

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF WORKFORCE DEVELOPMENT
DIVISION OF APPRENTICE TRAINING
STATE PLAN FOR
EQUAL EMPLOYMENT OPPORTUNITY IN
APPRENTICESHIP AND TRAINING**

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MASSACHUSETTS STATE PLAN

Adopting and Implementing 29 CFR 30

EQUAL EMPLOYMENT OPPORTUNITY IN APPRENTICESHIP AND TRAINING

Purpose

This plan sets forth policies and procedures to promote equality of opportunity in apprenticeship programs registered with the Massachusetts Division of Apprentice Training. These policies and procedures apply to the recruitment and selection of apprentices, and to all conditions of employment and training during apprenticeship. The procedures established provide for review of apprenticeship programs, for registering apprenticeship programs, for processing complaints, and for deregistering noncomplying apprenticeship programs. The purpose of this plan is to promote equality of opportunity in apprenticeship by prohibiting discrimination based on race, color, religious creed, national origin, sex, sexual orientation, , genetic information, disability or ancestry in apprenticeship programs, by requiring affirmative action to provide equal opportunity in such apprenticeship programs, and by coordinating this part with other equal opportunity programs.

Section 1 Definitions

(a) Employer means any person or organization employing an apprentice whether or not the apprentice is enrolled with such person or organization or with some other person or organization.

(b) Apprentice Program means a program which is registered with the division for the recruitment, selection, employment, training and qualification of apprentices.

(c) Apprentice Program Sponsor means a person, association, committee, organization, corporation, partnership, trust or other entity operating an apprentice program and in whose name the program is registered with the division.

(d) Department means the United States Department of Labor

(e) Director means the Director of the Division of Apprentice Training or any person specifically designated by either of them.

(f) State Apprenticeship Council means the state apprenticeship council which is recognized by the Department as the appropriate agency to advise the Director or Division.

(g) Division shall mean the Division of Apprentice Training.

(h) Apprentice Agreement shall mean a written agreement between an apprentice and an apprentice program sponsor which is registered with the division and which provides for not less than 2,000 hours of reasonably continuous employment, consistent with training requirements as established by industry practice, in the occupation to which he is apprenticed. The written agreement shall also provide for not less than 150 hours per year of related instruction for a person in the occupation to which he or she is apprenticed, as well as participation in an

approved schedule of work experience throughout a reasonably continuous period of employment.

Section 2 Authority

The authority for the implementation and adoption of these policies and procedure affecting the registration of Apprentice programs with the Division of Apprentice Training is vested in the Executive Office of the Department of Workforce Development under authority of Chapter 23 of the General Laws.

Section 3 Equal Opportunity Standards

(a) Obligations of sponsors. Each sponsor of an apprenticeship program shall:

(1) Recruit, select, employ, and train apprentices during their apprenticeship, without discrimination because of race, color, religious creed, age, national origin, military status, sex, sexual orientation, genetic information, disability or ancestry, and

(2) Uniformly apply rules and regulations concerning apprentices, including but not limited to, equality of wages, periodic advancement, promotion, assignment of work, job performance, rotation among all work processes of the trade, imposition of penalties or other disciplinary action, and all other aspects of the apprenticeship program administration by the program sponsor; and

(3) Take affirmative action to provide equal opportunity in apprenticeship, including adoption of an affirmative action plan as required by this State plan.

(b) Equal opportunity pledge. Each sponsor of an apprenticeship program shall include in its standards the following equal opportunity pledge:

The recruitment, selection, employment, and training of apprentices during their apprenticeship, shall be without discrimination because of race, color, religious creed, age, national origin, military status, sex, sexual orientation, , genetic information, disability or ancestry. The sponsor will take affirmative action to provide equal opportunity in apprenticeship and will operate the apprenticeship program as required under title 29 of the Code of Federal Regulations, Part 30 and the Massachusetts State Plan.

