

454 CMR 26.00: APPRENTICE STANDARDS

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26.01: Authority, Purpose, and Scope

(1) Authority. 454 CMR 26.00 is promulgated under the authority of M.G.L. c. 23, §§ 1, and 11E through 11W.

(2) Purpose. 454 CMR 26.00 establishes:

- (a) Criteria under which the Executive Office of Labor and Workforce Development Department of Labor Standards' Division of Apprentice Standards may continue to be recognized as an appropriate agency for registering local apprentice programs for federal purposes pursuant to the Fitzgerald Act, 29 U.S.C. 50 and the federal regulations promulgated thereunder, 29 CFR 29.1 through 29.14;
- (b) Minimum standards governing apprenticeship in Massachusetts to maintain the integrity of employment-based training programs and to safeguard the welfare of Massachusetts apprentices;
- (c) Application procedures and requirements for obtaining status as a Massachusetts registered apprentice program;
- (d) Procedures for redressing noncompliance by apprentices or apprentice program sponsors with any Massachusetts or federal law governing apprenticeship; and
- (e) Notice and recordkeeping requirements with which all registered apprentice programs must comply.

(3) Scope. 454 CMR 26.00 shall apply to any person, firm, corporation, or other entity that applies for registration of an apprentice program with the Division of Apprentice Standards, or enters into apprenticeship arrangements with registered apprentice program sponsors or apprentices.

26.02: Definitions

Administrator means the Administrator of the Office of Apprenticeship, or any person specifically designated by the Administrator.

Apprentice means any person, 16 years of age or older, except where a higher minimum age standard is otherwise fixed by law, who is participating, through employment, in an approved schedule of work experience supplemented by related instruction and who is a party to an apprentice agreement registered with the Division of Apprentice Standards.

Apprenticeship Agreement means a written agreement, complying with 454 CMR 26.06, between an apprentice and either the apprentice's program sponsor, or an apprenticeship committee acting as agent for the program sponsor(s), which contains the terms and conditions of the employment and training of the apprentice.

Apprenticeship Committee means those persons designated by the apprentice program sponsor to act for it in the administration of an apprentice program.

- (a) A joint committee is composed of an equal number of representatives of the employer(s) and of the employees represented by a *bona fide* collective bargaining agent(s).

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(b) A non-joint committee, which may also be known as a unilateral or group non-joint (which may include employees) committee, has employer representatives but does not have a *bona fide* collective bargaining agent as a participant.

Apprenticeable Occupation means one which is specified by industry and which must:

- (a) Involve skills that are customarily learned in a practical way through a structured, systematic program of on-the-job supervised learning;
- (b) Be clearly identified and commonly recognized throughout an industry;
- (c) Involve 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 supervised on-the-job learning to attain; and
- (d) Require related instruction to supplement the on-the-job learning.

Apprenticeship Program means a plan registered with the Division containing all terms and conditions for the qualification, recruitment, selection, employment and training of apprentices, as required under 454 CMR 26.04, including but not limited to such matters as the requirement for a written apprenticeship agreement.

Articulated Credit means credit that is provided to a student from a training facility that is transferable to another training facility through a written agreement.

Cancellation means the termination of the registration or approval status of a program at the request of the sponsor, or termination of an Apprenticeship Agreement at the request of the apprentice, or in accordance with 454 CMR 26.08.

Certification or Certificate means documentary evidence that:

- (a) The Office of Apprenticeship has approved a set of National Guidelines for Apprenticeship Standards developed by a national committee or organization, joint or unilateral, for policy or guideline use by local affiliates, as conforming to the standards of apprenticeship set forth in 29 CFR 29.5.
- (b) The Division has established that an individual is eligible for probationary employment as an apprentice under a registered apprenticeship program;
- (c) The Division has registered an apprenticeship program as evidenced by a Certificate of Registration or other written *indicia*;
- (d) The Division has determined that an apprentice has successfully met the requirements to receive an interim credential; or
- (e) The Division has determined that an individual has successfully completed apprenticeship.

Competency means the attainment of manual, mechanical or technical skills and knowledge, as specified by an occupational standard and demonstrated by an appropriate written and hands-on proficiency measurement.

Completion Rate means the percentage of an apprenticeship cohort who receive a certificate of apprenticeship completion within one year of the projected completion date. An apprenticeship cohort is the group of individual apprentices registered to a specific program during a one year time frame, except that a cohort does not include the apprentices whose apprenticeship agreement has been cancelled during the probationary period.

Department means Department of Labor Standards.

Deputy Director means the Director of the Division of Apprentice Standards and his or her designees.

Deregistration means the termination of the registration status of an apprentice program.

Director means the Director of the Department of Labor Standards and his or her designees.

