**Part IX. Apprenticeship**

**Chapter 1. Apprenticeship Laws**

**§101. Definitions**

*Apprentice—*a person at least 16 years of age, who has

entered into a written apprenticeship agreement with an

employer, an association of employers, or an organization of

employees, providing for not less than 2,000 hours of

reasonable continuous employment and for participation in

an approved program of training through employment and

through education in related and supplemental subjects. No

local ordinance of any political subdivision of the state shall

cause any person identified as an apprentice by such political

subdivision to be recognized as an apprentice by the

Louisiana Workforce Commission, Apprenticeship Division.

*Apprenticeship Program/Program Sponsor*―a program

registered with the Louisiana Workforce Commission,

Apprenticeship Division meeting the minimum standards of

the state apprenticeship law, which has been approved by

both the director of apprenticeship and the State

Apprenticeship Council.

*Commission*―the Louisiana Workforce Commission.

*Director—*the director of apprenticeship for the Louisiana

Workforce Commission.

*Employer*―any person or organization employing an

apprentice whether or not the apprentice is enrolled with

such person or organization, or with some other person or

organization, as an employer.

*Executive Director*―the executive head and chief

administrative officer of the Louisiana Workforce

Commission, or any person specifically designated by the

executive director.

*Louisiana Workforce Commission, Apprenticeship*

*Division—*the division within Louisiana state government

that is recognized by the Office of Apprenticeship, United

States Department of Labor as the official state

apprenticeship agency of record for registration of

apprenticeship programs for federal purposes.

*Sponsor*―any person or organization operating a state

apprenticeship program, irrespective of whether such person

or organization is an employer as a sponsor.

*State Apprenticeship Council (SAC)*―the Louisiana State

Apprenticeship Council, serving as the advisory board to the

Louisiana Workforce Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:428 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2209 (July

2011), amended by the Louisiana Workforce Commission, Office

of Workforce Development, LR 37:2210 (July 2011).

**§103. Purpose of the Louisiana Apprenticeship System**

A. To provide for voluntary apprenticeship under

approved apprenticeship agreements and for the execution

and approval of such agreements.

B. To open to the people of Louisiana the opportunity to

obtain special training which will equip them for profitable

employment and a high type of citizenship.

C. To set up as a means to this end a program of

voluntary apprenticeship under approved standards of

apprenticeship, reviewed by the State Apprenticeship

Council and registered with the Louisiana Workforce

Commission, Apprenticeship Division, providing facilities

for apprenticeship training and guidance in the arts and

crafts of industry and trade, with parallel instruction in

related and theoretical education.

D. To relate the supply of skilled workers to industry

employment demands.

E. To establish standards for apprenticeship training.

F. To provide for a director of apprenticeship with the

Louisiana Workforce Commission.

G. To provide for reports to the legislature and the public

regarding the status of apprenticeship training in the state.

H. To establish a procedure for the hearing and

adjustment of apprenticeship agreement controversies.

I. To accomplish related ends.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:428 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2210 (July

2011).

**§105. State Apprenticeship Council**

A. The executive director of the Louisiana Workforce

Commission shall appoint a State Apprenticeship Council as

follows:

1. three representatives of employers who have been

selected from recommendations made by employer

organizations that are party to a registered apprenticeship

program, and three representatives of labor organizations

who are nominated by state labor federations, who are also

party to a Louisiana-approved apprenticeship program;

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2. two members representing the general public;

3. the state official in charge of trade and industrial

education with the Louisiana Community and Technical

College System shall serve in an ex-officio capacity;

4. each member shall be appointed for three years;

5. any member appointed to fill a vacancy occurring

prior to the expiration of the term of their predecessor shall

be appointed for the remainder of said term;

6. each member of the council not otherwise

compensated by public funds, may be reimbursed for

transportation and shall be paid not more than $35 per day

for each day spent in attendance at meetings of the

apprenticeship council, which shall meet at the call of the

director of apprenticeship; and

7. in order to be considered for appointment to the

council, members must be party to a registered

apprenticeship program and well versed in the

apprenticeship system and apprenticeable occupations, or

have previously served on the council for ten or more years.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:428 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2210 (July

2011).

**§107. Duties and Responsibilities of the State**

**Apprenticeship Council**

A. The State Apprenticeship Council shall:

1. aid in formulating policies for the effective

administration of the State Apprenticeship System;

2. establish standards which shall represent the

minimum standards required for approval of apprenticeship

program standards for any proposed apprenticeship program

sponsor making application for registration of a program;

3. recommend such rules and regulations as may be

necessary to carry out the purpose and intent thereof;

4. perform such other functions as the executive

director may direct;

5. assure an opportunity for Louisiana citizens to

obtain training that will equip them for profitable

employment and promote employment opportunities for

them under conditions providing adequate training and

reasonable earnings as stated in section 381 of the Louisiana

Apprenticeship Law;

6. when the State Apprenticeship Council determines

that there is reasonable cause to believe that an

apprenticeship program is not operating in accordance with

these rules and the Louisiana Apprenticeship Law, and

voluntary corrective action has not been taken by the

program sponsor, the State Apprenticeship Council shall

recommend that the director of apprenticeship institute

proceedings to deregister the apprenticeship program and

shall request the director to make a final decision on the

basis of available evidence;

7. upon receipt of proposed standards by the

Louisiana Workforce Commission, Apprenticeship Division

of new programs or previously approved programs, such

standards shall be submitted to the State Apprenticeship

Council for its review and recommendation to the director of

apprenticeship, who will issue the final decision regarding

approval or disapproval thereof. When an apprenticeship

program has been deregistered for cause or voluntarily

deregistered in accordance with the provisions set forth in

§309 of this Chapter and Title 29 CFR 29.8 and 29.10, they

shall not be granted another program for at least one year

from the date of deregistration. A compliance review is to be

conducted and the program must be in compliance with

these rules, standards and the Louisiana plan for EEO.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:428 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2210 (July

2011).

**§109. Powers and Duties of the Director of**

**Apprenticeship**

A. The director of apprenticeship, under the supervision

of the executive director of the Louisiana Workforce

Commission, and with the advice and guidance of the state

apprenticeship council, is authorized to administer the

provisions of the Louisiana Apprenticeship Law (R.S.

23:381 et seq.). The director of apprenticeship shall perform

the following functions:

1. in cooperation with the state apprenticeship council,

set up conditions and training standards for apprenticeship

agreements, which shall in no case be lower than those

prescribed by the Louisiana Apprenticeship Law;

2. act as secretary of the state apprenticeship council;

3. approve any apprenticeship agreement which meets

the standards established for an apprenticeship program

properly registered with the Louisiana Workforce

Commission, Apprenticeship Division;

4. terminate or cancel any apprenticeship agreement in

accordance with the provisions of such agreement or the

minimum standards for that approved program;

5. keep a record of apprenticeship agreements and

their disposition;

6. issue certificates of completion of apprenticeship;

7. evaluate performance of registered apprenticeship

programs using tools and factors that include, but are not

limited to quality assurance assessments, Equal Employment

Opportunity (EEO) reviews and program completion rates;

8. perform such other duties as are necessary to carry

out the terms and conditions provided in the State

Apprenticeship Standards; and

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9. when it is the opinion of the director of

apprenticeship, or in the opinion of the State Apprenticeship

Council it is needed, the director of apprenticeship may

request survey information to justify journeyworker wages

being paid by employers. This information shall include

employer's name, address and telephone number,

journeyworker wage and any other information the director

of apprenticeship feels is needed. Failure to submit all of

such information as requested shall constitute a violation of

these rules and shall subject the apprenticeship program

sponsor to deregistration of its apprenticeship program;

a. a complete list of affiliated employers shall be

updated and submitted to the director of apprenticeship on

an annual basis for such purposes;

10. provide technical assistance to employers who

strive to sponsor a registered apprenticeship program with

the development of their proposed apprenticeship standards;

review proposed standards for adherence to state and federal

requirements; issue preliminary approval of new programs,

pending concurrence by the State Apprenticeship Council;

issue one year provisional registration of new programs and

certificate of full registration pending that said program is

found in compliance of its standards of apprenticeship after

the first year of operation.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:428 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2211 (July

2011).

**Chapter 3. Apprenticeship Division**

**Standards and Procedure**

**§301. Standards of Apprenticeship**

A. An apprenticeship program, to be eligible for

registration/approval by the Louisiana Workforce

Commission, Apprenticeship Division shall conform to the

following standards.

1. All apprenticeship programs proposed for adoption

shall be required to submit standards of apprenticeship on

forms supplied by the Apprenticeship Division. All standards

of apprenticeship shall first be submitted to the director of

apprenticeship, who, within 90 days and after careful review,

shall make a recommendation to the State Apprenticeship

Council for approval if all minimum standards have been

met.

a. All other notifications and requests for changes

and updates relating to a program sponsor’s standards of

apprenticeship shall be submitted to the director of

apprenticeship within 45 days.