(c) Programs presently registered. Each sponsor of a program registered with the Division as of the effective date of this part shall within 90 days of that effective date take the following action:

(1) Include in the standards of its apprenticeship program the equal opportunity pledge prescribed by paragraph (b) of this section;

(2) Adopt an affirmative action plan required by Section 4; and

(3) Adopt a selection procedure required by Section 5. A sponsor adopting a selection method under Section 5(b) (1), (2), or (3) shall prepare, and have available for submission upon request, copies of its amended standards, affirmative action plans, and selection procedure. A sponsor adopting a selection method under Section 5(b)(4) shall submit to the Division copies of its standards, affirmative action plan and selection procedure in accordance with the requirements of Section 5(b) (4)(I) (a) .

(d) Sponsors seeking new registration. A sponsor of a program seeking new registration with the Division shall submit copies of its proposed standards, affirmative action plan, selection procedures, and other information as may be required. The program shall be registered if such standards, affirmative action plan, and selection procedure meet the requirements of this plan.

(e) Programs subject to approved equal employment opportunity programs. A sponsor shall not be required to adopt an affirmative action plan under Section 4 or a selection procedure under Section 5 if it submits to the Division satisfactory evidence that it is in compliance with an equal employment opportunity program providing for the selection of apprentices and for affirmative action in apprenticeship including goals and timetables for women and minorities which has been approved as meeting the requirements of title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e et seq.) and its implementing regulations published in title 29 of the Code of Federal Regulations, Chapter XIV or Executive Order 11246, as amended, and its implementing regulations at title 41 of the Code of Federal Regulations, Chapter 60: Provided, That programs approved, modified or renewed subsequent to the effective date of this amendment will qualify for this exception only if the goals and timetables for minorities and women for the selection of apprentices provided for in such programs are equal to or greater than the goals required under this part.

(f) Program with fewer than five apprentices. A sponsor of a program in which fewer than five apprentices are indentured shall not be required to adopt an affirmative action plan under Section 4 or a selection procedure under Section 5: Provided, that such program was not adopted to circumvent the requirements of this part.

Section 4 Affirmative Action Plans

(a) Adoption of affirmative action plans. A sponsor's commitment to equal opportunity in recruitment, selection, employment, and training of apprentices shall include the adoption of a written affirmative action plan.

(b) Definition of affirmative action. Affirmative action is not mere passive nondiscrimination. It includes procedures, methods, and programs for the identification, positive recruitment, training, and motivation of present and potential minority and female (minority and nonminority) apprentices including the establishment of goals and timetables. It is action which will equalize opportunity in apprenticeship so as to allow full utilization of the work potential of minorities and women. The overall result to be sought is equal opportunity in apprenticeship for all individuals participating in or seeking entrance to the Nation's labor force.

(c) Outreach and positive recruitment. An acceptable affirmative action plan must also include adequate provision for outreach and positive recruitment that would reasonably be expected to increase minority and female participation in apprenticeship by expanding the opportunity of minorities and women to become eligible for apprenticeship selection. In order to achieve these objectives, sponsors shall undertake activities such as those listed below. It is not contemplated that each sponsor necessarily will include all the listed activities in its affirmative action program. The scope of the affirmative action program will depend on all the circumstances including the size and type of the program and its resources.

However, the sponsor will be required to undertake a significant number of appropriate activities in order to enable it to meet its obligations under this part. The affirmative action plan shall set forth the specific steps the sponsor intends to take in the areas listed below. Whenever special circumstances warrant, the Division may provide such financial or other assistance as it deems necessary to implement the requirements of this paragraph.

(1) Dissemination of information concerning the nature of the apprenticeship, requirements for admission to apprenticeship, availability of apprenticeship opportunities, sources of apprenticeship applications, and the equal opportunity policy of the sponsor. For programs accepting applications only at specific intervals, such information shall be disseminated at least 30 days in advance of the earliest date for application at each interval. For programs customarily receiving applications throughout the year, such information shall be regularly disseminated but not less than semiannually.

