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shall not be subject to collateral attack at a hearing before an arbitrator.

(c) The Secretary shall nominate not less than three arbitrators. Within 5 days the parties may indicate their order of preference from among those nominated. The Secretary will thereafter make a selection from among the nominees listed.

§ 25.6 Time; additional time after service by mail.

(a) In computing any period of time prescribed or allowed by the rules of this part, the date of the act, event, or default after which the designated period of time begins to run, is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a Federal legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a Federal legal holiday. When the period of time prescribed, or allowed, is less than 7 days, intermediate Saturdays, Sundays and holidays shall be excluded from the computations. Whenever a party has the right or is required to do some act or take some other proceedings within a prescribed period after service of a notice or other paper upon the Secretary or a party and the notice is served upon him by mail, 3 days shall be added to the prescribed period: *Provided, however,* That 3 days shall not be added if any extension of such time may have been granted.

(b) When these rules require the filing of any paper, such document must be received by the Secretary or a party before the close of business of the last day of the time limit, if any, for such filing or extension of time that may have been granted.

§ 25.7 Fees; cost; expenses; decisions.

(a) Arbitrator's fees, per diem and travel expenses, and election expenses for notices, ballots, postage, rentals, assistance, etc., shall be borne entirely by the agency.

(b) The standard fee for the services of an arbitrator should be \$100 per day. Travel and per diem should be paid at the maximum rate payable to Government employees under the Standardized Government Travel Regulations.

(c) The agency should provide the arbitrator with a copy of the transcript of testimony taken at the hearing, such transcript to be returned to the agency upon the issuance of the arbitrator's advisory decision.

(d) Costs involving assistance rendered by the Secretary's Office in connection with advisory decisions or determinations under section 11 of the order shall be limited to per diem, travel expenses and services on a time-worked basis.

(e) Upon request, the Secretary will make available copies of advisory decisions of arbitrators.

§ 25.8 Construction of rules.

The rules shall be liberally construed to effectuate the purposes and provisions of the order.

PART 29—LABOR STANDARDS FOR THE REGISTRATION OF APPRENTICESHIP PROGRAMS

Sec.

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AUTHORITY: Section 1, 50 Stat. 664, as amended (29 U.S.C. 50; 40 U.S.C. 276c; 5 U.S.C. 301) Reorganization Plan No. 14 of 1950, 64 Stat. 1267 (5 U.S.C. App. P. 534).

SOURCE: 73 FR 64425, Oct. 29, 2008, unless otherwise noted.

§ 29.1 Purpose and scope.

(a) The National Apprenticeship Act of 1937, section 1 (29 U.S.C. 50), authorizes and directs the Secretary of Labor "to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices, to extend the application of such standards by encouraging the inclusion

thereof in contracts of apprenticeship, to bring together employers and labor for the formulation of programs of apprenticeship, to cooperate with State agencies engaged in the formulation and promotion of standards of apprenticeship, and to cooperate with the Office of Education under the Department of Health, Education, and Welfare * * *." Section 2 of the Act authorizes the Secretary of Labor to "publish information relating to existing and proposed labor standards of apprenticeship," and to "appoint national advisory committees * * *." (29 U.S.C. 50a).

(b) The purpose of this part is to set forth labor standards to safeguard the welfare of apprentices, promote apprenticeship opportunity, and to extend the application of such standards by prescribing policies and procedures concerning the registration, for certain Federal purposes, of acceptable apprenticeship programs with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship. These labor standards, policies and procedures cover the registration, cancellation and deregistration of apprenticeship programs and of apprenticeship agreements; the recognition of a State agency as an authorized agency for registering apprenticeship programs for certain Federal purposes; and matters relating thereto.

§ 29.2 Definitions.

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

Apprentice means a worker at least 16 years of age, except where a higher minimum age standard is otherwise fixed by law, who is employed to learn an apprenticeable occupation as provided in § 29.4 under standards of apprenticeship fulfilling the requirements of § 29.5.

Apprenticeship agreement means a written agreement, complying with § 29.7, 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 (Committee) means those persons designated by the sponsor to administer the program. A committee may be either joint or non-joint, as follows:

(1) 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).

(2) 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.

Apprenticeship program means a plan containing all terms and conditions for the qualification, recruitment, selection, employment and training of apprentices, as required under 29 CFR parts 29 and 30, including such matters as the requirement for a written apprenticeship 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.