Division means the Department of Labor Standards Division of Apprentice Standards.

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Electronic Media means media that utilize electronics or electromechanical energy for the end user (audience) to access the content; and includes, but is not limited to, electronic storage media, transmission media, the Internet, extranet, lease lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic media and/or interactive distance learning.

Employer means any person or organization employing an apprentice, whether or not such person or organization is a party to an apprentice agreement with the apprentice.

Full Time Employment means on the job employment of between 1500 to 2000 work hours per year.

Federal Purposes means any Federal contract, grant, agreement or arrangement dealing with apprenticeship; and any Federal financial or other assistance, benefit, privilege, contribution, allowance, exemption, preference or right pertaining to apprenticeship.

Interim Credential means a credential issued by the Division, as certification of competency attainment by an apprentice.

Journeyworker means a worker who has attained a level of skill, abilities and competencies recognized within an industry as required for the occupation. In the case of licensed professions, Journeyworker shall mean a worker who is licensed as required by the laws and/or regulations of the Commonwealth of Massachusetts.

Massachusetts Apprenticeship Council means the entity established to assist the Division of Apprentice Standards and to provide advice and guidance on the operation of the state apprenticeship system.

Office of Apprenticeship means the office designated by the U.S. Employment and Training Administration to administer the National Apprenticeship System or its successor organization.

Pre-apprentice means any person who is attending classes to learn an apprenticeable occupation in an approved schedule of related instruction and who is participating in a registered pre-apprentice program registered with the Division of Apprentice Standards.

Pre-apprentice Sponsor means any person, association, committee, or organization operating a pre-apprenticeship program and in whose name the program is registered or approved.

Provisional Registration means the one year initial provisional approval of newly registered programs that meet the required standards for program registration, after which program approval may be made permanent, continued as provisional, or rescinded following a review by the Division.

Quality Assurance Assessment means a comprehensive review conducted by the Division regarding all aspects of an apprenticeship program's performance, including but not limited to review of program completion rates; and determining if apprentices are receiving: on-the-job training in all phases of the apprenticeable occupation; scheduled wage increases consistent with the registered standards; related instruction through appropriate curriculum and delivery systems; and that the Division is receiving notification of all new registrations, cancellations, and completions as required in 454 CMR 26.00.

Ratio means the allowable number of apprentices to the number of journeyworkers as established by the Massachusetts Department of Labor Standards working on the same jobsite and registered with the same sponsor in the same occupation.

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Registration of an Apprenticeship Agreement means the acceptance and recording of an apprenticeship agreement by the Division as evidence of the apprentice's participation in a particular registered apprenticeship program.

Registration of an Apprenticeship Program means the registration and/or approval by the Division, as meeting the basic standards and requirements of the U.S. Department of Labor for approval of such program for Federal purposes. Approval is evidenced by a Certificate of Registration or other written *indicia*.

Registration of a Pre-apprenticeship Program means the registration and/or approval by the Division, as meeting the basic standards and requirements of the Division, including but not limited to, a written agreement with a registered apprentice program as specified in 454 CMR 26.05.

Related Instruction means an organized and systematic form of instruction designed to provide the apprentice with knowledge of the theoretical and technical subjects related to the apprentice's occupation. Such instruction may be given in a classroom, through occupational or industrial courses, or by correspondence courses of equivalent value, electronic media, or other forms of self-study approved by the Division, or in the case of licensed occupations, as approved by the licensing entity.

Sponsor means any person, association, committee, or organization operating an apprenticeship program and in whose name the program is registered or approved.

Technical Assistance means guidance provided by Division staff in the development, revision, amendment, or processing of a potential or current program sponsor's Standards of Apprenticeship or Apprenticeship Agreements, or advice or consultation with a program sponsor to further compliance with these regulations or guidance from the Office of Apprenticeship to the Division on how to remedy nonconformity with these regulations.

Transfer means a shift of apprenticeship registration from one program to another or from one employer within a program to another employer within that same program, where there is agreement between the apprentice and the affected apprenticeship committees or program sponsors.

26.03: Eligibility and Procedure for Apprentice Program Registration

- (1) No apprenticeship program sponsor shall be eligible for registration unless:
 - (a) The occupation at issue is an apprenticeable occupation as defined in 454 CMR 26.02;
 - (b) The terms and conditions of the proposed apprentice program comply with the requirements of M.G.L. c. 23, §§ 11E through 11L and 454 CMR 26.00; and
 - (c) The proposed apprentice program conforms to the Massachusetts State Plan for Equal Employment Opportunity in Apprenticeship and Training.
- (2) Apprentices must be individually registered under a registered program. The program may register apprentices by filing copies of each individual apprenticeship agreement with the Division.
- (3) Applications for new programs that the Division determines meet the required standards for program registration will be given provisional approval for a period of one year. The Division will review all new programs for quality and for conformity with the requirements of 454 CMR 26.00 at the end of the first year after registration. At that time:
 - (a) a program that conforms with the requirements of 454 CMR 26.00;
 - (b) may be made permanent; or
 - (c) may continue to be provisionally approved through the first full training cycle.