Such information shall be given to the Division, local schools, employment service offices, Career Centers, women's centers, outreach programs and community organizations which can effectively reach minorities and women, and shall be published in newspapers which are circulated in the minority community and among women, as well as in the general areas in which the program sponsor operates.

(2) Participation in annual workshops conducted by employment service agencies for the purpose of familiarizing school, employment service and other appropriate personnel with the apprenticeship system and current opportunities therein.

(3) Cooperation with local school boards and vocational education systems to develop programs for preparing students to meet the standards and criteria required to qualify for entry into apprenticeship programs.

(4) Internal communication of the sponsor's equal opportunity policy in such a manner as to foster understanding, acceptance, and support among the sponsor's various officers, supervisors, employees, and members and to encourage such persons to take the necessary action to aid the sponsor in meeting its obligations under this plan.

(5) Engaging in programs such as outreach for the positive recruitment and preparation of potential applicants for apprenticeships; where appropriate and feasible, such programs shall provide for pretesting experience and training. If no such programs are in existence the sponsor shall seek to initiate these programs, or, when available, to obtain financial assistance from the Division. In initiating and conducting these programs, the sponsor may be required to work with other sponsors and appropriate community organizations. The sponsor shall also initiate programs to prepare women and encourage women to enter traditionally male programs.

(6) To encourage the establishment and utilization of programs of preapprenticeship, preparatory trade training, or others designed to afford related work experience or to prepare candidates for apprenticeship, a sponsor shall make appropriate provision in its affirmative action plan to assure that those who complete such programs are afforded full and equal opportunity for admission into the apprenticeship program.

(7) Utilization of journeypersons to assist in the implementation of the sponsor's affirmative action program.

(8) Granting advance standing or credit on the basis of previously acquired experience, training, skills, or aptitude for all applicants equally.

(9) Admitting to apprenticeship, persons whose age exceeds the maximum age for admission to the program, where such action assists the sponsor in achieving its affirmative action obligations.

(10) Other appropriate action to ensure that the recruitment, selection, employment, and training of apprentices during apprenticeship shall be without discrimination because of race, color, religion, age, national origin, military status, sex, sexual orientation or disability (e.g., general publication of apprenticeship opportunities and advantages in advertisements, industry reports, articles, etc.; use of present minority and female apprentices and journeypersons as recruiters; career counseling; periodic auditing of affirmative action programs and activities; and development of reasonable procedures between the sponsor and employers of apprentices to ensure that employment opportunity is being granted, including reporting systems, on-site reviews, briefing sessions, etc.). The affirmative action program shall set forth the specific steps the sponsor intends to take, in the above areas, under this paragraph (c). Whenever special circumstances warrant, the Division may provide such financial or other assistance as it deems necessary to implement the above requirements.

(d) Goals and timetables.

(1) A sponsor adopting a selection method under Section 5(b) (1) or (2) which determines on the basis of the analysis described in paragraph (e) of this section that it has deficiencies in terms of underutilization of minorities and/or women (minority and nonminority) in the craft or crafts represented by the program shall include in its affirmative action plan percentage goals and timetables for the admission of minority and/or female (minority and nonminority) applicants into the eligibility pool.

(2) A sponsor adopting a selection method under Section 5(b) (3) or (4) which determines on the basis of the analysis described in paragraph (e) of this section that it has deficiencies in terms of the underutilization of minorities and/or women in the craft or crafts represented by the program shall include in its affirmative action plan percentage goals and timetables for the selection of minority and female (minority and nonminority) applicants for the apprenticeship program.

(3) Underutilization as used in this paragraph refers to the situation where there are fewer minorities and/or women (minority and nonminority) in the particular craft or crafts represented by the program than would reasonably be expected in view of an analysis of the specific factors in paragraphs (e) (1) through (5) of this section. Where, on the basis of the analysis, the sponsor determines that it has no deficiencies, no goals and timetables need be established. However, where no goals and timetables are established, the affirmative action plan shall include a detailed explanation why no goals and timetables have been established.

