, will be considered by the examiner.<sup>223</sup> It is the responsibility of the party submitting the complaint to present evidence at the hearing to support the allegations in the complaint. Evidence at the hearing will be admitted as provided in Wis. Stat. § 227.45.<sup>224</sup> Failure to attend the scheduled hearing or put forth sufficient evidence in support of the contents of the complaint may result in its dismissal.<sup>225</sup>

The final written decision and order will be distributed to the parties. The Bureau will either delegate to the independent hearing officer the authority to issue a final decision, or it will conduct a prompt review and final decision on any proposed decision issued by the independent hearing officer. All proceedings will be in compliance with DWD § 295.20. Any party may seek judicial review of an order of the hearing examiner, as provided in Wis. Stat. Ch. 227.

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<sup>221</sup> § DWD 295.20(5)(c)1-5

<sup>222</sup> § DWD 295.20(6)(a)-(b)

<sup>223</sup> § DWD 295.20(6)(c)

<sup>224</sup> § DWD 295.20(6)(e)

<sup>225</sup> § DWD 295.20(6)(d)

# Wisconsin Apprenticeship Council

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The Wisconsin Apprenticeship Council's (Council) mission is to advise the Bureau and Department on matters involving the Wisconsin apprenticeship system, including the enactment of laws, rules, and standards. It consists of the following membership: <sup>226</sup>

Membership (22)	Appointed by
<ul style="list-style-type: none"><li>• Nine employer representatives</li><li>• Two members who represent public interest</li><li>• Nine employee representatives</li></ul>	<i>Secretary of the Department of Workforce Development</i>
<ul style="list-style-type: none"><li>• One Department of Public Instruction representative</li></ul>	<i>State Superintendent of Public Instruction</i>
<ul style="list-style-type: none"><li>• One technical college system representative</li></ul>	<i>Director of Wisconsin Technical College System</i>
<ul style="list-style-type: none"><li>• Nonvoting chairperson (must be permanent, classified DWD employee)</li></ul>	<i>Secretary of the Department of Workforce Development</i>

***Co-chairs:*** *One employee member and one employer member are nominated by the Council, in accordance with its bylaws, to cooperatively serve as co-chairpersons of the Council.*

All members of the Council must be persons who are familiar with apprenticeable occupations.<sup>227</sup> Employee and employer members serve three-year terms and are nominated by statewide trade associations, employer groups, state labor organizations, and community-based organizations. The Bureau may also nominate members to diversify the representation of apprenticeship sectors on the Council.

Only designated members of the Council are authorized to vote. However, if a council member cannot attend a meeting, an alternate member may be designated to vote in that person's stead, according to the Council bylaws. The Council meets quarterly, and more often if necessary. Its bylaws are reviewed at least every five years.

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<sup>226</sup> Wis. Stat. § 15.227(13)(a)1.-6.

<sup>227</sup> Wis. Stat. § 15.227(13)(b)

## Public Meetings

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Wisconsin open meetings law requires that all meetings of state governmental bodies shall be publicly held in places reasonably accessible to members of the public, and open to all citizens at all times unless otherwise provided by law.<sup>228</sup> A "governmental body" includes a state or local body created by statute, rule or order.<sup>229</sup> According to this definition, local apprenticeship committees, the Wisconsin Apprenticeship Advisory Council, and the State Trade Advisory Committees are considered "governmental bodies."

A "meeting" occurs whenever enough members of a committee to determine a course of action convene for the purpose of conducting governmental business.<sup>230</sup> Meetings of the local apprenticeship committees, Wisconsin Apprenticeship Advisory Council, and the State Trade Advisory Committees must be preceded by public notice that sets forth the time, date, place, and subject matter of the meeting.<sup>231</sup> If a closed session is contemplated, the notice must describe the subject matter to be considered in closed session with enough information for the public to discern if the subject is authorized for closed session.<sup>232</sup>

Meetings must be held in a public place that is open and reasonably accessible to all members of the public, including individuals with disabilities.<sup>233</sup> For this reason, the Bureau requires local apprenticeship meetings to allow for participation via online or telephonic means.

Meetings are to be held in open session.<sup>234</sup> The meeting may only move into closed session if the subject matter falls within a statutory exemption to the public meetings law, such as discussion of sensitive personal information that would have a substantial adverse effect upon an individual's reputation, or to confer with legal counsel about litigation strategy.<sup>235</sup> The motions and roll call votes of each meeting are to be recorded, preserved, and available to requesters.<sup>236</sup>

Local apprenticeship committees should consult with their ATR about ensuring compliance with the public meetings law, including providing proper notice, accessibility, whether it is appropriate to enter into closed session, and maintaining proper records.