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(d) A program not in operation or not conforming to the regulations during the provisional approval period must be recommended for deregistration procedures.

(4) The Division will review all programs for quality and for conformity with the requirements of 454 CMR 26.00 at the end of the first full training cycle. A satisfactory review of a provisionally approved program will result in the conversion of provisional approval to permanent registration. Subsequent reviews will be conducted no less frequently than every five years. Programs not in operation or not conforming to the regulations must be recommended for deregistration procedures.

(5) Any sponsor proposals or applications for modification(s) or change(s) to registered programs must be submitted to the Division. The Division must make a determination on whether to approve such submissions within 90 days from the date of receipt. If approved, the modification(s) or change(s) will be recorded and acknowledged within 90 days of approval as an amendment to such program. If not approved, the sponsor will be notified of the disapproval and the reasons therefore and provided the appropriate technical assistance.

(6) Under a program proposed for registration by an employer or employers' association, where the standards, collective bargaining agreement or other instrument provides for participation by a union in any manner in the operation of the substantive matters of the apprenticeship program, and such participation is exercised, written acknowledgement of union agreement or no objection to the registration is required. Where no such participation is evidenced and practiced, the employer or employers' association must simultaneously furnish to an existing union, which is the collective bargaining agent of the employees to be trained, a copy of its application for registration and of the apprenticeship program. The Division must provide for receipt of union comments, if any, within 45 days before final action on the application for registration and/or approval.

(7) Where the employees to be trained have no collective bargaining agreement, an apprenticeship program may be proposed for registration by an employer or group of employers, or an employer association.

(8) All new applicants for apprentice program registration must submit to the Division the following:

- (a) A completed application form as prescribed by the Deputy Director;
- (b) Documentation describing the proposed apprentice program including, but not limited to, a description of the relevant work processes on which the apprentices will work, the terms and conditions of employment, arrangements for supervision of the apprentices, and the provision of related instruction;
- (c) A copy of the apprentice agreement form;
- (d) If the apprentice program sponsor will be administering the program through an apprenticeship committee, documentation describing the organization of the committee and the functions of each of its members;
- (e) Documentation that the apprentice program sponsor's apprentice activities are primarily located in Massachusetts. Such documentation should include evidence of the following:
 1. That the majority of the work to be performed by the apprentices will occur in Massachusetts;
 2. That the efforts to conduct outreach for new apprentices will be directed in Massachusetts;
 3. That the administration of the proposed apprentice program will be conducted in Massachusetts; and
 4. That all documents and records concerning the proposed apprentice program will be located in Massachusetts.
- (f) A declaration concerning whether the apprentice program sponsor will give credit towards completion of the program for any relevant hands-on training or related instruction which an apprentice may have received while previously participating in other apprentice programs or while employed by previous employers in the relevant occupation and, if so, the terms and conditions under which such credit will be given.

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- (g) The program registration fee, and fee(s) for each apprentice agreement.
- (9) If the applicant for apprentice program registration is involved in any abnormal labor condition, such as a strike, lockout, or other similar condition, the application for an apprentice program shall be withheld until such issue is resolved.
- (10) The Deputy Director may deny an application for registration upon a finding that the proposed apprentice program does not comply with M.G.L. c. 23, §§ 11E through 11L, 454 CMR 26.00, or the Massachusetts State Plan for Equal Employment Opportunity in Apprenticeship and Training or that the sponsor of the proposed program is in violation of State or Federal laws. Applicants shall be advised by the Deputy Director in writing of the denial and the reasons therefor.
- (11) Following registration of an apprentice program, the apprentice program sponsor must notify the Division promptly in writing of any modifications to the program or material changes in the information submitted with the application for registration.
- (12) The Division will accord reciprocal approval for Federal purposes to apprentices, apprenticeship programs and standards that are registered in other States by the Office of Apprenticeship or a Registration Agency if such reciprocity is requested by the apprenticeship program sponsor. Program sponsors seeking reciprocal approval must meet the wage and hour provisions and apprentice ratio standards of Massachusetts.
- (13) Program sponsors seeking reciprocal approval must complete any forms prescribed by the Division together with the appropriate program registration and apprentice registration fees prior to acceptance as a reciprocal sponsor.
- (14) At any time the Director may cancel a reciprocity agreement where he or she deems appropriate.