(4) Where the sponsor fails to submit goals and timetables as part of its affirmative action plan or submits goals and timetables which are unacceptable, and the Division determines that the sponsor has deficiencies in terms of underutilization of minorities or women (minority and nonminority) within the meaning of this section, the Division shall establish goals and timetables applicable to the sponsor for the admission of minority and female (minority and nonminority) applicants into the eligibility pool or selection of apprentices, as appropriate. The sponsor shall make good faith efforts to attain these goals and timetables in accordance with the requirements of this section.

(e) Analysis to determine if deficiencies exist. The sponsor's determination as to whether goals and timetables shall be established, shall be based on an analysis of at least the following factors, which analysis shall be set forth in writing as part of the affirmative action plan.

(1) The size of the working age minority and female (minority and nonminority) population in the program sponsor's labor market area;

(2) The size of the minority and female (minority and nonminority) labor force in the program sponsor's labor market area;

(3) The percentage of minority and female (minority and nonminority) participation as apprentices in the particular craft as compared with the percentage of minorities and women (minority and nonminority) in the labor force in the program sponsor's labor market area;

(4) The percentage of minority and female (minority and nonminority) participation as journeypersons employed by the employer or employers participating in the program as compared with the percentage of minorities and women (minority and nonminority) in the sponsor's labor market area and the extent to which the sponsor should be expected to correct any deficiencies through the achievement of goals and timetables for the selection of apprentices; and

(5) The general availability of minorities and women (minority and nonminority) with present or potential capacity for apprenticeship in the program sponsor's labor market area.

(f) Establishment and attainment of goals and timetables. The goals and timetables shall be established on the basis of the sponsor's analysis of its underutilization of minorities and women and its entire affirmative action program. A single goal for minorities and a separate single goal for women are acceptable unless a particular group is employed in a substantially disparate manner in which case separate goals shall be established for such group. Such separate goals would be required, for example, if a specific minority group of women were underutilized even though the sponsor had achieved its standards for women generally. In establishing the goals, the sponsor should consider the results which could be reasonably expected from its good faith efforts to make its overall affirmative action program work. Compliance with these requirements shall be determined by whether the sponsor has met its goals within its timetables, or failing that, whether it has made good faith efforts to meet its goals and timetables. Its good faith efforts shall be judged by whether it is following its affirmative action program and attempting to make it work, including evaluation and changes in its program where necessary to obtain the maximum effectiveness toward the attainment of its goals.

(g) Data and information. The Director of Apprentice Training, or a person or agency designated by the Director, shall make available to program sponsors data and information on minority and female (minority and nonminority) labor force characteristics for each Standard Metropolitan Statistical Area and for other special areas as appropriate.

Section 5 Selection Of Apprentices

(a) Obligations of sponsors. In addition to the development of a written affirmative action plan to ensure that minorities and women have an equal opportunity for selection as apprentices and otherwise ensure the prompt achievement of full and equal opportunity in apprenticeship, each

sponsor shall further provide in its affirmative action program that the selection of apprentices shall be made under one of the methods specified in the following subparagraphs (1) through (4) of paragraph (b) of this section.

(b) Selection methods. The sponsor shall adopt one of the following methods for selecting apprentices.

(1) Selection on basis of rank from pool of eligible applicants

(i) Selection. A sponsor may select apprentices from a pool of eligible applicants created in accordance with the requirements of paragraph (b)(1)(iii) of this section on the basis of the rank order of scores of applicants on one or more qualification standards where there is a significant statistical relationship between rank order of scores and performance in the apprenticeship program. In demonstrating such relationship, the sponsor shall follow the procedures set forth in Guidelines on Employee Selection Procedures published at 41 CFR part 60-3.

(ii) Requirements. The sponsor adopting this method of selecting apprentices shall meet the requirements of paragraphs (b)(1)(iii) through (vii) of this section.