Certification or certificate means documentary evidence that:

(1) 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 § 29.5;

(2) A Registration Agency has established that an individual is eligible for probationary employment as an apprentice under a registered apprenticeship program;

(3) A Registration Agency has registered an apprenticeship program as evidenced by a Certificate of Registration or other written indicia;

(4) A Registration Agency has determined that an apprentice has successfully met the requirements to receive an interim credential; or

(5) A Registration Agency has determined that an individual has successfully completed apprenticeship.

Competency means the attainment of manual, mechanical or technical skills

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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 1 year of the projected completion date. An apprenticeship cohort is the group of individual apprentices registered to a specific program during a 1 year time frame, except that a cohort does not include the apprentices whose apprenticeship agreement has been cancelled during the probationary period.

Department means the U.S. Department of Labor.

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 Apprenticeship Agreement with the apprentice.

Federal purposes includes 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 Registration Agency, upon request of the appropriate sponsor, 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 having mastered the skills and competencies required for the occupation. (Use of the term may also refer to a mentor, technician, specialist or other skilled worker who has documented sufficient skills and knowledge of an occupation, either through formal apprenticeship or through practical on-the-job experience and formal training.)

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

Provisional registration means the 1-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 Registration Agency, as provided for in the criteria described in § 29.3(g) and (h).

Quality assurance assessment means a comprehensive review conducted by a Registration Agency regarding all aspects of an apprenticeship program's performance, including but not limited to, 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 registration agency is receiving notification of all new registrations, cancellations, and completions as required in this part.

Registration agency means the Office of Apprenticeship or a recognized State Apprenticeship Agency that has responsibility for registering apprenticeship programs and apprentices; providing technical assistance; conducting reviews for compliance with 29 CFR parts 29 and 30 and quality assurance assessments.

Registration of an apprenticeship agreement means the acceptance and recording of an apprenticeship agreement by the Office of Apprenticeship or a recognized State Apprenticeship Agency as evidence of the apprentice's participation in a particular registered apprenticeship program.

Registration of an apprenticeship program means the acceptance and recording of such program by the Office of Apprenticeship, or registration and/or approval by a recognized State Apprenticeship Agency, as meeting the basic standards and requirements of the Department for approval of such program for Federal purposes. Approval is evidenced by a Certificate of Registration or other written indicia.

Related instruction means an organized and systematic form of instruction designed to provide the apprentice with the knowledge of the theoretical and technical subjects related to the apprentice's occupation. 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 Registration Agency.

Secretary means the Secretary of Labor or any person designated by the Secretary.

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

State means any of the 50 States of the United States, District of Columbia, or any Territory or possession of the United States.

State Apprenticeship Agency means an agency of a State government that has responsibility and accountability for apprenticeship within the State. Only a State Apprenticeship Agency may seek recognition by the Office of Apprenticeship as an agency which has been properly constituted under an acceptable law or Executive Order, and authorized by the Office of Apprenticeship to register and oversee apprenticeship programs and agreements for Federal purposes.

State Apprenticeship Council is an entity established to assist the State Apprenticeship Agency. A State Apprenticeship Council is ineligible for recognition as the State's Registration Agency. A regulatory State Apprenticeship Council may promulgate apprenticeship law at the direction of the State Apprenticeship Agency. An advisory State Apprenticeship Council provides advice and guidance to the State Apprenticeship Agency on the operation of the State's apprenticeship system.

State office means that individual office or division of State government designated as the point of contact for the State Apprenticeship Agency.

Technical assistance means guidance provided by Registration Agency staff in the development, revision, amendment, or processing of a potential or

current program sponsor's Standards of Apprenticeship, Apprenticeship Agreements, or advice or consultation with a program sponsor to further compliance with this part or guidance from the Office of Apprenticeship to a State Apprenticeship Agency on how to remedy nonconformity with this part.

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.

§ 29.3 Eligibility and procedure for registration of an apprenticeship program.

(a) Eligibility for registration of an apprenticeship program for various Federal purposes is conditioned upon a program's conformity with the apprenticeship program standards published in this part. For a program to be determined by the Secretary as being in conformity with these published standards, the program must apply for registration and be registered with the Office of Apprenticeship or with a State Apprenticeship Agency recognized by the Office of Apprenticeship. The determination by the Secretary that the program meets the apprenticeship program standards is effectuated only through such registration.