26.04: Standards for Apprentice Programs

- (1) All registered apprentice programs must comply with the following standards:
 - (a) The program must have an organized, written plan (program standards) embodying the terms and conditions of employment, training, and supervision of one or more apprentices in an apprenticeable occupation, as defined in 454 CMR 26.02, and subscribed to by a sponsor who has undertaken to carry out the apprentice training program.
 - (b) The program standards must contain provisions that address:
 - 1. The employment and training of the apprentice in a skilled occupation. The apprentice shall be provided no less than full time employment in the relevant field.
 - 2. The term of apprenticeship, which for an individual apprentice may be measured either through the completion of the industry standard for on-the-job learning (time-based approach), the attainment of competency (competency-based approach), or a blend of the time-based and competency-based approaches (hybrid approach).
 - a. The time-based approach measures skill acquisition through the individual apprentice's completion of at least 2,000 hours of on-the-job learning as described in a work process schedule.
 - b. The competency-based approach measures skill acquisition through the individual apprentice's successful demonstration of acquired skills and knowledge, as verified by the program sponsor. Programs utilizing this approach must still require apprentices to complete an on-the-job learning component of Registered Apprenticeship. The program standards must address how on-the-job learning will be integrated into the program, describe competencies, and identify an appropriate means of testing and evaluation for such competencies.
 - c. The hybrid approach measures the individual apprentice's skill acquisition through a combination of specified minimum number of hours of on-the-job learning and the successful demonstration of competency as described in a work process schedule.

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- d. The determination of the appropriate approach for the apprenticeable occupation for which program standards are registered is made by the program sponsor, subject to approval by the Division.
3. The work processes in which the apprentice will receive supervised work experience and training on the job, and the allocation of the approximate amount of time to be spent in each major process.
4. Organized instruction in technical subjects related to the occupation. Approximately 150 hours for each year of apprenticeship is recommended. This instruction in technical subjects may be accomplished through classroom, occupational or industry courses, electronic media, or other instruction approved by the Director. Correspondence course testing will be conducted by a proctor as approved by the Division.
5. A progressively increasing schedule of wages to be paid to the apprentice consistent with the skill acquired. The entry wage must not be less than the minimum wage prescribed by the Fair Labor Standards Act, where applicable, unless a higher wage is required by other applicable Federal law, State law, respective regulations, or by collective bargaining agreement. The sponsor must ensure that the apprentice will be paid no less than an amount specified in a predetermined schedule of wage rates. Such wage rates shall be expressed as a percentage of the established journeyworker rate and shall progressively increase consistent with the level of skill acquired by the apprentice for the duration of time that the apprentice participates in the apprentice program. For construction occupations, the apprentice's scale of wages shall not be less than the progression steps identified on the Department's prevailing wage determinations for M.G.L. c. 149 projects. The sponsor may adjust the apprentice payroll amount for private jobs by setting the company journeyworker rate for private work and maintaining the same wage progression rate.
6. Periodic review and evaluation of the apprentice's performance on the job and in related instruction; and the maintenance of appropriate progress records.
7. A numeric ratio of apprentices to journeyworkers consistent with proper supervision, training, safety, and continuity of employment, and applicable provisions in collective bargaining agreements, except where such ratios are expressly prohibited by the collective bargaining agreements. The ratios set forth by the Department will be the minimum acceptable ratios. The ratio language must be specific and clearly described as to its application to the job site, workforce, department or plant. For construction occupations, ratios shall be those determined by the Department and documented on the Department's prevailing wage determinations for M.G.L. c. 149 projects.
8. A probationary period reasonable in relation to the full apprenticeship term, with full credit given for such period toward completion of apprenticeship. The probationary period cannot exceed 25% of the length of the program, or one year, whichever is shorter.
9. Adequate and safe equipment and facilities for training and supervision, and safety training for apprentices on the job and in related instruction.
10. The minimum qualifications required by a sponsor for persons entering the apprenticeship program, with an eligible starting age not younger than 16 years old.
11. The placement of an apprentice under a written Apprenticeship Agreement that meets the requirements of 454 CMR 26.06. The agreement must directly, or by reference, incorporate the standards of the program as part of the agreement.
12. The granting of advanced standing or credit for demonstrated competency, acquired experience, training, or skills for all applicants equally, with commensurate wages for any progression step so granted.
13. The transfer of an apprentice between apprenticeship programs and/or within an apprenticeship program must be based on agreement between the apprentice and the affected apprenticeship committees or program sponsors, and must comply with the following requirements:
 - a. The transferring apprentice must be provided a transcript of related instruction and on-the-job learning by the committee or program sponsor;