2. The program shall have an organized, written plan

embodying the terms and conditions of employment,

training, and supervision of one or more apprentices in the

apprenticeable occupation, as defined in this Part, and

subscribed to by a sponsor who has undertaken to carry out

the apprentice program and shall contain a statement as to

whether or not the apprentice will be compensated for the

required school time. The written plan shall also state the

names and affiliation of each employer and employee

representative and its Joint Apprenticeship Committee.

3. The program standards shall contain the state plan

for implementing Title 29 CFR Part 30, Equal Employment

Opportunity in Apprenticeship and Training, which plan is

made a part of these rules and additional provisions

concerning the following:

a. the employment and training of the apprentice in

a skilled trade;

b. 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), as defined in 29 CFR 29.5;

i. 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;

c. 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

time to be spent in each major process;

d. provision for organized, related and supplemental

instruction in technical subjects related to the trade. A

minimum of 144 hours of instruction for each year of the

apprenticeship shall be required. 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 Workforce

Commission, Apprenticeship Division. Also a statement

showing where and when the related instruction will be

administered shall be contained in the standards;

e. a progressively increasing schedule of wages to

be paid the apprentice consistent with the skill acquired. The

entry wage shall 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 agreements. The journeyworker

wage rate upon which the apprentices' wages are to be based

shall be set by the program sponsor and approved by the

director of apprenticeship and State Apprenticeship Council

in accordance with the following criteria listed in priority

order:

i. the journeyworker wage rate set by the

applicable collective bargaining agreement pertinent to an

existing registered apprenticeship program in the same area

and for the same trade as the proposed apprenticeship

program;

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ii. the higher of the prevailing wage for the craft

for the area as set by the U.S. Department of Labor pursuant

to the Davis-Bacon Act and published in the *Federal*

*Register*;

iii. in the event that an apprenticeship program is

proposed for a craft in an area where there is no pertinent

collective bargaining agreement, Davis-Bacon prevailing

wage rate, or local prevailing wage rate, the Apprenticeship

Division, based on information gathered by its staff through

annual wage surveys, may set a journeyworker wage rate for

the specific area and craft, to be incorporated into the

proposed standards;

f. periodic review and evaluation of the apprentice's

progress in job performance and related instruction; and the

maintenance of appropriate progress reports. All programs

registered with Louisiana Workforce Commission,

Apprenticeship Division shall maintain records on each

apprentice in their program as to the hours of employment,

work experience and related supplemental instruction;

g. the 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 shall be specific

and clear as to application in terms of jobsite, work force,

department or plant; and in no instance shall such ratio

provide for more than one apprentice for each

journeyworker employed per jobsite;

h. a probationary period reasonable in relation to

the full apprenticeship term, with full credit given for such

period toward completion of apprenticeship, and where the

probationary period does not exceed 25 percent of the length

of the program, or 1 year, whichever is shorter;

i. adequate and safe equipment and facilities for

training, and supervision, and safety training for apprentices

on the job and in related instruction;

j. the minimum qualifications required by a sponsor

for persons entering the apprenticeship program, with an

eligible starting age not less than 16 years;

k. the placement of an apprentice under a written

apprenticeship agreement as required by the state

apprenticeship law and regulations. The agreement shall

directly, or by reference, incorporate the standards of the

program as part of the agreement;

l. the granting of credit for previously acquired

experience, training, or skills for all applicants equally, with

commensurate wages for any progression step so granted;

m. transfer of program sponsor’s training obligation

when the program sponsor is unable to fulfill its obligation

under the apprenticeship agreement to another program

sponsor, within the same trade, with the written consent of

the apprentice and both program sponsors, subject to the

approval of the director of apprenticeship;

n. assurance of qualified training personnel and

adequate supervision on the job;

o. recognition for successful completion of

apprenticeship is evidence by an appropriate certificate of

completion;

p. identification of the registration agency;

q. provision for the registration, cancellation and

deregistration of the program; and requirement for the

prompt submission of any proposed modification or

amendment thereto;

r. provision for registration of apprenticeship

agreements, modifications, and amendments; notice to the

registration office of persons who have successfully

completed apprenticeship programs; and notice of

cancellations, suspensions and terminations of

apprenticeship agreements and causes therefor;

s. authority for the termination of an apprenticeship

agreement during the probationary period by either party

without stated cause;

t. name and address of the appropriate person

authorized by the program sponsor to receive, process and

make disposition of complaints; and

u. recording and maintenance of all records

concerning apprenticeship as may be required by Louisiana

Workforce Commission, Apprenticeship Division and other

applicable laws;

v. any trade having been previously approved for

training for a particular apprenticeship training program

sponsor which has had no activity for a period of two years,

may be canceled from the list of approved trades contained

in the apprenticeship standards for such program sponsor.

4. Apprenticeship instructors must meet the state

Department of Education’s requirements for a vocationaltechnical

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. In order to be considered a subject matter expert

in a particular trade, an instructor must hold a registered

apprenticeship certificate of completion, or a similar trade

specific credential recognized industry-wide, and 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.

B. Reciprocity. The Louisiana Workforce Commission,

Apprenticeship Division shall accord reciprocal approval for

federal purposes to apprentices, apprenticeship programs and

standards that are registered in other states by the Office of

Apprenticeship or another state 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.

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17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2211 (July

2011).

**§303. Apprenticeship Agreements**

A. The apprenticeship agreement form will be supplied

by the director of apprenticeship to apprenticeship

committees and to individual establishments interested in

apprenticeship.

B. Pre-Apprentices. For the purposes of apprenticeship,

the Louisiana Workforce Commission, Apprenticeship

Division will not indenture pre-apprentices. However, if an

organization wishes to establish a bona fide preapprenticeship

training program, it must make written

request to the Apprenticeship Division and demonstrate

strong linkages between it and a registered apprenticeship

program(s) within Louisiana. If appropriate, the director of

apprenticeship may issue a letter of recognition.

C. The date of an apprenticeship agreement will be the

actual date the apprentice entered employment as an

apprentice as agreed to by the employer, the apprentice, and

approved by the Louisiana Workforce Commission,

Apprenticeship Division.

D. Apprenticeship agreements to be submitted and

processed as follows:

1. program sponsor and apprentice both complete and

sign the agreement;

2. program sponsor retains original on file and enters

apprentice agreement into the Registered Apprenticeship

Partners Information Data System (RAPIDS) to submit

electronic request for approval by the director of

apprenticeship within 45 days of the apprentice’s first day of

employment;

3. a copy for the apprentice shall be provided; and

4. director of apprenticeship shall approve or deny, as

appropriate, apprentice registration related requests through

RAPIDS within 45 days of receipt, and the program sponsor

will be notified of any action taken in RAPIDS via email

immediately thereafter.

D. Every apprenticeship agreement entered into shall be

signed by the contracting parties (apprentice, and the

program sponsor or employer), and the signature of a parent

or guardian if the apprentice is a minor employer.

E. Where a trade is covered by a city, parish or state

license law or ordinance requiring the journeyworker or

skilled worker to produce a license to follow the trade, it will

be necessary that this provision of the law be observed

before an apprentice employed in such establishment can be

registered.

F. Every apprenticeship agreement entered into under

the provisions of the Louisiana Apprenticeship Law shall

contain:

1. the names of the contacting parties;

2. the date of birth of the apprentice;

3. social security number, on a voluntary basis;

4. a statement of the trade or craft in which the

apprentice is to be taught, and the time at which the

apprenticeship will begin and end;

5. 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 competencybased

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

6. a statement setting forth a schedule of the work

processes in the trade or industry divisions in which the

apprentice is to be trained and the approximate time to be

spent at each process;

7. the number of hours to be spent in related

instruction in technical subjects related to the occupation,

which shall not be not less than 144 hours per year;

8. a statement of the graduated scale of wages to be

paid the apprentice;

9. a statement providing for a period of probation of

not more than 25 percent of the term of apprenticeship or

one year, whichever is shorter in duration, during which time

the apprenticeship agreement may be terminated, without

adverse impact on the program sponsor, by the director of

apprenticeship at the request, through RAPIDS, by the

program sponsor, or in writing by the apprentice, providing

that after such probationary period the apprenticeship

agreement may be terminated by the director of

apprenticeship by mutual agreement of all parties thereto, or

canceled by the director of apprenticeship for good and

sufficient reason;

10. a provision that all controversies or differences

concerning the apprenticeship agreement which cannot be

adjusted locally in accordance with R.S. 23:385 shall be

submitted to the director or apprenticeship for determination,

as provided in R.S. 23:390;

11. a statement providing after the probationary period,

the agreement may be:

a. cancelled at the request of the apprentice; or

b. 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 within 45 days

of the final action taken;

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12. such additional terms and conditions as may be

prescribed or approved by the director, not inconsistent with

the provisions of this Chapter and those established by the

Office of Apprenticeship, United States Department of

Labor;

13. a reference incorporating as part of the agreement

the standards of the apprenticeship program as it exists on

the date of the agreement and as it may be amended during

the period of the agreement; and

14. 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;

15. any proposed change in the terms of a registered

apprenticeship agreement must be submitted to the

Apprenticeship Division for approval by the director of

apprenticeship;

16. wages of the apprentice will vary with the

occupation and locality. The agreement shall contain a

statement of the graduated scale of wages to be paid the

apprentice (and whether or not the required school time shall

be compensated). When the graduated wage rate of the

apprenticeship is set on a six month basis, in no instance

shall the increase each six months be less than 5 percent.