(b) Only an apprenticeship program or agreement that meets the following criteria is eligible for Office of Apprenticeship or State Apprenticeship Agency registration:

(1) It is in conformity with the requirements of this part and the training is in an apprenticeable occupation having the characteristics set forth in § 29.4 of this part; and

(2) It is in conformity with the requirements of the Department's regulation on Equal Employment Opportunity in Apprenticeship and Training in 29 CFR part 30, as amended.

(c) Except as provided under paragraph (d) of this section, apprentices must be individually registered under a registered program. Such individual registration may be affected:

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(1) By filing copies of each individual apprenticeship agreement with the Registration Agency; or

(2) Subject to prior Office of Apprenticeship or recognized State Apprenticeship Agency approval, by filing a master copy of such agreement followed by a listing of the name, and other required data, of each individual when apprenticed.

(d) The names of persons in probationary employment as an apprentice under an apprenticeship program registered by the Office of Apprenticeship or a recognized State Apprenticeship Agency, if not individually registered under such program, must be submitted within 45 days of employment to the Office of Apprenticeship or State Apprenticeship Agency for certification to establish the apprentice as eligible for such probationary employment.

(e) The appropriate Registration Agency 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.

(f) Operating apprenticeship programs, when approved by the Office of Apprenticeship, are accorded registration evidenced by a Certificate of Registration. Programs approved by recognized State Apprenticeship Agencies must be accorded registration and/or approval evidenced by a similar certificate or other written indicia. When approved by the Office of Apprenticeship, National Apprenticeship Guideline Standards for policy or guidance will be accorded a certificate.

(g) Applications for new programs that the Registration Agency determines meet the required standards for program registration must be given provisional approval for a period of 1 year. The Registration Agency must review all new programs for quality and for conformity with the requirements of this part at the end of the first year after registration. At that time:

(1) A program that conforms with the requirements of this part:

(i) May be made permanent; or

(ii) May continue to be provisionally approved through the first full training cycle.

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

(h) The Registration Agency must review all programs for quality and for conformity with the requirements of this part at the end of the first full training cycle. A satisfactory review of a provisionally approved program will result in conversion of provisional approval to permanent registration. Subsequent reviews must 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.

(i) Any sponsor proposals or applications for modification(s) or change(s) to registered programs or certified National Guidelines for Apprenticeship Standards must be submitted to the Registration Agency. The Registration Agency 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 must be notified of the disapproval and the reasons therefore and provided the appropriate technical assistance.

(j) 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 Registration Agency must provide for

receipt of union comments, if any, within 45 days before final action on the application for registration and/or approval.

(k) 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.

§ 29.4 Criteria for apprenticeable occupations.

An apprenticeable occupation is 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 on-the-job learning to attain; and

(d) Require related instruction to supplement the on-the-job learning.

§ 29.5 Standards of apprenticeship.

An apprenticeship program, to be eligible for approval and registration by a Registration Agency, must conform to 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 this part, 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.

(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 (at least 2,000 hours) (time-based approach), the attainment of competency (competency-based approach), or a blend of the time-based

and competency-based approaches (hybrid approach).

(i) 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.

(ii) 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.

(iii) 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.

(iv) The determination of the appropriate approach for the program standards is made by the program sponsor, subject to approval by the Registration Agency of the determination as appropriate to the apprenticeable occupation for which the program standards are registered.

(3) An outline of 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) Provision for organized, related instruction in technical subjects related to the occupation. A minimum of 144 hours for each year of apprenticeship is recommended. This instruction in technical subjects may be accomplished through media such as classroom, occupational or industry courses, electronic media, or other instruction approved by the Registration Agency. Every apprenticeship instructor must:

(i) Meet the State Department of Education's requirements for a vocational-technical instructor in the State

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of registration, 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

(ii) 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.

(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.

(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 ratio language must be specific and clearly described as to its application to the job site, workforce, department or plant.

(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 percent of the length of the program, or 1 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 less than 16 years.

(11) The placement of an apprentice under a written Apprenticeship Agreement that meets the requirements of § 29.7 or the State apprenticeship law of a recognized Registration Agency. The

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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 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:

(i) The transferring apprentice must be provided a transcript of related instruction and on-the-job learning by the committee or program sponsor;

(ii) Transfer must be to the same occupation; and

(iii) 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 by the Registration Agency.