(iii) Creation of pool of eligibles. A pool of eligibles shall be created from applicants who meet the qualifications of minimum legal working age; or from applicants who meet qualification standards in addition to minimum legal working age: Provided, that any additional qualification standards conform with the following requirements:

(A) Qualification standards. The qualification standards, and the procedures for determining such qualification standards, shall be stated in detail and shall provide criteria for the specific factors and attributes to be considered in evaluating applicants for admission to the pool. The score required under each qualification standard for admission to the pool shall also be specified. All qualification standards, and the score required on any standard for admission to the pool, shall be directly related to job performance, as shown by a significant statistical relationship between the score required for admission to the pool, and performance in the apprenticeship program. In demonstrating such relationship, the sponsor shall follow the procedures set forth in 41 CFR part 60-3. Qualifications shall be considered as separately required so that the failure of an applicant to attain the specified score under a single qualification standard shall disqualify the applicant from admission to the pool.

(B) Aptitude tests. Any qualification standard for admission to the pool consisting of aptitude test scores shall be directly related to job performance, as shown by significant statistical relationships between the score on the aptitude tests required for admission to the pool, and performance in the apprenticeship program. In determining such relationship, the sponsor shall follow the procedures set forth in 41 CFR part 60-3. The requirements of this paragraph (b)(1)(iii)(B) shall also be applicable to aptitude tests utilized by a program sponsor which are administered by a state employment agency, or any other person, agency, or organization engaged in the selection or evaluation of personnel. A national test developed and administered by a national joint apprenticeship committee will not be approved by the Division unless such test has been previously approved by the Department of Labor.

(c) Educational attainments. All educational attainments or achievements as qualifications for admission to the pool shall be directly related to job performance as

shown by a significant statistical relationship between the score required for admission to the pool and performance in the apprenticeship program. In demonstrating such relationship, the sponsor shall meet the requirements of 41CFR part 60-3. School records or a passing grade on the general education development tests recognized by the State or local public instruction authority shall be evidence of educational achievement. Education requirements shall be applied uniformly to all applicants.

(iv) Oral interviews. Oral interviews shall not be used as a qualification standard for admission into an eligibility pool. However, once an applicant is placed in the eligibility pool, and prior to selection for apprenticeship from the pool, he or she may be required to submit to an oral interview. Oral interviews shall be limited to such objective questions as may be required to determine the fitness of applicants to enter the apprenticeship program, but shall not include questions relating to qualifications previously determined in gaining entrance to the eligibility pool. When an oral interview is used, each interviewer shall record the questions and the general nature of the applicants' answers, and shall prepare a summary of any conclusions. Each applicant rejected from the pool of eligibles on the basis of an oral interview shall be given a written statement of such rejection, the reasons therefore, and the appeal rights available to the applicant.

(v) Notification of applicants. All applicants who meet the requirements for admission shall be notified and placed in the eligibility pool. The program sponsor shall give each rejected applicant who is not selected for the pool or the program notice of his or her rejection, including the reasons for the rejection, the requirements for admission to the pool of eligibles, and the appeal rights available to the applicant.

(vi) Goals and timetables. The sponsor shall establish where required by Section 4(d), percentage goals and timetables for the admission of minorities and women (minority and nonminority) into the pool of eligibles, in accordance with the provisions of Section 4 (d), (e), and (f).

(vii) Compliance. A sponsor shall be deemed to be in compliance with its commitments under paragraph (b)(1)(vi) of this section if it meets its goals or timetables or if it makes a good faith effort to meet these goals and timetables. In the event of the failure of the sponsor to meet its goals and timetables, it shall be given an opportunity to demonstrate that it has made every good faith effort to meet its commitments (see section 4(0)). All the actions of the sponsor shall be reviewed and evaluated in determining whether such good faith efforts have been made.

(2) Random selection from pool of eligible applicants

(i) Selection. A sponsor may select apprentices from a pool of eligible applicants on a random basis. The method of random selection is subject to approval by the Division. Supervision of the random selection process shall be by an impartial person or persons selected by the sponsor, but not associated with the administration of the apprenticeship program. The time and place of the selection, and the number of apprentices to be selected, shall be announced. The place of the selection shall be open to all applicants and the public. The names of apprentices drawn by this method shall be posted immediately following the selection at the program sponsor's place of business.