When the wage increase is set on a yearly basis, in no

instance shall the increase be less than 10 percent each year.

Provided, however, that a program that has at least a

minimum starting wage rate of 45 percent of the

journeyworker hourly wage rate and has reached 75 percent

of the journeyworker hourly wage rate in the final period

will be acceptable. The starting wage rate of an apprentice

shall not be less than 45 percent of the journeyworker hourly

wage or less than the applicable state/federal minimum

wage. In no case shall the final period of apprenticeship be

less than 75 percent of the journeyworker hourly wage in a

four-year trade classification.

G. Such additional terms and conditions as may be

prescribed or approved by the director, not inconsistent with

the provisions of this Chapter and those established by the

Office of Apprenticeship, United States Department of Labor

in accordance with 29 CFR Part 29/30.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

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17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2213 (July

2011).

**§305. Procedure for Approval of Apprenticeship**

**Agreements**

A. The director of apprenticeship shall approve an

apprenticeship agreement within 15 days if:

1. it meets the standards established under the

Louisiana Apprenticeship Law and these rules for an

apprenticeship program which has been properly registered

with the Louisiana Workforce Commission, Apprenticeship

Division;

2. the agreement contains all the requisites provided in

§303.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:431 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2214 (July

2011).

**§307. Procedure for the Cancellation or Termination**

**of Apprenticeship Agreements and Issuance of**

**Interim Credentials and Certificates of**

**Completion**

A. The director of apprenticeship may terminate or

cancel any apprenticeship agreement in accordance with the

provisions of that agreement.

B. In the event that an agreement is terminated by

mutual consent of all parties thereto, no opportunity for a

hearing prior to such termination is required.

C. Prior to the cancellation or termination of an

agreement for reasons other than mutual agreement of all

parties, the parties to such agreement shall be afforded an

opportunity for hearing after reasonable notice. Such notice

and hearing shall conform to the requirements of the

Administrative Procedure Act, R.S. 49:955.

D. Programs that adopt competency or hybrid structured

standards of apprenticeship may request interim credentials

for certification of competency attainments made by an

apprentice from the Office of Apprenticeship, United States

Department of Labor.

E. Upon the satisfactory completion of apprenticeship,

the director of apprenticeship shall issue a certificate of

completion of apprenticeship showing the trade in which

apprenticeship was served, the date of completion and the

name of the program sponsor. A completion certificate shall

be issued only after the director of apprenticeship has

received an electronic request through the Registered

Apprenticeship Partners Information Data System (RAPIDS)

for such completion certificate, signed by a representative of

the pertinent program sponsor, which signature shall certify

that the required training and related instruction has been

completed, or after the apprentice has furnished to the

director of apprenticeship documented evidence which

proves that the required training and related instruction has

been completed. If there exists extenuating circumstances in

which the program sponsor is unable to access RAPIDS, a

written request will be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.HISTORICAL NOTE: Promulgated by the Department

of Labor, Office of Labor, LR 12:431 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2214 (July

2011).

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**§309. Settlement of Controversies or Complaints,**

**Deregistration Proceedings**

A. The director of apprenticeship is empowered to

investigate possible violations of the terms of an

apprenticeship agreement and the standards of

apprenticeship that govern such agreements. Such

investigation may be based upon the complaint of an

interested person, reasonable cause, a request from the state

apprenticeship council upon a majority vote, or upon the

initiative of the director of apprenticeship. The director of

apprenticeship is further empowered to hold hearings,

inquiries and other proceedings necessary to such

investigations and determinations. Prior to any determination

concerning a possible violation of the terms of an

apprenticeship agreement or the governing standards of

apprenticeship, the director of apprenticeship shall conduct a

fact finding.

B. Subsequent to a determination, the director of

apprenticeship shall make notification to the state

apprenticeship council, and file a fact finding including

recommended penalties not resulting in deregistration, with

the executive director. If no appeal there from is filed with

the executive director within 10 days after the date thereof,

such determination shall become the order of the director of

apprenticeship.

C. Any person aggrieved by a determination or action of

the director of apprenticeship may appeal such action to the

executive director who shall hold a hearing thereon, after

due notice to the interested parties. Such hearing shall

conform to the requirements of the Administrative Procedure

Act, R.S. 49:955.

D. Deregistration

1. Deregistration of a program may be effected upon

the voluntary action of the sponsor by submitting a request

for cancellation in writing to the director of apprenticeship,

or upon reasonable cause, by the director of apprenticeship

instituting formal deregistration proceedings in accordance

with this Section.

2. Deregistration at the Request of the Sponsor. The

director of apprenticeship 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;

b. 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 Louisiana Workforce Commission, Apprenticeship

Division for information about potential transfer to other

registered apprenticeship programs.

3. Deregistration upon Reasonable Cause

a. 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

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 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 and Title 40, Chapter 5.

b. 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 Apprenticeship Division during a

review process as requiring corrective action.

c. Where it appears the program is not being

operated in accordance with the registered standards or with

requirements of this Part, the Apprenticeship Division must

notify the program sponsor in writing.

d. 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.

e. 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 Apprenticeship Division

shall assist the sponsor in every reasonable way to achieve

conformity.

f. If the required correction is not effected within

the allotted time, the Apprenticeship Division 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

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may be deregistered unless, within 15 days of the receipt of

this notice, the sponsor requests a hearing with the

applicable Apprenticeship Division; 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.

g. If the sponsor does not request a hearing, the

Apprenticeship Division will transmit to the administrator a

report containing all pertinent facts and circumstances

concerning the non-conformity, 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.

h. If the sponsor requests a hearing, the

Apprenticeship Division will follow the grievance

procedures outlined in Subsection C of this Section and refer

the matter to the executive director.

i. If, based upon the evidence and testimony

presented, the executive director upholds the determination

of the director of apprenticeship, the decision shall be

conclusive if no appeal there from is filed within 30 days

after the date of the order or decision. The sponsor has the

right to further appeal the decision to the administrator,

Office of Apprenticeship. The Apprenticeship Division will

transmit to the administrator a report containing all the data

listed in Subparagraph D.3.g 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 CFR §29.10,

and issue a decision as required in 29 CFR §29.10(c).

4. 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 state and federal

purposes which require the director of apprenticeship’s

approval of an apprenticeship program; and that all

apprentices are referred to the Apprenticeship Division for

information about potential transfer to other registered

apprenticeship programs.

5. Reinstatement of Program Registration. Any

apprenticeship program deregistered under this Section and

29 CFR §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 Louisiana Workforce Commission,

Apprenticeship Division for consideration.

6. No person shall institute any action for the

enforcement of any apprenticeship agreement, or for

damages for the breach thereof unless all administrative

remedies provided in these rules have first been exhausted.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:431 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2214 (July

2011).

**§311. Civil Penalties**

A. Provisions

1. Any person, including but not limited to, any

apprenticeship program sponsor or employer of a registered

apprentice, shall be subject to a civil penalty of up to five

hundred dollars per violation of the provisions of any of the

following:

a. Title 40, Part IX;

b. approved program standards;

c. an approved apprenticeship agreement;

d. any rules or regulations governing apprenticeship

adopted pursuant to the authority contained within Title 40,

Part IX of the Louisiana Administrative Code.

2. Reasonable litigation expenses may be awarded to

the prevailing party of the adjudicatory hearing. *Reasonable*

*litigation expenses* means any expenses, not exceeding

$7,500, reasonably incurred in prosecuting, opposing, or

contesting an agency action, including but not limited to

attorney fees, stenographer fees, investigative fees and

expenses, witness fees and expenses, and administrative

costs.

B. Civil penalties may be imposed only by a ruling of the

executive director or his designee, in accordance with §309

of this Part.