(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 Registration Agency.

(18) Provision for the registration, cancellation and deregistration of the

program; and for the prompt submission of any program standard modification or amendment to the Registration Agency for approval.

(19) Provision for registration of apprenticeship agreements, modifications, and amendments; notice to the Registration Agency 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 29 CFR part 30, including the equal opportunity pledge prescribed in 29 CFR 30.3(b); an affirmative action plan complying with 29 CFR 30.4; and a method for the selection of apprentices authorized by 29 CFR 30.5, or compliance with parallel requirements contained in a State plan for equal opportunity in apprenticeship adopted under 29 CFR part 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 applicable provisions of 29 CFR part 30, as amended, or, if applicable, an approved State plan for equal opportunity in apprenticeship.

(22) Contact information (name, address, telephone number, and e-mail address if appropriate) 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 may be required by the Office of Apprenticeship or recognized State Apprenticeship Agency and other applicable law.

§ 29.6 Program performance standards.

(a) Every registered apprenticeship program must have at least one registered apprentice, except for the following specified periods of time, which may not exceed 1 year:

(1) Between the date when a program is registered and the date of registration for its first apprentice(s); or

(2) Between the date that a program graduates an apprentice and the date of registration for the next apprentice(s) in the program.

(b) Registration Agencies must evaluate performance of registered apprenticeship programs.

(1) The tools and factors to be used must include, but are not limited to:

(i) Quality assurance assessments;

(ii) Equal Employment Opportunity (EEO) Compliance Reviews; and

(iii) Completion rates.

(2) Any additional tools and factors used by the Registration Agency in evaluating program performance must adhere to the goals and policies of the Department articulated in this part and in guidance issued by the Office of Apprenticeship.

(c) In order to evaluate completion rates, the Registration Agency must review a program's completion rates in comparison to the national average for completion rates. Based on the review, the Registration Agency must provide technical assistance to programs with completion rates lower than the national average.

(d) Cancellation of apprenticeship agreements during the probationary period will not have an adverse impact on a sponsor's completion rate.

§ 29.7 Apprenticeship agreement.

The apprenticeship agreement must contain, explicitly or by reference:

(a) Names and signatures of the contracting parties (apprentice, and the program sponsor or employer), and the signature of a parent or guardian if the apprentice is a minor.

(b) The date of birth and, on a voluntary basis, Social Security number of the apprentice.

(c) Contact information of the Program Sponsor and Registration Agency.

(d) A statement of the occupation in which the apprentice is to be trained, and the beginning date and term (duration) of apprenticeship.

(e) 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

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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 to be spent in related instruction in technical subjects related to the occupation, which is recommended to be not less than 144 hours per year.

(f) A statement setting forth a schedule of the work processes in the occupation or industry divisions in which the apprentice is to be trained and the approximate time to be spent at each process.

(g) A statement of the graduated scale of wages to be paid to the apprentice and whether or not the required related instruction is compensated.

(h) Statements providing:

(1) For a specific period of probation during which the apprenticeship agreement may be cancelled by either party to the agreement upon written notice to the registration agency, without adverse impact on the sponsor.

(2) That, after the probationary period, the agreement may be:

(i) Cancelled at the request of the apprentice, or

(ii) Suspended or cancelled by the sponsor, for good cause, with due notice to the apprentice and a reasonable opportunity for corrective action, and with written notice to the apprentice and to the Registration Agency of the final action taken.

(i) A reference incorporating as part of the agreement the standards of the apprenticeship program as they exist on the date of the agreement and as they may be amended during the period of the agreement.

(j) A statement that the apprentice will be accorded equal opportunity in all phases of apprenticeship employment and training, without discrimination because of race, color, religion, national origin, or sex.

(k) Contact information (name, address, phone, and e-mail if appropriate) of the appropriate authority designated under the program to receive, process and make disposition of controversies or differences arising out of the appren-

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ticeship agreement when the controversies or differences cannot be adjusted locally or resolved in accordance with the established procedure or applicable collective bargaining provisions.

§ 29.8 Deregistration of a registered program.