(ii) Requirements. The sponsor adopting this method of selecting apprentices shall meet the requirements of paragraphs (b)(1)(iii) through (v) of this section relating to the creation of pool of eligibles, oral interviews, and notification of applicants.

(iii) Goals and timetables. The sponsor shall establish, where required by Section 4(d),

percentage goals and timetables for admission of minorities and women (minority and nonminority) into the pool of eligibles in accordance with the provisions of 29 CFR 30.4 (d), (e), and (f).

(iv) Compliance. Determinations as to the sponsor's compliance with its obligations under these regulations shall be in accordance with the provisions of paragraph (b)(1)(vii) of this section.

(3) Selection from pool of current employees

(i) Selection. A sponsor may select apprentices from an eligibility pool of the workers already employed by the program sponsor in a manner prescribed by a collective bargaining agreement where such exists, or by the sponsor's established promotion policy. The sponsor adopting this method of selecting apprentices shall establish goals and timetables for the selection of minority and female apprentices, unless the sponsor concludes, in accordance with the provisions of Section 4 (d), (e), and (f) of this Plan that it does not have deficiencies in terms of underutilization of minorities and/or women (minority and nonminority) in the apprenticeship of journey person crafts represented by the program.

(ii) Compliance. Determinations as to the sponsor's compliance with its obligations under these regulations shall be in accordance with provisions of paragraph (b)(1)(vii) of this section.

(4) Alternative selection methods

(i) Selection. A sponsor may select apprentices by any other method including its present selection method, provided that the sponsor meets the following requirements:

(A) Selection method and goals and timetables. Within 90 days of the effective date of this amendment, the sponsor shall complete development of the revised selection method it proposes to use along with the rest of its written affirmative action program including, where required by Section 4(d), its percentage goals and timetables for the selection of minority and/or female (minority and nonminority) applicants for apprenticeship and its written analysis, upon which such goals and timetables, or lack thereof, are based. The establishment of goals and timetables shall be in accordance with the provisions of Section 4 (d), (e), and (f). The sponsor may not implement any such selection method until the Division has approved the selection method as meeting the requirements of item (B) of this subdivision and has approved the remainder of its affirmative action program including its goals and timetables. If the Division fails to act upon the selection method and the affirmative action program within 30 days of its submission the sponsor then may implement the selection method.

(B) Qualification standards. Apprentices shall be selected on the basis of objective and specific qualification standards. Examples of such standards are fair aptitude tests, school diplomas or equivalent, occupationally essential health requirements, fair interviews, school grades, and previous work experience. Where interviews are used, adequate records shall be kept including a brief summary of each interview and the conclusions on each of the specific factors, e.g., motivation, ambition, and willingness to accept direction which are part of the total judgment. In applying any such standards, the sponsor shall meet the requirements of 41 CFR part 60-3.

(ii) Compliance. Determinations as to the sponsor's compliance with its obligations under these regulations shall be in accordance with the provisions of paragraph

(b)(1)(vii) of this section. Where a sponsor, despite its good faith efforts, fails to meet its goals and timetables within a reasonable period of time, the sponsor may be required to make appropriate changes in its affirmative action program to the extent necessary to obtain maximum effectiveness toward the attainment of its goals. The sponsor may also be required to develop and adopt an alternative selection method, including a method prescribed by the Division, where it is determined that the failure of the sponsor to meet its goals is attributable in substantial part to the selection method. Where the sponsor's failure to meet its goals is attributable in substantial part to its use of a qualification standard which has adversely affected the opportunities of minorities and/or women (minority and nonminority) for apprenticeship, the sponsor may be required to demonstrate that such qualification standard is directly related to job performance, in accordance with the provisions of paragraph (b)(1)(iii)(A) of this section.