C. Out of the civil penalties collected for violations,

expenses incurred in enforcing any provisions may be paid

by the commission.

D. The executive director may institute civil proceedings

in the appropriate district court for the principal place of

business of the employer to enforce his rulings or seek

injunctive relief to restrain and prevent violations of the

provisions of this Chapter or of the rules and regulations

adopted under the provisions of this Chapter. The court shall

award attorney fees and court costs to the prevailing party. In

the event judgment is rendered in said court affirming the

civil penalties assessed, the court shall also award to the

Louisiana Workforce Commission, Apprenticeship Division

judicial interest on said penalties from the date of such

judgment until paid.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Louisiana Workforce Commission, Office of Workforce

Development, LR 37:2216 (July 2011).

**§313. Cooperation with Other Organizations**

A. Louisiana Workforce Commission Business and

Career Solution Centers shall:

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1. assist in the recruiting and placement of apprentices

as appropriate ; and

2. advise job seekers of the registered apprenticeship

opportunities in their region and their minimum entrance

requirements.

B. Louisiana Community and Technical College System

shall:

1. supply related training to apprentice classes, and

shall furnish classrooms, aids, technical equipment, and

other such training materials necessary to the proper training

of the apprentices;

2. supervise the related training of apprentices;

3. advise youth as to the entrance requirements of

apprenticeship training; and

4. advise employers as to the advantages of apprentice

training.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:432 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2216 (July

2011).

**§315. Limitations**

A. In accordance with Act 364 of 1938, Section 391,

nothing in this Chapter or in any apprentice agreement

approved under this Chapter shall operate to invalidate any

apprenticeship provision in any collective agreement

between employers and employees.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:432 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2216 (July

2011).

**§317. Criteria for Apprenticeable Occupations**

A. An apprenticeable occupation is a skilled trade which

possesses all of the following characteristics.

1. It is customarily learned in a practical way through

a structured, systematic program of on-the-job supervised

training.

2. It is clearly identified and commonly recognized

throughout an industry.

3. It involves manual, mechanical or technical skills

and knowledge which require a minimum of 2,000 hours of

on- the-job work experience.

4. It requires related instruction to supplement the onthe-

job training.

5. It has been approved by the United States

Department of Labor as an apprenticeable occupation.

6. In instances when an employer proposes the

development of an apprenticeship program for an occupation

that is not found on the federal apprenticeable occupations

list, the employer shall provide evidence that:

a. the occupation is considered “high demand”

according to Louisiana labor market information;

b. the occupation represents an emerging demand

industry-wide;

c. the occupation meets all other criteria for an

apprenticeable occupation;

d. an application has been submitted to the United

States Department of Labor for the occupation to be

recognized as apprenticeable.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:432 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2216 (July

2011).

**Chapter 5. Louisiana State Plan for**

**Equal Opportunity in Apprenticeship**

**§501. Scope and Purpose**

A. This plan sets forth policies and procedures to

promote equality of opportunity in apprenticeship programs

registered with the Louisiana Workforce Commission,

Apprenticeship Division. These policies and procedures

apply to the recruitment and selection of apprentices, and to

all conditions of employment and training during

apprenticeship. The procedures established provide for

review of apprenticeship programs, for registering

apprenticeship programs, for processing complaints and for

deregistering non-complying apprenticeship programs.

B. The purpose of this plan is to promote equality of

opportunity in apprenticeship by prohibiting discrimination

based on race, color, religion, national origin, or sex in

apprenticeship programs, by requiring affirmative action to

provide equal opportunity in such apprenticeship programs,

and by coordinating this plan with other equal opportunity

programs.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:433 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2217 (July

2011).

**§503. Definitions**

*Commission*―the Louisiana Workforce Commission.

*Employer*―any person or organization employing an

apprentice whether or not the apprentice is enrolled with

such person or organization or with some other person or

organization as an employer.

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*Executive Director*―the executive head and chief

administrative officer of the Louisiana Workforce

Commission, or any person specifically designated by the

executive director.

*Louisiana Workforce Commission, Apprenticeship*

*Division*―the division within Louisiana state government

that is recognized by the Office of Apprenticeship, United

States Department of Labor as the official state

apprenticeship agency of record for registration of

apprenticeship programs for federal purposes.

*Sponsor*―any person or organization operating a state

apprenticeship program, irrespective of whether such person

or organization is an employer as a sponsor.

*State Apprenticeship Council (SAC)*―the Louisiana State

Apprenticeship Council, serving as the advisory board to the

Louisiana Workforce Commission.

*State Apprenticeship Program*―a program registered with

the Louisiana Workforce Commission, Apprenticeship

Division and meeting the minimum standards of the

applicable federal and state apprenticeship laws.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:433 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2217 (July

2011).

**§505. Authority**

A. Under the authority vested in the Louisiana

Workforce Commission, Apprenticeship Division and set out

in Louisiana Revised Statutes, 1950, (annotated) as

amended, R.S. 23:381 through R.S. 23:391, a policy is

hereby formulated for non-discrimination in apprenticeship

and training by the Louisiana Workforce Commission,

Apprenticeship Division.

B. On May 12, 1978, a revised Title 29 CFR Part 30 was

established at the request of the Office of the Secretary of

Labor, U.S. Department of Labor. Section 30.15, "State

Agencies," of Title 29, Part 30, encourages all state

apprenticeship agencies to adopt and implement the

standards of the U.S. Department of Labor policy.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:433 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2217 (July

2011).

**§507. Equal Opportunity Standards**

A. Obligation of Sponsor. Each sponsor of an

apprenticeship program shall:

1. recruit, select, employ and train apprentices during

their term of apprenticeship without discrimination because

of race, color, religion, national origin, or sex;

2. uniformly apply rules and regulations concerning

apprentices, including but not limited to equality of wages,

periodic advancement, promotion, assignment of work, job

performance, rotation among all work processes of the trade,

imposition of penalties or other disciplinary action, and all

other aspects of the apprenticeship program administration

by the program sponsor; and

3. take affirmative action to provide equal opportunity

in apprenticeship, including adoption of an affirmative

action plan as required by this state plan.

B. Equal Opportunity Pledge. Each sponsor of an

apprenticeship program shall include in its standards the

following equal opportunity pledge:

"The recruitment, selection, employment, and training of

apprentices during their apprenticeship, shall be without

discrimination because of race, color, religion, national origin,

or sex. The sponsor will take affirmative action to provide

equal opportunity in apprenticeship and will operate the

apprenticeship program as required under Title 29 of Code of

Federal Regulations, Part 30, and the Louisiana State Plan."

C. Programs Presently Registered. Each sponsor of a

program registered with the council as of the effective date

of this Part shall within 90 days of that effective date take

the following action:

1. include in the standards of its apprenticeship

program the equal opportunity pledge prescribed by §507.B;

2. adopt an affirmative action plan as required by

§509; and

3. adopt a selection procedure as required by §511 of

this plan. A sponsor adopting a selection method as

described under §511.B.2, 3, or 4 shall prepare, and have

available for submission upon request copies of its amended

standards, affirmative action plans, and selection procedure.

A sponsor adopting a selection method as described under

§551.B.5 shall submit to the council copies of its standards,

affirmative action plan, and selection procedure in

accordance with the requirements of §511.B.5.

D. Sponsors Seeking New Registration. A sponsor of a

program seeking new registration with the apprenticeship

division shall submit copies of its proposed standards,

affirmative action plan, selection procedures, and such other

information as may be required. The program shall be

registered if such standards, affirmative action plan, and

selection procedure meet the requirements of this plan.

E. Programs Subject to the Approved Equal Employment

Opportunity Plans. A sponsor shall not be required to adopt

an affirmative action plan described under §509 of this plan

or a selection procedure described under §511 if it submits to

the Apprenticeship Division and State Apprenticeship

Council satisfactory evidence that it is in compliance with an

equivalent equal employment opportunity program. This

program must provide for affirmative action in

apprenticeship including goals and timetables for women

and minorities and must be approved as meeting the

requirements of Title VII of the Civil Rights Act of 1964, as

amended (42 U.S.C. 2000e et seq.) and its implementing

regulations published in Title 29 of the Code of Federal

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Regulations, Chapter, XIV, or Executive Order 11246, as

amended and its implementing regulations at Title 41 of the

Code of Federal Regulations, Chapter 60 provided, that

programs approved, modified, or renewed subsequent to the

effective date of this amendment will qualify for this

exception only if the goals and timetables for the selection of

minority and female apprentices provided for in such

programs are equal to or greater than the goals required

under this Subsection.

F. Program with Fewer than Five Apprentices. A sponsor

of a program in which fewer than five apprentices are

indentured shall not be required to adopt an affirmative

action plan under §509 of this plan or a selection procedure

under §511, provided that such program was not adopted to

circumvent the requirements of this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:433 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2217 (July

2011).