Deregistration of a program may be effected upon the voluntary action of the sponsor by submitting a request for cancellation of the registration in accordance with paragraph (a) of this section, or upon reasonable cause, by the Registration Agency instituting formal deregistration proceedings in accordance with paragraph (b) of this section.

(a) *Deregistration at the request of the sponsor.* The Registration Agency may cancel the registration of an apprenticeship program by written acknowledgment of such request stating the following:

(1) The registration is cancelled at the sponsor's request, and the effective date thereof;

(2) That, within 15 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 Registration Agency for information about potential transfer to other registered apprenticeship programs.

(b) *Deregistration by the registration agency upon reasonable cause.* (1)(i) Deregistration proceedings may be undertaken when the apprenticeship program is not conducted, operated, or administered in accordance with the program's registered provisions or with the requirements of this part, including not but 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 apprentices 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 part 30.

(ii) For purposes of this section, 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 Registration Agency during a review process as requiring corrective action.

(2) Where it appears the program is not being operated in accordance with the registered standards or with requirements of this part, the Registration Agency must notify the program sponsor in writing.

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

(i) Be sent by registered or certified mail, with return receipt requested;

(ii) State the shortcoming(s) and the remedy required; and

(iii) State that a determination of reasonable cause for deregistration will be made unless corrective action is effected within 30 days.

(4) 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 Registration Agency must assist the sponsor in every reasonable way to achieve conformity.

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

(i) The notice is sent under this paragraph;

(ii) 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;

(iii) 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 applicable Registration Agency; and

(iv) If the sponsor does not request a hearing, the entire matter will be submitted to the Administrator, Office of Apprenticeship, for a decision on the record with respect to deregistration.

(6) If the sponsor does not request a hearing, the Registration Agency will transmit to the Administrator a report containing all pertinent facts and circumstances concerning the nonconformity, including the findings and recommendation for deregistration, and copies of all relevant documents and records. Statements concerning interviews, meetings and conferences will include the time, date, place, and persons present. The Administrator will make a final order on the basis of the record presented.

(7) If the sponsor requests a hearing, the Registration Agency will transmit to the Administrator a report containing all the data listed in paragraph (b)(6) of this section, 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 § 29.10, and issue a decision as required in § 29.10(c).

(8) Every order of deregistration must contain a provision that the sponsor must, within 15 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 Registration Agency for information about potential transfer to other registered apprenticeship programs.

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§ 29.9 Reinstatement of program registration.

Any apprenticeship program deregistered under § 29.8 may be reinstated upon presentation of adequate evidence that the apprenticeship program is operating in accordance with this part. Such evidence must be presented to the Registration Agency.

§ 29.10 Hearings for deregistration.

(a) Within 10 days of receipt of a request for a hearing, the Administrator of the Office of Apprenticeship must contact the Department's Office of Administrative Law Judges to request the designation of an Administrative Law Judge to preside over the hearing. The Administrative Law Judge shall give reasonable notice of such hearing by registered mail, return receipt requested, to the appropriate sponsor. Such notice will include:

(1) A reasonable time and place of hearing;

(2) A statement of the provisions of this part pursuant to which the hearing is to be held; and

(3) A concise statement of the matters pursuant to which the action forming the basis of the hearing is proposed to be taken.

(b) The procedures contained in 29 CFR part 18 will apply to the disposition of the request for hearing except that:

(1) The Administrative Law Judge will receive, and make part of the record, documentary evidence offered by any party and accepted at the hearing. Copies thereof will be made available by the party submitting the documentary evidence to any party to the hearing upon request.

(2) Technical rules of evidence will not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination will be applied, where reasonably necessary, by the Administrative Law Judge conducting the hearing. The Administrative Law Judge may exclude irrelevant, immaterial, or unduly repetitious evidence.

(c) The Administrative Law Judge should issue a written decision within 90 days of the close of the hearing

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record. The Administrative Law Judge's decision constitutes final agency action unless, within 15 days from receipt of the decision, a party dissatisfied with the decision files a petition for review with the Administrative Review Board, specifically identifying the procedure, fact, law or policy to which exception is taken. Any exception not specifically urged is deemed to have been waived. A copy of the petition for review must be sent to the opposing party at the same time. Thereafter, the decision of the Administrative Law Judge remains final agency action unless the Administrative Review Board, within 30 days of the filing of the petition for review, notifies the parties that it has accepted the case for review. The Administrative Review Board may set a briefing schedule or decide the matter on the record. The Administrative Review Board must decide any case it accepts for review within 180 days of the close of the record. If not so decided, the Administrative Law Judge's decision constitutes final agency action.