Section 6 - Existing Lists Of Eligibles And Public Notice

A sponsor adopting a selection method under section 5(b) (1) or (2) and a sponsor adopting a selection method under Section 5(b)(4) who determines that there are fewer minorities and/or women (minority and nonminority) on its existing lists of eligibles than would reasonably be expected in view of the analysis described in Section 4(e) shall discard all existing eligibility lists upon adoption of the selection methods required by this part. New eligibility pools shall be established and lists of eligibility pools shall be posted at the sponsor's place of business. Sponsors shall establish a reasonable period of not less than 2 weeks for accepting applications for admission to an apprenticeship program. There shall be at least 30 days of public notice in advance of the earliest date for application for admission to the apprenticeship program (see Section 4(c) of this Plan on affirmative action with respect to dissemination of information). Applicants who have been placed in a pool of eligibles shall be retained on lists of eligibles subject to selection for a period of 2 years. Applicants may be removed from the list at an earlier date by their request or following their failure to respond to an apprentice job opportunity given by certified mail, return receipt requested. Applicants who have been accepted in the program shall be afforded a reasonable period of time in light of the customs and practices of the industry for reporting for work. All applicants shall be treated equally in determining such period of time. It shall be the responsibility of the applicant to keep the sponsor informed of his or her current mailing address. Upon request, a sponsor may restore to the list of eligibles applicants who have been removed from the list or who have failed to respond to an apprenticeship job opportunity.

Section 7 Records

(a) Obligations of sponsors. Each sponsor shall keep adequate records including a summary of the qualifications of each applicant, the basis for evaluation and for selection or rejection of each applicant, the records pertaining to interviews of applicants, the original application for each applicant, information relative to the operation of the apprenticeship program, including but not limited to job assignment, promotion, demotion, layoff, or termination, rates of pay, or other forms of compensation or conditions of work, hours including hours of work and, separately, hours of training provided, and any other records pertinent to a determination of compliance with these regulations, as may be required by the Division. The records pertaining to individual applicants, selected or rejected, shall be maintained in such manner as to permit identification of minority and female (minority and nonminority) participants.

(b) Affirmative action plans. Each sponsor must retain a statement of its affirmative action plan required by Section 4 of this plan for the prompt achievement of full and equal opportunity in apprenticeship, including all data and analyses made pursuant to the requirements of Section 4

of this Plan. Sponsors shall review their affirmative action plans annually and update them where necessary, including the goals and timetables.

(c) Qualification standards. Each sponsor must maintain evidence that its qualification standards have been validated in accordance with the requirements set forth in Section 5(b).

(d) Maintenance of records. The records required by this part and any other information relevant to compliance with these regulations shall be maintained for 5 years and made available upon request to the Department, Division or other authorized representative.

Section 8 Compliance Reviews

(a) Conduct of compliance reviews. The Division will regularly conduct systematic reviews of apprenticeship programs in order to determine the extent to which sponsors are complying with these regulations and will also conduct compliance reviews when circumstances, including receipt of complaints not referred to a private review body pursuant to Section 11(b)(1)(I), so warrant, and take appropriate action regarding programs which are not in compliance with the requirements of this part. Compliance reviews will consist of comprehensive analyses and evaluations of each aspect of the apprenticeship program, including on-site investigations and audits.

(b) Reregistration. Sponsors seeking reregistration shall be subject to a compliance review as described in paragraph (a) of this section by the Division as part of the reregistration process.

(c) New registrations. Sponsors seeking new registration shall be subject to a compliance review as described in paragraph (a) of this section by the Division as part of the registration process.

(d) Voluntary compliance. Where the compliance review indicates that the sponsor is not operating in accordance with this part, the Division shall notify the sponsor in writing of the results of the review and make a reasonable effort to secure voluntary compliance on the part of the program sponsor within a reasonable time before undertaking sanctions under Section 13. In the case of sponsors seeking new registration, the Division will provide appropriate recommendations to the sponsor to enable it to achieve compliance for registration purposes.