**§509. Affirmative Action Plans**

A. Adoption of Affirmative Action Plans. A sponsor's

commitment to equal opportunity in recruitment, selection,

employment, and training of apprentices shall include the

adoption of a written affirmative action plan.

B. Definition of Affirmative Action. Affirmative action is

not merely passive nondiscrimination. It includes

procedures, methods, and programs for the identification,

positive recruitment, training, and motivation of present and

potential minority and female (minority and nonminority)

apprentices, including the establishment of goals and

timetables. It is action which will equalize opportunity in

apprenticeship so as to allow full utilization of the work

potential of minorities and women. The overall result to be

sought is equal opportunity in apprenticeship for all

individuals participating in or seeking entrance to the

nation's labor force.

C. Outreach and Positive Recruitment. An acceptable

affirmative action plan must also include adequate provision

for outreach and positive recruitment that would reasonably

be expected to increase minority and female participation in

apprenticeship by expanding the opportunity of minorities

and women to become eligible for apprentice selection. The

affirmative action plan shall set forth the specific steps the

sponsor intends to take in the areas listed below in order to

achieve these objectives.

1. Disseminate Information Concerning the Nature of

Apprenticeship, Availability of Apprenticeship

Opportunities, Source of Apprenticeship Applicants, and the

Equal Opportunity Policy of the Sponsor. For programs

accepting applications only at specified intervals, such

information shall be disseminated at least 30 days in advance

of the earliest date for applications at each interval. For

programs customarily receiving applications throughout the

year, such information shall be regularly disseminated but

not less than semi-annually. Such information shall be given

to the apprenticeship division, U.S. Department of Labor,

local schools, employment service offices, women's centers,

outreach programs, and community organizations which can

effectively reach minority groups and women, and published

in newspapers which are circulated in the minority

community and among women, as well as the general areas

in which the program sponsor operates.

2. Participate in annual workshops conducted by

employment service agencies for the purpose of

familiarizing school, employment service, and other

appropriate personnel with the apprenticeship system and

current opportunities therein.

3. Cooperate with local school boards and vocational

education systems to develop programs for preparing

students to meet the standards and criteria required to qualify

for entry into apprenticeship programs.

4. Provide internal communication of the sponsor's

equal opportunity policy in such a manner as to foster

understanding, acceptance, and support among the sponsor's

various officers, supervisors, employees, and members, and

to encourage such persons to take necessary action to aid the

sponsor in meeting its obligations under this plan.

5. Engage in programs such as Outreach for the

positive recruitment and preparation of potential applicants

for apprenticeship; where appropriate and feasible, such

programs shall provide for pre-testing experience and

training. If no such programs are in existence, the sponsor

shall seek to initiate these programs, or, when available, to

obtain financial assistance from the U.S. Department of

Labor. In initiating and conducting these programs, the

sponsor may be required to work with other sponsors and

appropriate community organizations. The sponsor also shall

initiate programs to prepare women to enter traditionally

male programs.

6. Encourage establishment and use of programs of

preapprenticeship, preparatory trade training, or other

programs designed to afford related work experience or to

prepare candidates for apprenticeship. A sponsor shall make

appropriate provision in its affirmative action plan to assure

that those who complete such programs are afforded full and

equal opportunity for admission into the apprenticeship

program.

7. Utilize journeypersons to assist in the

implementation of the sponsor's affirmative action program.

8. Grant advanced standing or credit on the basis of

previously acquired experience, training, skills, or aptitude

for all applicants equally.

9. Admit to apprenticeship persons whose age exceeds

the maximum age for admission to the program, where such

action assists the sponsor in achieving its affirmative action

obligations.

10. Take any other action necessary to ensure that

recruitment, selection, employment, and training of

apprentices during apprenticeship, shall be without

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discrimination because of race, color, religion, national

origin, or sex, such as general publication of apprenticeship

opportunities and advantages in advertisements, industry

reports, articles, etc.; use of present minority and female

apprentices and journeypersons as recruiters; career

counseling; periodic auditing of affirmative action programs

and activities; and development of reasonable procedures

between sponsors and employers of apprentices to ensure

that equal employment opportunity is being granted

including reporting systems, on-site reviews, briefing

sessions, etc.

D. Goals and Timetables

1. A sponsor adopting a selection method under

§511.B.2 or 3 of this plan which determines on the basis of

the analysis described in §509.E that it has deficiencies in

terms of underutilization of minorities and/or women

(minority and nonminority) in craft or crafts represented by

the program shall include in its affirmative action plan

percentage goals and timetables for admission of minorities

and/or female (minority and non-minority) applicants into

the eligibility pool.

2. A sponsor adopting a selection method under

§511.B.4 or 5 which determines on the basis of the analysis

described in Subsection E of this Section that it has

deficiencies in terms of underutilization of minorities and/or

women in craft or crafts represented by the program shall

include in its affirmative action plan percentage goals and

timetables for selecting minority and female (minority and

nonminority) applicants for the apprenticeship program.

E. Underutilization

1. As used in this Paragraph, underutilization refers to

a condition in which fewer minorities and/or women

(minority and nonminority) are employed in the particular

craft or crafts represented by the program than would be

reasonably expected in view of an analysis of specific

factors in §509.F.1-5 of this plan.

2. When, on the basis of the analysis, the sponsor

determines that it has no deficiencies, no goals and

timetables need be established. However, where no goals

and timetables are established, the affirmative action plan

shall include a detailed explanation why no goals and

timetables have been established.

3. When the sponsor fails to submit goals and

timetables as part of its affirmative action plan or submits

goals and timetables which are unacceptable, and the council

determines that the sponsor has deficiencies in terms of

underutilization of minorities or women (minority and

nonminority) within the meaning of this Paragraph, the

council shall establish goals and timetables applicable to the

sponsor for admission of minority and female (minority and

non-minority) applicants into the eligibility pool or selection

of apprentices, as appropriate. The sponsor shall make good

faith efforts to attain these goals and timetables in

accordance with all requirements of this Paragraph.

F. Analysis to Determine if Deficiencies Exist. This

analysis shall be set forth in writing of the affirmative action

plan. The sponsor's determination as to whether goals and

timetables shall be established, shall be based on an analysis

of at least the following factors:

1. the size of the working age minority and female

(minority and nonminority) population in the program

sponsor's labor market area;

2. the size of the minority and female (minority and

non-minority) labor force in the program sponsor's labor

market area;

3. the percentage of minority and female (minority

and non-minority) participation as apprentices in the

particular craft as compared with the percentage of

minorities and women in the labor force in the program

sponsor's labor market area;

4. the percentage of minority and female (minority

and non-minority) participation as journeypersons employed

by the employer or employers participating in the program

as compared with the percentage of minorities and women

(minority and non-minority) in the sponsor's labor market

area and the extent to which the sponsor should be expected

to correct any deficiencies through the achievement of goals

and timetables for the selection of apprentices; and

5. the general availability of minorities and women

(minority and non-minority) with present or potential

capacity for apprenticeship in the program sponsor's labor

market area.

G. Establishment and Attainment of Goals and

Timetables. Goals and timetables shall be established on the

basis of the sponsor's analyses of its underutilization of

minorities and women and its entire affirmative action

program. A single goal for minorities and a separate single

goal for women is acceptable unless a particular group is

employed in a substantially disparate manner in which case

separate goals shall be established for such group. Such

separate goals would be required, for example, if a specific

minority group of women were underutilized even though

the sponsor had achieved its standards for women generally.

In establishing goals, the sponsor should consider results

which could be reasonably expected from its good-faith

efforts to make its overall affirmative action program work.

Compliance with these requirements shall be determined by

whether the sponsor has met its goals within its timetables,

or failing that, whether it has made good faith efforts to meet

its goals and timetables. Its good faith efforts shall be judged

by whether it is following its affirmative action program and

attempting to make it work, including evaluation and

changes in its program where necessary to obtain maximum

effectiveness toward attainment of its goals. However, in

order to deal fairly with program sponsors, and with women

who are entitled to protection under goals and timetables

requirements, during the first 12 months after the effective

date of these regulations, the program sponsor would

generally be expected to set a goal for women for the

entering year class at a rate which is not less than 50 percent

of the proportion women represent in the workforce in the

program sponsor's labor market area, and set a percentage

goal for women in each class beyond the entering class

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which is not less than the participation rate of women

currently in the preceding class. At the end of the first 12

months after the effective date of these regulations, sponsors

are expected to make appropriate adjustments in goal levels.

See §515.B.