§ 29.11 Limitations.

Nothing in this part or in any apprenticeship agreement will operate to invalidate:

(a) Any apprenticeship provision in any collective bargaining agreement between employers and employees establishing higher apprenticeship standards; or

(b) Any special provision for veterans, minority persons, or women in the standards, apprentice qualifications or operation of the program, or in the apprenticeship agreement, which is not otherwise prohibited by law, Executive Order, or authorized regulation.

§ 29.12 Complaints.

(a) This section 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 in 29 CFR part 30, or applicable provisions of a State Plan for Equal Employment Opportunity in Apprenticeship adopted pursuant to 29 CFR part 30 and approved by the Department.

(b) Except for matters described in paragraph (a) of this section, any controversy or difference arising under an apprenticeship agreement 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 appropriate Registration Authority, either Federal or State, which has registered and/or approved the program in which the apprentice is enrolled, for review. Matters covered by a collective bargaining agreement are not subject to such review.

(c) 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.

(d) The Office of Apprenticeship or recognized State Apprenticeship Agency, as appropriate, 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 Office of Apprenticeship or recognized State Apprenticeship Agency 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.

(e) Nothing in this section precludes an apprentice from pursuing any other remedy authorized under another Federal, State, or local law.

(f) A State Apprenticeship Agency may adopt a complaint review procedure differing in detail from that given in this section provided it is submitted for review and approval by the Office of Apprenticeship.

§ 29.13 Recognition of State Apprenticeship Agencies.

(a) *Recognition.* The Department may exercise its authority to grant recognition to a State Apprenticeship Agency. Recognition confers non-exclusive au-

thority to determine whether an apprenticeship program conforms to the published standards and whether the program is, therefore, eligible for those Federal purposes which require such a determination by the Department. Such recognition shall be accorded upon the State's submission of, the Department's approval of, and the State's compliance with the following:

(1) The State Apprenticeship Agency must submit a State apprenticeship law, whether instituted through statute, Executive Order, regulation, or other means, that conforms to the requirements of 29 CFR parts 29 and 30;

(2) The State Apprenticeship Agency must establish and continue to use a State Apprenticeship Council, which operates under the direction of the State Apprenticeship Agency. The State Apprenticeship Council may be either regulatory or advisory and must meet the following requirements:

(i) It must be composed of persons familiar with apprenticeable occupations, and

(ii) It must include an equal number of representatives of employer and of employee organizations and include public members who shall not number in excess of the number named to represent either employer or employee organizations;

(3) The State Apprenticeship Agency must submit a State Plan for Equal Employment Opportunity in Apprenticeship that conforms to the requirements published in 29 CFR part 30;

(4) The State Apprenticeship Agency's submission must include a description of the basic standards, criteria, and requirements for program registration and/or approval, and demonstrate linkages and coordination with the State's economic development strategies and publicly-funded workforce investment system; and

(5) The State Apprenticeship Agency's submission must include a description of policies and operating procedures which depart from or impose requirements in addition to those prescribed in this part.

(b) *Basic requirements.* In order to obtain and maintain recognition as provided under paragraph (a) of this section, the State Apprenticeship Agency must conform to the requirements of

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this part. To accomplish this, the State must:

(1) Establish and maintain an administrative entity (the State Apprenticeship Agency) that is capable of performing the functions of a Registration Agency under 29 CFR part 29;

(2) Provide sufficient resources to carry out the functions of a Registration Agency, including: Outreach and education; registration of programs and apprentices; provision of technical assistance, and monitoring as required to fulfill the requirements of this part;

(3) Clearly delineate the respective powers and duties of the State office, the State Apprenticeship Agency, and the State Apprenticeship Council;

(4) Establish policies and procedures to promote equality of opportunity in apprenticeship programs pursuant to a State Plan for Equal Employment Opportunity in Apprenticeship which adopts and implements the requirements of 29 CFR part 30, and to require apprenticeship programs to operate in conformity with such State Plan and 29 CFR part 30;

(5) Prescribe the contents of apprenticeship agreements, in conformity with § 29.7;

(6) Ensure that the registration of apprenticeship programs occurs only in apprenticeable occupations, as provided in § 29.4, including occupations in high growth and high demand industries;

(7) 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 the reciprocal State;

(8) Provide for the cancellation and/or deregistration of programs, and for temporary suspension, cancellation, and/or deregistration of apprenticeship agreements; and

(9) Submit all proposed modifications in legislation, regulations, policies and/or operational procedures planned or anticipated by a State Apprenticeship Agency, either at the time of applica-

tion for recognition or subsequently, to the Office of Apprenticeship for review and obtain the Office of Apprenticeship's concurrence prior to implementation.