Section 9 Noncompliance With Federal And State Equal Opportunity Requirements

A pattern or practice of noncompliance by a sponsor (or where the sponsor is a joint apprenticeship committee, by one of the parties represented on such committee) with Federal or state laws or regulations requiring equal opportunity may be grounds for the imposition of sanctions in accordance with Section 11 if such noncompliance is related to the equal employment opportunity of apprentices and/or graduates of such an apprenticeship program under this part. The sponsor shall take affirmative steps to assist and cooperate with employers and unions in fulfilling their equal employment opportunity obligations.

Section 10 Complaint Procedure

Filing. Any apprentice or applicant for apprenticeship who believes that he or she has been discriminated against on the basis of race, color, religious creed, national origin, sex, sexual orientation, , genetic information, disability or ancestry with regard to apprenticeship or that the equal opportunity standards with respect to his or her selection have not been followed in the

operation of an apprenticeship program may, personally or through an authorized representative, file a complaint with the Massachusetts Commission Against Discrimination, pursuant to the provisions of M.G.L. c. 151B, or with the EEOC, pursuant to the relevant provision of Federal Law.

To file a complaint of discrimination with the MCAD, an apprentice must file with either the Boston or Springfield office, a written complaint within 300 days of the alleged discrimination. The complaint must generally be filed in person, unless the apprentice is represented by an attorney. The complaint must contain the name address and telephone number of the complainant and of the individual and/or entity alleged to have engaged in discrimination. The complaint must also include a statement of the facts upon which the claim is based. The complaint must be signed under oath.

Any other individual or entity who has reason to believe that a sponsor is not in compliance with this Plan may file a complaint with the Division for investigation and imposition of appropriate sanctions, if any.

Section 11 Sanctions

(a) Where the Division, as a result of a compliance review or other reason, determines that there is reasonable cause to believe that an apprenticeship program is not operating in accordance with this part and voluntary corrective action has not been taken by the program sponsor, the Division shall institute proceedings to deregister the program and/or it shall refer the matter to the Massachusetts Commission Against Discrimination with recommendations for the institution of a court action under M.G.L. c. 151B, or to the Attorney General for other court action as authorized by law.

(b) Deregistration proceedings shall be conducted in accordance with the following procedures:

(1) The Division shall notify the sponsor, in writing, that a determination of reasonable cause has been made under paragraph (a) of this section and that the apprenticeship program may be deregistered unless, within 10 days of the receipt of the notice, the sponsor requests a hearing. The notification shall specify the facts on which the determination is based.

(2) If within 15 days of the receipt of the notice provided for in paragraph (b)(1) of this section the sponsor mails a request for a hearing, the Director shall convene a hearing in accordance with M.G.L. c. 23 and 453 CMR 7.00

Section 12 Reinstatement Of Program Registration

Any apprenticeship program deregistered pursuant to this plan may be reinstated upon presentation of adequate evidence to the Directory that the apprenticeship program is operating in accordance with this part. An apprenticeship program deregistered pursuant to this plan may not file a request for reinstatement prior to six months after the effective date of the deregistration.

Section 13 Intimidatory Or Retaliatory Acts

Any intimidation, threat, coercion, or retaliation by or with the approval of any sponsor against any person for the purpose of interfering with any right or privilege secured by M.G.L. c. 151B or the Civil Rights Act of 1964, as amended Executive Order 11246, or because he or she has made a complaint, testified, assisted, or participated in any manner in any investigation proceeding, or hearing under this part shall be considered noncompliance with the equal opportunity standards of this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing or judicial proceeding arising therefrom.

Section 14 Nondiscrimination

The commitments contained in the sponsor's affirmative action program are not intended and shall not be used to discriminate against any qualified applicant or apprentice on the basis of race, color, religion, national origin, sex, sexual orientation or disability.

Section 15 Exemptions

Request for exemption from these regulations, or any part thereof, shall be made in writing to the Director and shall contain a statement of reasons supporting the request. Exemptions may be granted for good cause.

Section 16 Approval and Effective Date

This state plan shall be submitted to the United States Department of Labor, Office of Apprenticeship (OA) for approval and shall be effective immediately upon being signed by the Administrator of OA.

Submitted this 15th Day of June, 2009