H. Data and Information. The director of apprenticeship

shall make available to program sponsors data and

information on minority and female (minority and

nonminority) labor force characteristics for each standard

metropolitan statistical area, and for other special areas as

appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:433 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2218 (July

2011).

**§511. Selection of Apprentices**

A. Obligations of Sponsors. In addition to development

of a written affirmative action plan to ensure that minorities

have an equal opportunity for selection as apprentices and

otherwise ensure prompt achievement of full and equal

opportunity in apprenticeship, each sponsor shall further

provide in its affirmative action program that selection of

apprentices shall be made under one of the methods

specified in Paragraphs B.2-5 of this Section.

B. Selection. The requirements set forth in this

Paragraph B.1 of this Section shall apply to all the methods

specified in Paragraphs B.2-5 of this Section.

1. Creation of Pool of Eligibles. A pool of eligibles

shall be created from applicants who meet the qualification

of minimum legal working age or from applicants who meet

qualification standards in addition to minimum legal age and

provided that any additional qualification standards conform

with the following requirements.

a. Qualification Standards. Qualification standards,

and procedures for determining such qualification standards,

shall be stated in detail and shall provide criteria for the

specific factors and attributes which are to be considered in

evaluating applicants for admission to the pool. The score

required under each qualification standard for admission to

the pool also shall be specified. All qualification standards,

and the score required on any standard for admission to the

pool, shall be directly related to job performance, as shown

by a significant statistical relationship the score required for

admission to the pool, and performance in the apprenticeship

program. In demonstrating such relationships, the sponsor

shall follow procedures set forth in the Guidelines on

Employee Selection Procedures, published at 41 CFR Part

60-3. Qualifications shall be considered as separately

required so that failure of an applicant to attain the specified

score under a single qualification standard shall disqualify

the applicant from admission to the pool.

b. Aptitude Tests. Any qualification standard for

admission to the pool consisting of aptitude test scores shall

be directly related to job performance, as shown by

significant statistical relationships between the score on the

aptitude tests required for admission to the pool, and

performance in the apprenticeship program. In determining

such relationships, the sponsor shall follow the procedures

set forth in 41 CFR Part 60-3. The requirements of this

Subparagraph also shall be applicable to aptitude tests used

by a program sponsor which are administered by a state

employment service agency, a private employment agency,

or any other person, agency, or organization engaged in

selection or evaluation of personnel. A national test

developed and administered by a national joint

apprenticeship committee will not be approved by the

council unless the test meets the requirements of this Part.

c. Educational Attainments. All educational

attainments or achievements as qualifications for admission

to the pool shall be directly related to job performance, as

shown by a significant statistical relationship between the

score required for admission to the pool, and performance, in

the apprenticeship program. In demonstrating such

relationships, the sponsor shall meet the requirements of 41

CFR Part 60-3. School records or a passing grade on the

general education development tests recognized by the state

or local public instruction authority shall be evidence of

educational achievement. Education requirements shall be

applied uniformly to all applicants.

d. Oral Interviews. Oral interviews shall not be used

as a qualification standard for admission into an eligibility

pool. However, once an applicant is placed in the eligibility

pool, and before he or she is selected for apprenticeship from

the pool, he or she may be required to submit to an oral

interview. Oral interviews shall be limited only to such

objective questions as may be required to determine fitness

of applicants to enter the apprenticeship program, but shall

not include questions relating to qualifications previously

determined in gaining entrance to the eligibility pool. When

an oral interview is used, each interviewer shall record the

questions and the general nature of the applicant’s answers,

and shall prepare a summary of any conclusions. Each

applicant rejected from the pool of eligibles on the basis of

an oral interview shall be given a written statement of such

rejection, reasons therefore, and appeal rights available to

the applicant.

e. Notification of Applicants. All applicants who

meet requirements for admission shall be notified and placed

in the eligibility pool. The program sponsor shall give each

applicant from the applicant pool notice of his or her

rejection, including reasons for the rejection, requirements

for admission to the pool of eligibles, and appeal rights

available to the applicant.

f. Goals and Timetables. The sponsor shall

establish, where required by §509.D, percentage goals and

timetables for admission of minorities and women (minority

and nonminority) into the pool of eligibles in accordance

with provisions of §509.D, E, and F.

g. Compliance. A sponsor shall be deemed to be in

compliance with its commitment under §511.B.1.f of this

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plan if it meets its goals or timetables or if it makes a good

faith effort to meet these goals and timetables. In the event

of failure of the sponsor to meet it goals and timetables, it

shall be given an opportunity to demonstrate that it has made

every good-faith effort to meet its commitments (refer to

§509.F). All the actions of the sponsor shall be reviewed and

evaluated in determining whether such good-faith efforts

have been made.

2. Selection on Basis of Rank from a Pool of Eligible

Applicants. A sponsor may select apprentices from a pool of

eligible applicants created in accordance with requirements

for §511.B.1 on the basis of rank order of scores of

applicants on one or more qualification standards, where

there is a significant statistical relationship between rank

order of scores and performance in the apprenticeship

program. In demonstrating such relationship, the sponsor

shall follow procedures set forth in 41 CFR Part 60-3.

3. Random Selection from Pool of Eligible Applicants

a. Selection. A sponsor may select apprentices from

a pool of eligible applicants on a random basis. The method

of random selection is subject to approval by the council.

Supervision of the random selection process shall be by an

impartial person or persons selected by the sponsor, but not

associated with the administration of the apprenticeship

program. The time and place of the selection, and the

number of apprentices to be selected, shall be announced.

The place of selection shall be open to all applicants and the

public. The names of apprentices drawn by this method shall

be posted immediately following selection at the program

sponsor's place of business. The sponsor adopting this

method of selecting apprentices shall meet the requirements

of §511.B.1.a-g of this plan relating to creation of the pool of

eligibles, oral interviews, and notification of applicants.

b. Goals and Timetables. The sponsor shall

establish, where required by §509.D, percentage goals and

timetables for admission of minorities and women (minority

and nonminority) into the pool of eligibles in accordance

with provisions of §509.D, E and F.

c. Compliance. Determinations as to the sponsor's

compliance with its obligations under these regulations shall

be in accordance with provisions of §511.B.1.g.

4. Selection from Pool of Current Employees

a. Selection. A sponsor may select apprentices from

an eligibility pool of the workers already employed by the

program sponsor in a manner prescribed by a collective

bargaining agreement where such exists, or by the sponsor's

established promotion policy. The sponsor adopting this

method of selecting apprentices shall establish goals and

timetables for selection of minority and female (minority

and nonminority) apprentices, unless the sponsor concludes

in accordance with provisions of §509.D, E, and F that it

does not have deficiencies in terms of underutilization of

minorities and/or women in the apprenticeship of

journeyperson crafts represented by the program.

b. Compliance. Determinations as to the sponsor's

compliance with its obligations under these regulations shall

be in accordance with provisions of §511.B.1.g of this plan.

5. Alternative Selection Method. A sponsor may select

apprentices by means of any other method, including its

present selection method, providing that the sponsor meets

the following requirements:

a. Selection Method, Goals, and Timetables. Within

90 days of the effective date of this plan, the sponsor shall

submit to the council a detailed statement of the selection

method it proposes to use, along with the rest of its written

affirmative action program. It should include, when required

by §509.D, its percentage goals and timetables for selection

of minority and/or female (minority and nonminority)

applicants for apprenticeship and its written analysis upon

which such goals and timetables, or lack thereof, are based.

Establishment of goals and timetables must be in accordance

with provisions of §509.D, E and F. The sponsor may not

implement any such selection method until the council has

approved the selection method as meeting requirements of

§511.B.5.b and has approved the remainder of its affirmative

action program including its goals and timetables. If the

council fails to act upon the selection method and the

affirmative action program within 30 days of its submission,

the sponsor may then implement the selection method.

b. Qualification Standards. Apprentices shall be

selected on the basis of objective and specific qualification

standards. Examples of such standards are fair aptitude tests,

school diplomas or equivalent, occupationally essential

physical requirements, fair interviews, school grades, and

previous work experience. When interviews are used,

adequate records shall be kept including a brief summary of

each interview and the conclusions on each of the specific

factors, e.g., motivation, ambition, and willingness to accept

direction, all of which are factors of the total judgment. In

applying any such standards, the sponsor shall meet the

requirements of 41 CFR Part 60-3.

c. Compliance. Determination of the sponsor's

compliance with its obligations under these regulations shall

be in accordance with provisions of §511.B.1.g. When a

sponsor, despite its good-faith efforts, fails to meet its goals

and timetables within a reasonable period of time, the

sponsor may be required to make appropriate changes in its

affirmative action program to the extent necessary to obtain

maximum effectiveness toward attainment of its goals. The

sponsor also may be required to develop and adopt an

alternative selection method, including a method prescribed

by the council, when it is determined that the failure of the

sponsor to meet its goals is attributable in substantial part to

the selection method. When the sponsor's failure to meet its

goals is attributable in substantial part to its use of a

qualification standard which has adversely affected

opportunities of minority and/or women (minority and

nonminority) for apprenticeship, the sponsor maybe required

to demonstrate that such qualification standard is directly

related to job performance, in accordance with provisions of

§511.B.1.a.