(c) *Application for recognition.* A State Apprenticeship Agency desiring new or continued recognition as a Registration Agency must submit to the Administrator of the Office of Apprenticeship the documentation specified in paragraph (a) of this section. A currently recognized State desiring continued recognition by the Office of Apprenticeship must submit to the Administrator of the Office of Apprenticeship the documentation specified in paragraph (a) of this section within 2 years of the effective date of the final rule. The recognition of a currently recognized State shall continue for up to 2 years from the effective date of this regulation and during any extension period granted by the Administrator. An extension of time within which to comply with the requirements of this part may be granted by the Administrator for good cause upon written request by the State, but the Administrator shall not extend the time for submission of the documentation required by paragraph (a) of this section. Upon approval of the State Apprenticeship Agency's application for recognition and any subsequent modifications to this application as required under paragraph (b)(9) of this section, the Administrator shall so notify the State Apprenticeship Agency in writing.

(d) *Duration of recognition.* The recognition of a State Apprenticeship Agency shall last for 5 years from the date recognition is granted under paragraph (c) of this section. The Administrator shall notify each State Registration Agency at least 180 days prior to the expiration of the 5-year period whether the Registration Agency is in conformity with this part, based on reviews conducted by the Office of Apprenticeship, as required by paragraph (e) of this section. If the notification states that the State Apprenticeship Agency is in conformity, recognition will be renewed for an additional 5-year period. If the notification states that the State Apprenticeship Agency is not in conformity, the notification shall

specify the areas of non-conformity, require corrective action, and offer technical assistance. After the Administrator determines that a State Apprenticeship Agency has corrected the identified non-conformities, recognition will be renewed for an additional 5-year period.

(e) *Compliance.* The Office of Apprenticeship will monitor a State Registration Agency for compliance with the recognition requirements of this part through:

(1) On-site reviews conducted by Office of Apprenticeship staff.

(2) Self-assessment reports, as required by the Office of Apprenticeship.

(3) Review of State Apprenticeship Agency legislation, regulations, policies, and/or operating procedures required to be submitted under paragraphs (a)(1), (a)(5) and (b)(9) of this section for review and approval as required under § 29.13(a).

(4) Determination whether, based on the review performed under paragraphs (e)(1), (2), and (3) of this section, the State Registration Agency is in compliance with part 29. Notice to the State Registration Agency of the determination will be given within 45 days of receipt of proposed modifications to legislation, regulations, policies, and/or operational procedures required to be submitted under paragraphs (a)(1), (a)(5) and (b)(9) of this section.

(f) *Accountability/Remedies for non-conformity.* (1) State Registration Agencies that fail to maintain compliance with the requirements of this part, as provided under paragraph (e) of this section, will:

(i) Receive technical assistance from the Office of Apprenticeship in an effort to remedy the non-conforming activity; and

(ii) Be placed on "Conditional Recognition" for a period of 45 days during which the State Apprenticeship Agency must submit a corrective action plan to remedy the non-conforming activity to the Office of Apprenticeship. Upon request from the State Apprenticeship Agency, for good cause, the 45-day period may be extended.

(2) Failure to comply with these requirements will result in rescission of

recognition, for Federal Purposes as provided under § 29.14.

(g) *Denial of state apprenticeship agency recognition.* A denial by the Office of Apprenticeship of a State Apprenticeship Agency's application for new or continued recognition must be in writing and must set forth the reasons for denial. The notice must be sent by certified mail, return receipt requested. In addition to the reasons stated for the denial, the notice must specify the remedies which must be undertaken prior to consideration of a resubmitted request, and must state that a request for administrative review of a denial of recognition may be made within 30 calendar days of receipt of the notice of denial from the Department. Such request must be made by mail and addressed to the Chief Administrative Law Judge for the Department. The mailing address is Office of Administrative Law Judges, U.S. Department of Labor, Suite 400 North, 800 K Street, NW., Washington, DC 20001-8002. Within 30 calendar days of the filing of the request for review, the Administrator must prepare an administrative record for submission to the Administrative Law Judge designated by the Chief Administrative Law Judge.