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<sup>228</sup> Wis. Stat. 19.81(2)

<sup>229</sup> Wis. Stat. 19.82(1)

<sup>230</sup> Wis. Stat. 19.82(2)

<sup>231</sup> Wis. Stat. 19.84(2)

<sup>232</sup> Wis. Stat. 19.84(2)

<sup>233</sup> Wis. Stat. 19.81(2)

<sup>234</sup> Wis. Stat. 19.83(1)

<sup>235</sup> Wis. Stat. 19.85

<sup>236</sup> Wis. Stat. 19.88(3)

# Public Records

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Wisconsin public records law authorizes requesters to obtain copies of records maintained by government authorities. An "authority" includes committees created by a law, rule, or order.<sup>237</sup> Local apprenticeship committees, the Wisconsin Apprenticeship Advisory Council, and the State Trade Advisory Committees are each considered "authorities" and subject to Wisconsin's public records law.

A "record" is "[a]ny material on which written, drawn, printed, spoken, visual or electromagnetic information or electronically generated or stored data is recorded or preserved, regardless of physical form or characteristics, which *has been created or is being kept by* an authority."<sup>238</sup> Records are materials that are created or kept in connection with the official purpose or function of the authority. Whether something is a "record" is determined by the content of the document, not the medium, format, or location of the document.

Records *do* include, but are not limited to:

- Handwritten, typed, or printed documents
- Charts
- Recordings
- Electronic records and communications

Records *do not* include:

- Drafts, notes, preliminary documents, or similar materials prepared for the originator's personal use
- Materials that are purely personal property of the custodian that have no relation to the authority's official function
- Materials with access limited due to copyright or patent

Under Wisconsin's public records law, custodians of records are to respond to a request for records as soon as practicable without delay.<sup>239</sup> If a local apprenticeship committee, the Wisconsin Apprenticeship Advisory Council, the State Trade Advisory Committees, or any committee member receives such a request, the Department will assist with the response. The request should be immediately forwarded to [OpenRecords@dwd.wisconsin.gov](mailto:OpenRecords@dwd.wisconsin.gov). Committee members may need to search for responsive records.

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<sup>237</sup> Wis. Stat. 19.32(1)

<sup>238</sup> Wis. Stat. 19.32(2)

<sup>239</sup> Wis. Stat. 19.34(4)(a)



# Local Committee Litigation Policy

In the course of administering apprenticeship programs, local committees may be the subject of litigation. Whether the Department of Workforce Development (DWD) is able to provide legal representation of the committee, or committee member, depends on the nature of the complaint and the role of the Bureau of Apprenticeship Standards (BAS) in the circumstances leading to the complaint. The chart below identifies the situations in which the DWD can provide legal representation.

Case or Complaint Type	Office of Legal (OLC) Consultation Required	Explanation
Discrimination complaints filed with the Department of Workforce Development's Equal Rights Division or the Equal Employment Opportunity Commission.	Yes	<p>In cases where a committee, or committee member, is the subject of an employment-related discrimination claim, and BAS was aware of the circumstances leading the complaint and concurred in the committee's action, OLC will respond, if requested, to the complaint on the committee's behalf.</p> <p>OLC will not provide representation when the circumstances leading to the filing of the complaint were unknown to BAS or contrary to guidance provided by BAS to the committee.</p>
Mandamus proceedings under Wis. Stat. § 19.37(1) or other litigation related to Wisconsin's Open Records Law as well as records requests made thereunder.	Yes	<p>As an "authority" under Wis. Stat. § 19.32(1), local apprenticeship committees are required to comply with Wisconsin's open records law. Committees should always work with BAS in responding to open records request. If a committee receives a request for records, complaint, or legal notice related to its compliance with Wisconsin's Open Records law, that information should immediately be forwarded to BAS for consultation with OLC.</p>
Enforcement actions under Wis. Stat. § 19.97 or other litigation related to Wisconsin's Open Meetings Law as well as compliance questions related to the law.	Yes	<p>As a "governmental body" under Wis. Stat. § 19.82, local apprenticeship committees are required to comply with Wisconsin's Open Meetings law. Committees should always work with BAS to ensure compliance with open meetings law. BAS will forward specific legal questions related to the law's application to OLC. If a committee receives a complaint or legal notice related to its compliance with the open meetings law, that information should immediately be forwarded to BAS for consultation with OLC.</p>

Administrative proceedings or other litigation stemming from complaint investigations or enforcement actions under Wis. Admin. Code Ch. DWD 296.	No	As the agency tasked with implementing the requirements of DWD chapter 296, including investigation complaints made under DWD 296.14, it would be a conflict of interest for OLC to provide representation, legal advice or guidance to local apprenticeship committees and/or sponsors related to these proceedings.
Administrative proceedings or other litigation related to hearings under Wis. Admin. Code § DWD 295.20.	No	As the agency tasked with implementing the requirements of DWD chapter 295, including conducting hearings on cancellations under DWD 295.20, it would be a conflict of interest for OLC to provide representation, legal advice or guidance to local apprenticeship committees and/or sponsors related to these proceedings.
All other litigation not specifically addressed above.	No	Generally, items not addressed above will be beyond the scope of BAS regulatory authority; therefore, OLC is unable to provide legal advice or representation. Committees facing a novel legal issue should feel free to contact BAS about whether OLC consultation is warranted.