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23:381-391..

HISTORICAL NOTE: Promulgated by the Department of

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17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2220 (July

2011).

**§513. Existing List of Eligibles and Public Notices**

A. A sponsor adopting a selection method under

§511.B.2 or 3 and a sponsor adopting a selection method

under §511.B.5 who determines that there a fewer minorities

and/or women (minority and nonminority) on its existing

lists of eligibles than would reasonably be expected in view

of the analysis described in §509.E shall discard all existing

eligibility lists upon adoption of selection methods required

by this plan. New eligibility pools shall be established, and

lists of eligibility pools be posted at the sponsor's place of

business. Sponsors shall establish a reasonable period of not

less than two weeks for accepting applications for admission

to an apprenticeship program. There shall be at least 30 days

of public notice in advance of the earliest date for

application for admission to the apprenticeship program (see

§509.C on affirmative action with respect to dissemination

of information).

B. Applicants who have been placed in a pool of

eligibles shall be retained on lists of eligibles subject to

selection for a period of two years. Applicants may be

removed from the list at an earlier date by their request or

following their failure to respond to an apprentice job

opportunity given by certified mail, return receipt requested.

C. Applicants who have been accepted in the program

shall be afforded a reasonable period of time in light of

customs and practices of the industry for reporting for work.

All applicants shall be treated equally in determining such

period of time. It shall be the responsibility of the applicant

to keep the sponsor informed of his or her current mailing

address. A sponsor may restore to the list of eligibles an

applicant who has been removed from the list at his request

or who has failed to respond to an apprenticeship job

opportunity.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-291.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:436 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2221 (July

2011).

**§515. Records**

A. Obligations of Sponsors. Each sponsor shall keep

adequate records including a summary of qualifications of

each applicant; the basis for evaluation and for selection or

rejection of each applicant; a record pertaining to interviews

of applicants; the original application for each applicant;

information relative to the operation of the apprenticeship

program, including but not limited to job assignment,

promotion, demotion, layoff, or termination, rates of pay, or

other forms of compensation or conditions of work and,

separately, hours of training provided; and any other records

pertinent to a determination of compliance with these

regulations, as may be required by the apprenticeship

division. The records pertaining to individual applicants,

whether selected or rejected, shall be maintained in such a

manner as to permit identification of minority and female

(minority and nonminority) participants.

B. Affirmative Action Plans. Each sponsor must retain a

statement of its affirmative action plan required by §509 for

the prompt achievement of full and equal opportunity in

apprenticeship, including all data and analysis made

pursuant to requirements of §509. Sponsors shall annually

review their affirmative action plans and update them when

necessary, including the goals and timetables.

C. Qualification Standards. Each sponsor must maintain

evidence that its qualification standards have been validated

in accordance with requirements set forth in §511.B.

D. Maintenance of Records by Sponsors. All records

required by this plan and any other information relevant to

compliance with these regulations, shall be maintained for

five years, and made available, upon request, to the

Louisiana Workforce Commission, Apprenticeship Division,

the U.S. Department of Labor, or other authorized persons.

E. Records of the Louisiana Workforce Commission,

Apprenticeship Division. The apprenticeship division shall

keep adequate records, including registration requirements,

approved individual program standards, registration records,

deregistration records, program compliance reviews and

investigations, individual program ethnic count, total

apprenticeship ethnic count, and any other records pertinent

to a determination of compliance with this plan as may be

required by the U.S. Department of Labor, and shall report

such to the U.S. Department of Labor Office of

Apprenticeship, semi-annually.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:437 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2222 (July

2011).

**§517. Compliance Reviews**

A. Conduct of Compliance Reviews. The council will

regularly conduct systematic reviews of apprenticeship

programs in order to determine the extent to which sponsors

are complying with these regulations. The council also will

conduct compliance reviews when circumstances, including

receipt of complaints not referred to a private review body

pursuant to §521.B.1, so warrant, and take appropriate action

regarding programs which are not in compliance with the

requirements of this plan. Compliance reviews will consist

of comprehensive analysis and evaluation of each aspect of

the apprenticeship program, including onsite investigations

and audits.

B. Reregistration. A sponsor seeking reregistration shall

be subject to a compliance review as described in §517.A as

part of the registration process.

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C. New Registration. Sponsors seeking new registration

shall be subject to a compliance review as described in

§517.A by the apprenticeship division as part of the

registration process.

D. Voluntary Compliance. When a compliance review

indicates that the sponsor is not operating in accordance with

this plan, the apprenticeship division shall notify the sponsor

in writing of results of the review and make a reasonable

effort to secure voluntary compliance on the part of the

program sponsor within a reasonable time before

undertaking sanctions described under §525. In the case of

sponsors seeking new registration, the apprenticeship

division will provide appropriate recommendations to the

sponsor to enable it to achieve compliance for registration

purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:437 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2222 (July

2011).

**§519. Noncompliance with Federal and State Equal**

**Opportunity Requirements**

A. A pattern or practice of noncompliance by a sponsor

(or when the sponsor is a joint apprenticeship committee, by

one of the parties represented on such committee) with

federal or state laws or regulations requiring equal

opportunity may be grounds for imposition of sanctions in

accordance with §525 if such noncompliance is related to

equal employment opportunities of apprentices and/or

graduates of such an apprenticeship program under this plan.

The sponsor shall take affirmative steps to assist and

cooperate with employers and unions in fulfilling their equal

employment opportunity obligations.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:437 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2222 (July

2011).

**§521. Complaint Procedure**

A. Filing

1. Any apprentice or applicant for apprenticeship who

believes that he or she has been discriminated against on the

basis of race, color, religion, national origin, or sex, with

regard to apprenticeship, or that equal opportunity standards

with respect to his or her selection have not been followed

during an apprenticeship program may, by himself/herself,

or by an authorized representative, file a complaint with the

apprenticeship division, or at the apprentice’s or applicant’s

election with a private review body established pursuant to

§521.A.3. The complaint shall be in writing and signed by

the complainant. It must include the name, address, and

telephone number of the person allegedly discriminated

against, the program sponsor involved, and a brief

description of the circumstances of the failure to apply the

equal opportunity standards provided for in this plan.

2. The complaint must be filed not later than 180 days

from the date of the alleged discrimination or specified

failure to follow equal opportunity standards. In the case of

complaints filed directly with review bodies designated by

program sponsors to review such complaint, any referral of

such complaint by the complainant to the apprenticeship

division must occur within the time limitation stated above

or 30 days from the final decision of such review body,

whichever is later. The time may be extended by the

apprenticeship division for good cause shown.

3. Sponsors are encouraged to establish fair, speedy,

and effective procedures for a review body to consider

complaints of failure to follow equal opportunity standards.

A private review body established by the program sponsor

for this purpose should number three or more responsible

persons from the community serving in this capacity without

compensation. Members of the review body should not be

directly associated with administration of an apprenticeship

program. Sponsors may join together in establishing a

review body to serve the needs of programs within the

community.

B. Processing of Complaints

1. When the sponsor has designated a review body for

reviewing complaints, and if the Apprenticeship Division

determines that such review body will effectively enforce

equal opportunity standards, the Apprenticeship Division,

upon receiving a complaint, shall refer the complaint to the

review body.

2. The Apprenticeship Division shall, within 30 days

following referral of a complaint to the review body, obtain

reports from a complainant and the review body as to the

disposition of the complaint. If the complaint has been

satisfactorily adjusted, and there is no other indication of

failure to apply equal opportunity standards, the case shall

be closed and all parties appropriately informed.

3. When a complaint has not been resolved by the

review body within 90 days, or when, despite satisfactory

resolution of the particular complaint by the review body,

there is evidence that equal opportunity practices of the

apprenticeship program are not in accordance with this plan,

the apprenticeship division may conduct such compliance

review as found necessary and will take all necessary steps

to resolve the complaint.

4. Where no review body exists, the apprenticeship

division may conduct such compliance review as found

necessary in order to determine all facts of the complaint,

and obtain such other information relating to compliance

with these regulations as circumstances warrant.

5. Sponsors shall provide written notice of the above

complaint procedure to all applicants for apprenticeship and

all apprentices.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

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HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:437 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2223 (July

2011).