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- b. Transfer must be to the same occupation; and
 - c. A new apprenticeship agreement must be executed when the transfer occurs between program sponsors.
14. Assurance of qualified training personnel and adequate supervision on the job.
 15. Recognition for successful completion of apprenticeship evidenced by an appropriate certificate issued the Division.
 16. Program standards that utilize the competency-based or hybrid approach for progression through an apprenticeship and that choose to issue interim credentials must clearly identify the interim credentials, demonstrate how these credentials link to the components of the apprenticeable occupation, and establish the process for assessing an individual apprentice's demonstration of competency associated with the particular interim credential. Further, interim credentials must only be issued for recognized components of an apprenticeable occupation, thereby linking interim credentials specifically to the knowledge, skills, and abilities associated with those components of the apprenticeable occupation.
 17. Identification of the Division, including address, telephone number and URL address.
 18. Provision for the registration, cancellation, and/or deregistration of the program; and for the prompt submission of any program standard modification or amendment to the Division for approval.
 19. Provision for registration of apprenticeship agreements, modifications, and amendments; notice to the Division of persons who have successfully completed apprenticeship programs; and notice of transfers, suspensions, and cancellations of apprenticeship agreements and a statement of the reasons therefore.
 20. Authority for the cancellation of an apprenticeship agreement during the probationary period by either party without stated cause; cancellation during the probationary period will not have an adverse impact on the sponsor's completion rate.
 21. Compliance with requirements contained in the Division's plan for equal opportunity in apprenticeship adopted under 29 CFR 30 and approved by the Department. The apprenticeship standards must also include a statement that the program will be conducted, operated and administered in conformity with the Division's plan for equal opportunity in apprenticeship.
 22. Contact information (name, address, telephone number, and e-mail address if applicable) for the appropriate individual with authority under the program to receive, process and make disposition of complaints.
 23. Recording and maintenance of all records concerning apprenticeship as required by the Division.
 24. The journeyworker rate used for establishing the apprentice's wage schedule shall be stated in dollars and cents and shall be reviewed annually and, if appropriate, re-adjusted.
- (2) Every apprenticeship instructor must:
 - (a) Meet the Commonwealth Department of Education's requirements for a vocational-technical instructor, or 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; and
 - (b) Have training in teaching techniques and adult learning styles, which may occur before or after the apprenticeship instructor has started to provide the related technical instruction.
 - (3) The Division must be notified within 45 days of persons who have successfully completed apprenticeship programs; and of transfers, suspensions, and cancellations of apprenticeship agreements and a statement of the reasons therefore.
 - (4) Operating apprenticeship programs, when approved by the Division, are accorded registration evidenced by a Certificate of Registration except in construction occupations where sponsor verifications are required.

26.05: Registration for Pre-apprentices and Pre-apprentice Programs

- (1) All registered pre-apprentice programs must comply with the following standards:
 - (a) The pre-apprentice program must have an organized, written plan embodying the terms and conditions of training and supervision of one or more pre-apprentices in an apprenticeable occupation, and a written agreement with a registered apprentice sponsor. The agreement with the registered apprentice training sponsor must provide that graduating pre-apprentices will be provided with a predetermined form of articulated credit if they are accepted into the registered apprentice program through the program intake procedures.
 - (b) The pre-apprentice program standards must contain provisions that address:
 1. The related classroom training of the pre-apprentice in a skilled occupation.
 2. The program sponsor's determination of the appropriate curriculum for the apprenticeable occupation for which the program sponsor is registered, subject to approval by the Division.
 3. Organized instruction in technical subjects related to the occupation. The Division recommends 150 hours for each year of pre-apprenticeship. The instruction in technical subjects may be accomplished through classroom, occupational or industry courses, electronic media, or other instruction approved by the Director.
 4. Periodic review and evaluation of the pre-apprentice's performance in related instruction; and the maintenance of appropriate progress records.
 5. Adequate and safe equipment and facilities for training and supervision, and safety training for pre-apprentices and in related instruction.
 6. The placement of a pre-apprentice under a written Pre-apprenticeship Agreement as prescribed by the Division.
 7. Assurance of qualified training personnel and adequate supervision.
 8. Recognition for successful completion of pre-apprenticeship evidenced by an appropriate certificate issued by the pre-apprentice program sponsor.
 9. Name, address, telephone number, and e-mail address, if available for the individual with authority under the program to receive, process and make disposition of complaints.
 10. The conditions under which the apprentice program may discontinue its relationship with the pre-apprentice program.
- (2) The pre-apprentice sponsor shall provide a listing of the pre-apprentice program graduates for each class to the Division which shall include, for each of the graduates, the Name, Address, Date of Birth, Beginning and End Dates of Training, and, on a voluntary basis, Social Security Number.
- (3) The Division will assign a unique ID number and enter each pre-apprentice into the Division's Apprentice Tracking Database in order to track future migration into a registered apprentice program.
- (4) At any time during the period of the pre-apprentice program registration, the Deputy Director may cancel the pre-apprentice program where he or she deems appropriate.