(1) The procedures contained in 29 CFR part 18 will apply to the disposition of the request for review except that:

(i) The Administrative Law Judge will receive, and make part of the record, documentary evidence offered by any party and accepted at the hearing. Copies thereof will be made available by the party submitting the documentary evidence to any party to the hearing upon request.

(ii) Technical rules of evidence will not apply to hearings conducted under this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination will be applied, where reasonably necessary, by the Administrative Law Judge conducting the hearing. The Administrative Law Judge may exclude irrelevant, immaterial, or unduly repetitious evidence.

(2) The Administrative Law Judge should submit proposed findings, a recommended decision, and a certified

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record of the proceedings to the Administrative Review Board within 90 calendar days after the close of the record.

(3) Within 20 days of the receipt of the recommended decision, any party may file exceptions. Any party may file a response to the exceptions filed by another party within 10 days of receipt of the exceptions. All exceptions and responses must be filed with the Administrative Review Board with copies served on all parties and amici curiae.

(4) After the close of the period for filing exceptions and responses, the Administrative Review Board may issue a briefing schedule or may decide the matter on the record before it. The Administrative Review Board must decide any case it accepts for review within 180 days of the close of the record. If not so decided, the Administrative Law Judge's decision constitutes final agency action. The decision of the Administrative Review Board constitutes final action by the Department.

(h) *Withdrawal from recognition.* Where a State Apprenticeship Agency voluntarily relinquishes its recognition for Federal purposes, the State must:

(1) Send a formal notice of intent to the Administrator of the Office of Apprenticeship;

(2) Provide all apprenticeship program standards, apprenticeship agreements, completion records, cancellation and suspension records, Equal Employment Opportunity Compliance Review files and any other documents relating to the State's apprenticeship programs, to the Department; and

(3) Cooperate fully during a transition period.

(i) *Retention of authority.* Notwithstanding any grant of recognition to a State Apprenticeship Agency under this section, the Office of Apprenticeship retains the full authority to register apprenticeship programs and apprentices in all States and Territories where the Office of Apprenticeship determines that such action is necessary to further the interests of the National Apprenticeship System.

(j) *State apprenticeship programs.* (1) An apprenticeship program submitted to a State Registration Agency for registration must, for Federal purposes, be

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in conformity with the State apprenticeship law, regulations, and with the State Plan for Equal Employment Opportunity in Apprenticeship as submitted to and approved by the Office of Apprenticeship pursuant to 29 CFR part 30.

(2) In the event that a State Apprenticeship Agency is not recognized by the Office of Apprenticeship for Federal purposes or that such recognition has been withdrawn, or if no State Apprenticeship Agency exists, registration with the Office of Apprenticeship may be requested. Such registration must be granted if the program is conducted, administered and operated in accordance with the requirements of this part and the equal opportunity regulation in 29 CFR part 30, as amended.

§ 29.14 Derecognition of State Apprenticeship Agencies.

The recognition for Federal purposes of a State Apprenticeship Agency may be withdrawn for the failure to fulfill, or operate in conformity with, the requirements of parts 29 and 30. Derecognition proceedings for reasonable cause will be instituted in accordance with the following:

(a) Derecognition proceedings for failure to adopt or properly enforce a State Plan for Equal Employment Opportunity in Apprenticeship must be processed in accordance with the procedures prescribed in 29 CFR part 30.

(b) For causes other than those under paragraph (a) of this section, the Office of Apprenticeship must notify the respondent and appropriate State sponsors in writing, by certified mail, with return receipt requested. The notice must set forth the following:

(1) That reasonable cause exists to believe that the respondent has failed to fulfill or operate in conformity with the requirements of this part;

(2) The specific areas of nonconformity;

(3) The needed remedial measures; and

(4) That the Office of Apprenticeship proposes to withdraw recognition for Federal purposes unless corrective action is taken, or a hearing request mailed, within 30 days of the receipt of the notice.