

Summary of public comments and Bureau of Apprenticeship Standards (BAS) responses for WI Apprenticeship Manual revision

Summary of comments received by the BAS during the public comment period (June 20, 2022 through September 20, 2022) of the revision process for the Wisconsin Apprenticeship Manual

Section	Manual Excerpt	Requested Change	BAS Response
2.3 Statewide Standards		Include language from prior manual indicating that the State Trade Advisory Committees "develop standards for the trade classifications within their industry."	BAS will adopt the recommendation in part. BAS will add the following sentence to the last paragraph of Ch. 2.3: "State Trade Advisory Committees develop standards for the trade classifications within their industry in concert with the Bureau."
2.5.3 Terms		Comment states that the manual should require staggered terms for local committees, as it has for state committee membership, and that BAS should consistently enforce staggered terms currently required by local or state apprenticeship standards.	No change is requested. BAS will ensure that field staff consistently enforce the staggered terms when part of a local committee's standards or the state standards set for that occupation.
2.6.2 Duties		Clarify the State Trade Advisory Committee's role and the responsibilities delegated to such committee. The revised manual describes the State Trade Advisory Committee's role as merely advisory to the DWD, however, the prior manual delegated certain specific authority to such committee.	BAS will not adopt the recommendation. The State Trade Advisory Committee is not described in statute or in regulation, and the revisions clarify the advisory nature of the committee. The prior manual stated that state committees were "advisory to the BAS and to the WCTS," and that they "assist in formulating and revising state apprenticeship standards." The revised manual uses similar language (see Ch. 2.3, Statewide Standards) and outlines the specific duties of the state committees (see Ch. 2.6.2, Duties).
2.6.2 Duties		The prior manual set forth specific tasks that were delegated to this committee. These delegations, however, are not included in the revised manual. Instead, the revised manual appears to shift power from the State Trade Advisory Committee to the DWD.	BAS will not adopt the recommendation. The State Trade Advisory Committee is not described in statute or in regulation, and the revisions clarify the advisory nature of the committee. The prior manual stated that state committees were "advisory to the BAS and to the WCTS," and that they "assist in formulating and revising state apprenticeship standards." The revised manual uses similar language (see Ch. 2.3, Statewide Standards) and outlines the specific duties of the state committees (see Ch. 2.6.2, Duties).
4.1 Local Apprenticeship Committees	<i>"...Boundaries may be drawn based on several factors, such as union jurisdiction, technical college districts, recruitment areas and population centers, among others."</i>	Comment asks for clarification as to what "among others" entails in this passage and characterizes the language as "vague."	BAS will not adopt the recommendation. DWD 295.03(1) states, "The geographical jurisdictional area of each such local apprenticeship committee shall be determined by the department." This is within BAS's discretion. The factors listed in the manual are examples of the factors considered by BAS in establishing boundaries, and are the same as the factors identified in the prior manual. ("The assignment of the area may be based on several factors such as; the union jurisdiction, WTCS boundaries, population centers, or others.")
4.1.3 Local Committee Member Removal (c)	<i>"Violation of any state apprenticeship statute, rule or standard."</i>	Comments states that this cause for removal is not described in the prior manual, the statutes or regulations. Additionally, it is unclear how an individual could bear responsibility for violating a state apprenticeship, statute, rule or standard. Furthermore, the manual does not indicate the body that would be responsible for determining when such a violation has occurred. Based on the foregoing, this provision should be removed from the revised manual.	BAS will not adopt the recommendation. DWD 295.03(1) states, "To be recognized as a local apprenticeship committee each individual member shall be officially so designated by the department." DWD has authority to designate membership of the committees. The manual states it is BAS that may remove members, which is supported by the regulation. This addition will ensure accountability for those serving as a state or local apprenticeship committee member.
4.1.4 Local Committee Functions and Duties		Comment states that the revised manual should describe the purpose of the local apprenticeship committees and clarify the local committees' functions and duties. Similar to the prior manual, the revised manual should describe the purpose of the local apprentice committees. Additionally, the revised manual should reflect the functions and duties that the DWD has delegated to the local committees. For example, the prior manual indicates that the local committees "establish local standards." The revised manual, however, states that the local committees "recommend standards . . . to the Bureau."	BAS will adopt the recommendation in part. The revised manual states under Ch. 4.1 the purpose of local committees is to "act in an advisory capacity in the operation of an apprenticeship program in the construction sector." Per DWD 295.02(1), the department may adopt statewide or local apprenticeship standards. Where no uniform courses or training schedules have been adopted by the department, the department approves an apprenticeship contract and standards provided by the sponsor. DWD 295.02(3). BAS will clarify the current process by revising Ch. 4.1.4(i) as follows: " Recommend <u>Draft and submit</u> standards to the Bureau for approval."