26.06: Registration of Apprentice Agreements

- (1) All apprentices participating in an apprentice program must execute an apprentice agreement with the apprentice program sponsor.
- (2) No apprentice agreement shall be effective until it is submitted to, and approved by, the Deputy Director.
- (3) No apprentice program sponsor may submit for registration an apprentice agreement if, at the time that the apprentice agreement is submitted to the Division, the sponsor has reason to believe that the apprentice who executed the agreement will not be provided full time employment for the entire period of time required to complete the program.

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- (4) The apprentice agreement shall contain the following terms, conditions, and information:
- (a) The names and signatures of the contracting parties;
 - (b) If the apprentice is a minor, the name and signature of the apprentice's parent or guardian;
 - (c) The apprentice's name, address, date of birth, and, on a voluntary basis, social security number;
 - (d) The name and address of the apprentice program sponsor and the Division;
 - (e) The name of the trade or craft in which the apprentice is to be trained;
 - (f) The date on which the apprentice's participation in the program is to commence and the term of apprenticeship;
 - (g) A statement showing:
 1. The number of hours to be spent by the apprentice in work on the job in a time-based program; or a description of the skill sets to be attained by completion of a competency-based program, including the on-the-job learning component; or the minimum number of hours to be spent by the apprentice and a description of the skill sets to be attained by completion of hybrid program; and
 2. The number of hours per year of instruction in technical subjects related to the occupation that the apprentice will receive, which is recommended to be 150 hours per year, and whether the apprentice will be responsible for paying any or all of the costs of related instruction.
 3. The total number of hours of hands-on training required of the apprentice for completion of a time-based program;
 4. A description of the work processes in which the apprentice will work and an approximation of the proportion of time to be spent in each major process;
 5. A statement of the graduated scale of wages to be paid to the apprentice as described in 454 CMR 26.04;
 6. A statement describing the duration and conditions of the probationary period and the terms and conditions governing apprentice agreement cancellation as prescribed by 454 CMR 26.08;
 7. A statement that the apprentice will be given equal opportunity in all phases of the apprentice program and will not be discriminated against based on race, color, religion, national origin, gender, sexual orientation, age, or handicap;
 8. The name(s), address(es) and telephone number(s) of the individual(s) designated by the apprentice program sponsor to receive, investigate, and resolve complaints and concerns raised by apprentices relative to the apprentice program;
 9. A statement that if the apprentice has a complaint or concern relative to the apprentice program which, after fully exhausting all internal procedures, is not resolved by the apprentice program sponsor to the apprentice's satisfaction, then the Deputy Director is available to receive, investigate, and resolve the complaint or concern. Matters unrelated to 454 CMR 26.00 or M.G.L. c. 23, §§ 11E through 11L are not subject to such review;
 10. A statement that the apprentice's participation in the apprentice program is governed by M.G.L. c. 23, §§ 11E through 11L and 454 CMR 26.00;
 11. The amount of credit which the apprentice program sponsor will give to the apprentice towards completion of the program, if any, for any relevant hands-on training or related instruction which the apprentice may have obtained while previously participating in other apprentice programs or while employed by previous employers; and
 12. An acknowledgement that the apprentice has received a complete copy of the apprentice agreement, and a copy of the "Apprentice Rights and Responsibilities".
- (5) The registration fee and a current photo of the apprentice must accompany the apprentice agreement in order to receive an apprentice ID card as required by M.G.L. c. 149, § 27.
- (6) Within 45 calendar days of an apprentice's cancellation or completion of the apprentice program, the apprentice program sponsor must send written notification thereof to the Division.

26.07: Program Performance Standards

- (1) Every registered apprenticeship program must have at least one registered apprentice, except for the following specified periods of time, which may not exceed one year:
 - (a) Between the date when a program is registered and the date of registration for its first apprentice(s); or
 - (b) Between the date that a program graduates a sole registered apprentice and the date of registration for the next apprentice(s) in the program.
 - (c) The Division reserves the right to review the rate at which apprentices are registered in order to determine whether a program is operating in a *bona fide* manner.
- (2) The program sponsor must report, on an annual basis, on the progress of each registered apprentice in regard to schooling and on the job training.
- (3) The Division is required to evaluate performance of registered apprenticeship programs. The tools and factors to be used must include, but are not limited to:
 - (a) Quality assurance assessments;
 - (b) Equal Employment Opportunity (EEO) Compliance Reviews; and
 - (c) Completion rates.
- (4) Any additional tools and factors used by the Division in evaluating program performance must adhere to the goals and policies of the Department articulated in 29 CFR 29.00 and in guidance issued by the Office of Apprenticeship.
- (5) In order to evaluate completion rates, by trade or occupation, the Division must review a program's completion rates in comparison to the national average for completion rates in that trade or occupation. Based on the review, the Division must provide technical assistance to programs with completion rates lower than the national average.

26.08: Probation and Cancellation of Apprentice Agreements

- (1) The apprentice program sponsor shall establish a probationary period for new apprentices during which time the apprentice agreement may be canceled by any party to the agreement for any reason upon notice to the Division. The probationary period shall not exceed one year or 25% of the expected duration of the apprentice program, whichever is shorter. Upon completion of the probationary period, the apprentice shall be given full credit for the term of the probationary period toward completion of the apprentice program.
- (2) Cancellation of apprenticeship agreements during the probationary period will not have an adverse impact on a sponsor's completion rate.
- (3) Following the probationary period, an apprentice agreement may be canceled either by consent of all of the parties to the agreement or by one or more parties upon a showing of sufficient cause. If cancellation is sought by a party to the agreement other than the apprentice, the apprentice shall be given notice of the proposed cancellation and a reasonable opportunity to make corrective action.
- (4) The apprentice program sponsor shall give written notice to the Division of the cancellation of any apprentice agreement and the reason(s) therefor within 30 calendar days of the cancellation.
- (5) At any time during the period of apprenticeship, the Deputy Director may cancel an apprentice agreement where he or she deems appropriate.

26.09: Deregistration of a Registered Program

- (1) Deregistration at the Request of the Sponsor. The sponsor may voluntarily request deregistration of a program and the Department may cancel the registration of an apprenticeship program by written acknowledgment of such request stating the following:
 - (a) The registration is cancelled at the sponsor's request, and the effective date thereof;

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(b) That, within ten days of the date of the acknowledgment, the sponsor will notify all apprentices of such cancellation and the effective date; that such cancellation automatically deprives the apprentice of individual registration; that the deregistration of the program removes the apprentice from coverage for Federal purposes which require the Secretary of Labor's approval of an apprenticeship program, and that all apprentices are referred to the Division for information about potential transfer to other registered apprenticeship programs.

(2) Deregistration by the Division. The Division may undertake formal deregistration upon reasonable cause when the apprenticeship program is not conducted, operated, or administered in accordance with the program's registered provisions or with the requirements of 454 CMR 26.00 or 29 CFR 29.00, including, but not limited to: failure to provide on-the-job learning; failure to provide related instruction; failure to pay the apprentice a progressively increasing schedule of wages consistent with the apprentice's skills acquired; or persistent and significant failure to perform successfully. Deregistration proceedings for violation of equal opportunity requirements must be processed in accordance with the provisions under 29 CFR 30.00.

For purposes of 454 CMR 26.09, persistent and significant failure to perform successfully occurs when a program sponsor consistently fails to register at least one apprentice, shows a pattern of poor quality assessment results over a period of several years, demonstrates an ongoing pattern of very low completion rates over a period of several years, or shows no indication of improvement in the areas identified by the Division during a review process as requiring corrective action.

(3) Where it appears the program is not being operated in accordance with the registered standards or with requirements 454 CMR 26.00 or 29 CFR 29.00, the Division must notify the program sponsor in writing.

(4) The notice sent to the program sponsor's contact person must:

- (a) Be sent by registered or certified mail, with return receipt requested;
- (b) State the shortcoming(s) and the remedy required; and
- (c) State that a determination of reasonable cause for deregistration will be made unless corrective action is effected within 30 days.

(5) Upon request by the sponsor for good cause, the 30-day term may be extended for another 30 days. During the period for corrective action, the Division must assist the sponsor in every reasonable way to achieve conformity.

(6) If the required correction is not effected within the allotted time, the Division must send a notice to the sponsor, by registered or certified mail, return receipt requested, stating the following:

- (a) The notice is sent under 454 CMR 26.09(6);
- (b) Certain deficiencies were called to the sponsor's attention (enumerating them and the remedial measures requested, with the dates of such occasions and letters), and that the sponsor has failed or refused to effect correction;
- (c) Based upon the stated deficiencies and failure to remedy them, a determination has been made that there is reasonable cause to deregister the program and the program may be deregistered unless, within 15 days of the receipt of this notice, the sponsor requests a hearing with the Department; and
- (d) If the sponsor does not request a hearing, the Department will make a final determination regarding the proposed deregistration based on the record.