4.1.4 Local Committee Functions and Duties (viii)	<i>"Establish a system for the related instruction provider and employers to submit regular reports on apprentice grades, attendance, and training progress."</i>	Comment advises modifying this passage with the following language to more accurately capture that the process is jointly developed by both PRI providers and sponsors. "Collaborate with related instruction providers and employers to identify and implement a system for ensuring regular progress tracking of grades, attendance and on-the-job training."	BAS will adopt the recommendation. BAS will replace Ch. 4.1.4(viii) with the following language: "Collaborate with related instruction providers and employers to identify and implement a system for ensuring regular progress tracking of grades, attendance and on-the-job training."
4.1.4 Local Committee Functions and Duties (xii)	<i>"Consider petitions for credit for prior experience and education and make recommendations to the Bureau for the award of such credit."</i>	Comment recommended modifying passage to say "for the evaluation" as opposed to "for the award" because as it's written it implies the sponsor completes the evaluation and the Bureau's decision is based on their recommendation.	BAS will adopt the recommendation. BAS will replace the first sentence of Ch. 4.1.4(xii) with the following language: "Consider petitions for credit for prior experience and education and make recommendations to the Bureau for evaluation and determination of such credit."

Section	Manual Excerpt	Requested Change	BAS Response
4.1.4 Local Committee Functions and Duties (xiv)	<i>"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."</i>	Comment stated that the word "appoint" can be interpreted to mean the committee could direct technical college apprenticeship coordinator to act as a representative and complete certain functions.	BAS will not adopt the recommendation. The change is unnecessary. Anyone the committee appoints must be willing to carry out such functions. A committee does not have the authority to delegate to an unwilling technical college staff member. If a local committee chooses to appoint a representative to carry out these function, their duties will be captured in the committee standards or written policies.
4.1.4 Local Committee Functions and Duties (xiv.)	<i>"...specifically identify the functions delegated to the apprenticeship coordinator."</i>	Comment states that this new requirement lacks clarity and should be removed or the expectations described with respect to this delegation	BAS will not adopt the recommendation. Expectation is reflected in the requirement. It is important to capture the role of such a coordinator as delegated by the committee.
4.2.2 Sole Sponsor Duties (viii)	<i>"Recommend credit for previous experience and education to the Bureau in conformity with Bureau policies and procedures"</i>	Comment recommended modifying passage to clarify that the Bureau completes the evaluation and determination of such an award.	BAS will adopt the recommendation. BAS will revise Ch. 4.2.2(viii) as follows: "Recommend credit for previous experience and education to the Bureau <u>for evaluation and determination of credit</u> in conformity with Bureau policies and procedures."
4.2.2 Sole Sponsor Duties (xi)	<i>"Develop policies related to layoff, assignment, attendance, discipline, affirmative action and equal opportunity, etc., when necessary for the administration of the apprenticeship programs."</i>	Comment states that a WTCS college would not be able to impose related instruction attendance policies in conflict with college administrative policies	BAS will not adopt the recommendation. This passage empowers sponsors to establish their own expectations of apprentices in the program, including for attendance of paid related instruction through a local technical college.
4.2.3 In-House Committee Membership & Operations - Joint In-House Committee Membership	<i>"....An in-house committee for a jointly managed apprenticeship program should have an equal number of members representing employers and employees."</i>	Comment prefers use of the word "shall" as a replacement for "should" in this passage.	BAS will not adopt the recommendation. This is a best practice, not a requirement. Sole sponsors could decide not to have a committee.
Chapter 7 Minor Apprentices		Comment states this chapter should be removed from the manual because it conflates youth apprenticeship with registered apprenticeship, suggests that apprenticeship programs need to provide benefits to minors. If not removed, the comment asks that it should clarify that youth apprenticeship is a separate program and clarify that apprenticeship programs do not have to provide fringe benefits to minor apprentices.	BAS will not adopt the recommendation. This chapter does not pertain to youth apprenticeship. To clarify, however, BAS will add the following language at the end of the first paragraph of Ch. 7: "Apprenticeship programs are not required to admit apprentices who have not reached 18 years of age."