(7) If the sponsor requests a hearing, the Division will transmit to the Administrator a report containing all the data listed in 454 CMR 26.09(6)(b), and the Administrator will refer the matter to the Office of Administrative Law Judges. An Administrative Law Judge will convene a hearing in accordance with 29 CFR 29.10, and issue a decision as required in 29 CFR 29.10(c).

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(8) Every order of deregistration must contain a provision that the sponsor must, within ten days of the effective date of the order, notify all registered apprentices of the deregistration of the program; the effective date thereof; that such cancellation automatically deprives the apprentice of individual registration; that the deregistration removes the apprentice from coverage for Federal purposes which require the Secretary of Labor's approval of an apprenticeship program; and that all apprentices are referred to the Division for information about potential transfer to other registered apprenticeship programs.

26.10: Reinstatement of Apprentice Program Registration

(1) Any apprentice program deregistered pursuant to 454 CMR 26.09 may be reinstated, at the discretion of the Deputy Director, upon presentation to the Deputy Director of adequate evidence that the condition that gave rise to the action has been rectified. Following a deregistration, the apprentice sponsor may not file a request for reinstatement of registration prior to six months after the effective date of the deregistration.

(2) Upon reinstatement of an apprentice program following a suspension, the apprentices employed under such program shall be given credit for any *bona fide* hands-on training or related instruction obtained by such apprentices during the period of the suspension. However, the amount of credit for hands-on training shall not exceed the number of hours of such training corresponding to the term of suspension in the trade in which the apprentice is registered.

26.11: Complaints

(1) 454 CMR 26.11 is not applicable to any complaint concerning discrimination or other equal opportunity matters; all such complaints must be submitted, processed and resolved in accordance with applicable provisions of M.G.L. c. 151B, or 29 CFR 30.

(2) Except for matters described in 454 CMR 26.11(1), any controversy or difference arising under an apprenticeship agreement registered with the Division, which cannot be adjusted locally and which is not covered by a collective bargaining agreement, may be submitted by an apprentice, or the apprentice's authorized representative, to the Division, for review. Matters covered by a collective bargaining agreement are not subject to such review.

(3) The complaint must be in writing and signed by the complainant, or authorized representative, and must be submitted within 60 days of the final local decision. It must set forth the specific matter(s) complained of, together with relevant facts and circumstances. Copies of pertinent documents and correspondence must accompany the complaint.

(4) The Division will render an opinion within 90 days after receipt of the complaint, based upon such investigation of the matters submitted as may be found necessary, and the record before it. During the 90-day period, the Division will make reasonable efforts to effect a satisfactory resolution between the parties involved. If so resolved, the parties will be notified that the case is closed. Where an opinion is rendered, copies will be sent to all interested parties.

(5) Nothing in 454 CMR 26.11 precludes an apprentice from pursuing any other remedy authorized under another Federal, State, or local law.

26.12: Recordkeeping

(1) Registered apprentice program sponsors shall maintain the following documents in a centralized location in Massachusetts and shall make such records available to the Deputy Director:

- (a) A complete copy of the apprentice program sponsor's application for registration and all documentation submitted therewith;
- (b) Documentation concerning any violations of M.G.L. c. 23, §§ 11E through 11L or 454 CMR 26.00 cited by the Division or any prior action instituted by the Division to deregister the apprentice program;
- (c) Copies of all current or canceled apprentice agreements;

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- (d) Copies of all certificates evidencing completion by apprentices of the apprentice program;
- (e) A current list of journeyworkers who are members or employees of the apprentice sponsor and are licensed in the trade covered by the apprentice program. The list shall include the license numbers of each such journeyworker;
- (f) Documents concerning any complaints or concerns by apprentices and efforts by the apprentice program sponsor to investigate and resolve such matters;
- (g) Documentation of the number of hours of hands-on-training provided to each apprentice in the program;
- (h) Documentation of the number of hours of related instruction each apprentice received in the program; and
- (i) Copies of all apprentice performance reviews.

(2) Documents required by 454 CMR 26.12(1) shall be retained for a period of not less than ten years.

26.13: Limitations of Regulations

Nothing in 454 CMR 26.00 shall operate to invalidate:

- (a) Any term or condition in any collective bargaining agreement between employers and employees establishing more stringent standards of apprenticeship; or
- (b) Any special provisions instituted by the apprentice program sponsor for the benefit of veterans, minority persons, or women which are not otherwise prohibited by law.
- (c) The provisions of any Federal or State law or municipal ordinance establishing more stringent standards for apprentice training programs.

26.14: Severability

If any provision of 454 CMR 26.00 is held to be unconstitutional or inconsistent, either on its face or as applied, with any provision of Massachusetts or federal law, the unconstitutionality or inconsistency shall not affect the remaining provisions.

REGULATORY AUTHORITY

454 CMR 26.00: M.G.L. c. 23, § 11E.