Chapter 8 Apprentice Selection Procedures	<i>"These procedures may entail traditional paper and pencil tests, performance tests, training programs, educational and work experience requirements, physical requirements, interviews, or application forms"</i>	Comment states that a sponsor should not be limited to only the procedures identified in the revised manual. Accordingly, we request that you add language indicating that these selection procedures are examples of permissible selection procedures and that sponsors may use additional procedures.	BAS will not adopt the recommendation. The second paragraph of Ch. 8 states: "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." Sponsors are not limited to the examples provided.
Chapter 9 Apprentice Compensation		19.2 should be changed to 9.2	BAS will adopt the recommendation.
9.2.3 Overtime Pay		Comment requests clarification in the manual as to whether or not the 55-hour cap applies to voluntary overtime—or only assigned hours.	BAS will not adopt the recommendation. The 55 hour cap at Wis. Stat. 106.01(6)(b) limits the total hours of work and related instruction that a sponsor may assign. It does not limit voluntary overtime. The manual states in the second sentence of Ch. 9.2.3, "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."
10.2 Work Credit		Comment requests that this section be amended to remove the restriction on awarding credit in the final year of the apprenticeship. States that granting apprentices OJT hours in the first year of the apprenticeship was to their detriment as it pertains to the sponsor's training model and the apprentice's comprehension of work processes.	BAS will not adopt the recommendation. The recommendation would constitute a significant policy shift and diverge from the previous manual. Awarding credit during a probationary period provides sponsors ample time to assess the apprentice's proficiency.
11.1 (1.)	<i>"Non apprentices are prohibited from enrolling in apprentice technical instruction courses designated as WTCS Aid Code 50"</i>	Comment stated that there are instances in which enrollment of non-apprentices is permissible in such courses so long as their enrollment does not displace a registered apprentice and is approved by the Bureau.	BAS will not adopt the recommendation. The manual language stating "Non apprentices are prohibited from enrolling in apprentice technical instruction courses designated as WTCS Aid Code 50" is consistent with WTCS policy 300.
11.2.1 Review & Inspection		Comment states that the revised manual removed the language specifying that training centers must maintain labor neutrality, <i>"while classes are in session"</i> and asks that this language be included as there is no reason that this requirement should apply when apprentices are not in class at the training facility.	BAS will adopt the recommendation. The first sentence of the second paragraph of Ch. 11.2.1 shall be revised as follows: "Independent training centers must maintain labor neutrality <u>while classes are in session.</u> "
11.2.2 Withdrawal from WTCS		Comment states that this section fails to impose a deadline for transferring, out of preference, from one WTCS college to another and creates a "loophole" and BAS should modify the language to require advance notifications by sponsor to any technical college impacted by a withdrawal of instruction.	BAS will not adopt the recommendation. BAS needs time for discourse and feedback with stakeholders, and notes that the manual could be updated in the future.

Section	Manual Excerpt	Requested Change	BAS Response
11.3.2 Independent Instructors		Comments states that the revised manual includes new requirements for Independent Instructions but does not provide a statutory foundation for these new requirements.	BAS will adopt the recommendation. A citation to DWD 295.02(2)(b)6, which contains these two requirements for apprenticeship instructors who do not meet the educational and occupational requirements of the WTCS Board, will be added after the first sentence of Ch. 11.3.2.
11.4 Schedule		Comment requests clarification in the manual as to whether or not the 55-hour cap applies to voluntary overtime—or only assigned hours.	
11.7 Apprentice Attendance and Progress	<i>"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."</i>	Comment stated it is not the responsibility of the related instruction provider to ensure apprentices are released from work.	BAS will adopt the recommendation. The first sentence of the second paragraph of Ch. 11.7 will be revised as follows: "It is the sponsor's responsibility, in coordination with the related instruction provider <u>to coordinate</u> with the related instruction provider to ensure apprentices are released from work to attend their required related instruction."
Old Manual Page 41; C. Related Instruction		Comments state that the prior manual described actions that WTCS districts are expected to take to maintain high quality instruction for apprentices and unless these expectations will be set forth in another document, the revised manual should incorporate these expectations so that the schools and other interested parties are aware of the obligations.	BAS will not adopt the recommendation. The prior manual restated WTCS 300 policies verbatim. Because these policies are not enforced by DWD or BAS, it is not appropriate for this manual. The WTCS policy referenced is still in place and enforced through the technical college system. BAS will provide a link to these policies on a resource page for sponsors.
14.4 Harassment, Intimidation and Retaliation	<i>"Sponsors are encouraged to use the anti-harassment training materials available through DOL"</i>	Comment states that the revised manual encourages sponsors to use materials available through the DOL for anti-harassment training; however, the DWD has also provided materials for such training. The revised manual should clarify that sponsors will comply with the applicable requirements if they use materials from either the DOL or DWD.	BAS will not adopt the recommendation. BAS has not produced any such video, but has distributed the anti-harassment training video and other materials produced by DOL. BAS has developed and may develop additional resources available for committee members; however, they are not to be considered required training materials.
14.5 Dissemination of Equal Opportunity Policy	<i>"The sponsor must ensure and aid the sponsor in meeting its nondiscrimination and affirmative action obligations."</i>	Comment states that the second sentence of this section appears to contain a typographical error.	BAS will adopt the recommendation and revise the second sentence of the first paragraph of Ch. 14.5 as follows: " The sponsor <u>Individuals connected with the administration and operation of the program</u> must take the necessary action to aid the sponsor in meeting its non-discrimination and affirmative action obligations."
Chapter 15 Affirmative Action Plan		Comment states that the prior manual indicated that the Apprenticeship Training Representative would assist apprenticeship programs with preparing affirmative action plans and that the ATR continues to hold this responsibility; however, this statement is not included in the revised manual.	BAS will not adopt the recommendation. The first sentence of Ch. 15.7 reads, "The Bureau provides technical assistance to sponsors in completing their affirmative action plans." This statement establishes that BAS will provide this assistance to apprenticeship programs.
15.4 Utilization Goals		Comment states that the manual does not describe the Bureau's role with regard to completing the utilization analysis and utilization goals and the revised manual should be revised to state that DWD will assist with the process	BAS will adopt the recommendation, and revise the first sentence of Ch. 15.4 as follows: "The sponsor, <u>working with the department</u> , 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." BAS will also revise the second sentence of Ch. 15.3.1 as follows: "At least every three years, and at each compliance review, a workforce analysis must be conducted <u>by the sponsor, working with the department</u> ."
15.6 Annual Review		Comment states that the sponsor may work with multiple employers and cannot be expected to maintain a working knowledge of all employers' practices, which could change at anytime without notice to the sponsor. In this regard, there are numerous multiemployer training programs in the state featuring dozens (and in some cases hundreds) of employers.	BAS will not adopt the recommendation. This annual review is required by DWD 296.09 and by 29 CFR 30.9. Failure to comply may result in deregistration. See DWD 296.13, 296.15; 29 CFR 30.15. This cannot be removed. BAS drafted this policy based on DOL's response to public comments as part of the 29 CFR 30 rulemaking. A sponsor is expected to have working knowledge of the environment in which it places apprentices for on-the-job training.
15.6 Annual Review	<i>"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."</i>	Comment notes a typo	BAS will adopt the recommendation. The last sentence of the second paragraph of Ch. 15.6 will be revised as follows: "Additionally, the sponsor may include its affiliated employers in the review process or enter into agreements with its sponsor <u>employers</u> to ensure equality in their personnel practices."

Section	Manual Excerpt	Requested Change	BAS Response
Chapter 24 Local Committee Litigation Policy		Comment stated that because the local committee's actions are subject to the oversight of and taken on behalf of DWD, then a decision of the local committee is the same as a decision of the agency. Therefore, the agency should provide legal guidance to the local committee whenever necessary or in all instances.	BAS will not adopt the recommendation. The updated manual provides greater clarity and transparency about the availability of DWD's Office of Legal Counsel to provide legal advice and representation on issues under BAS regulatory authority. The updated policy manual properly balances local committees' interest in securing legal representation by DWD with DWD legal counsel's legal and ethical responsibilities to prevent conflicts of interest and/or the appearance of conflicts of interests. As DWD is responsible for implementing and ensuring compliance with DWD 295 and 296, it would present a conflict of interest for DWD provide legal advice or represent local committees in matters related to investigation or enforcement actions under DWD 295 and 296. This does not preclude committees from seeking and receiving technical assistance and advice from BAS on compliance with program requirements.
Chapter 24 Local Committee Litigation Policy		Comment states that DWD must clarify if and when the local committee is acting as an agent of the sponsor and when the committee is acting under the authority delegated by the Department. If the committee is acting under authority delegated to it by the Department, then the Department should provide legal assistance to the committee throughout that task.	BAS will adopt the recommendation in part. BAS will modify the first paragraph of Ch. 24 as follows: " <u>Generally, if requested, DWD's Office of Legal Counsel will offer representation for issues within the scope of BAS' regulatory authority, where BAS was aware of the circumstances leading to the complaint and concurred in the committee's action, unless doing so would present a conflict of interest.</u> The chart below identifies the situations in which the DWD can provide legal representation. <u>Committees facing a novel legal issue should feel free to contact BAS about whether OLC consultation is warranted.</u> "