**§523. Adjustments in Schedule for Compliance Review**

**or Complaint Processing**

A. If, in the judgment of the Apprenticeship Division, a

particular situation warrants and requires special processing

and either expedited or extended determination, it shall take

steps necessary to permit such determination if it finds that

no person or party affected by such determination will be

prejudiced by such special processing.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:438 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2223 (July

2011).

**§525. Sanctions**

A. When the Apprenticeship Division, as a result of a

compliance review or other reason, determines that there is

reasonable cause to believe that an apprenticeship program

is not operating in accordance with this plan, and voluntary

corrective action has not been taken by the program sponsor,

the apprenticeship division shall institute proceedings to

deregister the program or it shall refer the matter to the U.S.

Department of Labor for referral to the Equal Employment

Opportunity Commission or the attorneygGeneral with

recommendations for institution of a court action by the

attorney general under Title VII of the Civil Rights Act of

1964 ,as amended, or the attorney general for other court

action as authorized by law.

B. Deregistration proceedings shall be conducted in

accordance with the following procedures.

1. The Apprenticeship Division shall notify the

sponsor in writing that a determination of reasonable cause

has been made under provisions of §525.A and that the

apprenticeship program may be deregistered unless, within

15 days of receipt of the notice, the sponsor requests a

hearing. The notification shall specify the facts on which the

determination is based.

2. If within 15 days of receipt of the notice provided

for in §525.B.1, the sponsor mails a request for hearing, the

executive director, Louisiana Workforce Commission,

Apprenticeship Division, shall convene a hearing in

accordance with §525.C.

3. The executive director, Louisiana Workforce

Commission, Apprenticeship Division, shall make a final

decision on the basis of the records, which shall consist of

the compliance review file and other evidence presented, and

if a hearing was conducted pursuant §525.C, the proposed

findings and recommended decision of the hearing officer.

The executive director, Louisiana Workforce Commission,

Apprenticeship Division, may allow the sponsor reasonable

time to take voluntary corrective action. If the Executive

Director’s decision is that the apprenticeship program is not

operating in accordance with this plan, the apprenticeship

program shall be deregistered. In each case in which

deregistration is ordered, the executive director shall make

public notice of the order and shall notify the sponsor and

the complainant, if any, and the U.S. Department of Labor.

The apprenticeship division shall inform any sponsor whose

program has been deregistered that it may appeal such

deregistration to the U.S. Department of Labor in

accordance with procedure set forth at 29 CFR 30.15.

C. Hearings. Hearing shall be conducted in accordance

with the following procedures.

1. Within 10 days of receipt of a request for a hearing,

the executive director, Louisiana Workforce Commission,

Apprenticeship Division, shall designate a hearing officer.

The hearing officer shall give reasonable notice of such

hearing by certified mail, return receipt requested, to the

sponsor. Such notice shall include a reasonable time and

place of hearing, a statement of the provisions of this plan

pursuant to which the hearing is to be held, and a concise

statement of the matters pursuant to which the action

forming the basis of the hearing is proposed to be taken.

2. The hearing officer shall regulate the course of the

hearing. Hearings shall be informally conducted. Every party

shall have the right to counsel and a fair opportunity to

present his case, including such cross-examination as may be

appropriate in the circumstances. Hearing officers shall

make their proposed findings and recommended decisions to

the Executive Director upon the basis of the record before

them.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor LR 12:438 (July 1986), amended LR 17:356

(April 1991), amended by the Louisiana Workforce Commission,

Office of Workforce Development, LR 37:2223 (July 2011).

**§527. Reinstatement of Program Registration**

A. Any apprenticeship program deregistered pursuant to

this plan may be reinstated upon presentation of adequate

evidence to the director of apprenticeship and state

apprenticeship council, that the apprenticeship program is

operating in accordance with this plan.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:438 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2224 (July

2011).

**§529. Intimidatory or Retaliatory Acts**

A. Any intimidation, threat, coercion, or retaliation by or

with the approval of any sponsor against any person for the

purpose of interfering with any right or privilege secured by

Title VII of the Civil Rights Act of 1964, as amended,

Executive Order 11246 , as amended, or because he or she as

made a complaint, testified, assisted, or participated in any

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manner in any investigation proceeding or hearing under this

plan, shall be considered noncompliance with the equal

opportunity standards of this plan. The identity of

complainants shall be kept confidential except to the extent

necessary to carry out the purposes of this plan, including

conduct of any investigation, hearing or judicial proceeding

arising there from.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:438 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2224 (July

2011).

**§531. Nondiscrimination**

A. The commitments contained in the sponsor's

affirmative action program are not intended, and shall not be

used, to discriminate against any qualified applicant or

apprentice on the basis of race, color, religion, national

origin, or sex.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:438 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2224 (July

2011).

**§533. Exemptions**

A. Requests for exemption from these regulations, or any

part thereof, shall be made in writing to the director of

apprenticeship and shall contain a statement of reasons

supporting the request. Exemptions may be granted for good

cause. The Apprenticeship Division will immediately notify

the U.S. Department of Labor of any such exemptions

granted affecting a substantial number of employees and

reasons therefore.

B. Partial exemptions may be granted from three

requirements namely:

1. adoption of an affirmative action plan;

2. adoption of selection procedures; and

3. discard of existing eligibility lists.

C. Sponsors eligible for exemption are those who are

subject to an equal employment opportunity program

providing for selection of apprentices, and for affirmative

action in apprenticeship which has been approved as

meeting requirement of Title VII of the Civil Rights Act of

1964, as amended (42 U.S.C. 2000e et seq.) and its

implementing regulations published in Title 29 of the Code

of Federal Regulations, Chapter XIV, or Executive Order

11246, as amended, and its implementing regulations at Title

41 of the Code of Federal Regulations, Chapter 60.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:438 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2224 (July

2011).

**§535. Severability Clause**

A. These rules and each of their provisions are hereby

declared to be severable, one from another. If any provision

or item of a rule, or the application thereof, is held invalid,

such invalidity shall not effect other provisions, items, or

applications of the rule which can be given effect without the

invalid provision, item or application.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:381-391.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 12:439 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2224 (July

2011).

**Chapter 7. Apprenticeship Tax Credit**

**§701. Authority**

A. Under the authority set out in Act 472 of the 2007

Regular Session of the Louisiana Legislature, a tax credit is

hereby provided as an incentive for businesses to employ

eligible apprentices with a goal toward providing an

adequate number of Louisiana citizens in the workforce with

the on-the-job training necessary to find jobs and keep those

good paying jobs already present as well as those jobs that

would be here if more of the workforce was of higher

quality. The Secretary of Labor is required to adopt

regulations for the purpose of implementing this Act.

AUTHORITY NOTE: Promulgated in accordance with R.S.

47:6026.

HISTORICAL NOTE: Promulgated by the Louisiana

Department of Labor, Office of Workforce Development,

Apprenticeship Division, LR 33:2664 (December 2007).

**§703. Definitions**

*Department*—the state Department of Labor,

Apprenticeship Division.

*Eligible Apprentice*—a person who has entered into a

written apprentice agreement with an employer or an

association of employers pursuant to a registered

apprenticeship program as provided for in Chapter 4 of Title

23 of the Louisiana Revised Statutes of 1950 (R.S. 23:381 et

seq.)

*Employer or Requesting Party*—any person or

organization employing an eligible apprentice either as a

recognized program sponsor or as an obligated employer

participant in an apprenticeship training program under a

different program sponsor registered with the department. It

may also be any person or organization employing an

NCCER apprentice in accordance with this Chapter.

*NCCER*—the National Center for Construction Education

and Research.

*NCCER Apprentice*—a person who is enrolled in a

training program accredited by the National Center for

Construction Education and Research which has no less than

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four levels of training and no less than 500 hours of

instruction.

*Program Sponso*r—any person or organization operating a

state apprenticeship program registered by and in good

standing with the state Department of Labor, Apprenticeship

Division.

*Revenue*—the Louisiana Department of Revenue.

*Secretary of Labor*—the administrator of the state

Department of Labor, or any person specifically designated

by the Secretary of Labor, Department of Labor who with

the advice of the state Director of Apprenticeship, executes

apprenticeship policy and standards.

*Standards of Apprenticeship*—an organized, written plan

embodying the terms and conditions of employment,

training, and supervision of one or more apprentices in an

apprenticeable occupation and in accordance with §301 of

this Part.

*State Apprenticeship Program*—a program registered by

and in good standing with the state Department of Labor,

Apprenticeship Division and meeting the minimum

standards of the state apprenticeship law.

*State Director of Apprenticeship*—the administrator of the

state Department of Labor, Apprenticeship Division, or any

person specifically designated by the state Director of

Apprenticeship who is authorized to administer the

provisions of Louisiana apprenticeship law and rule.

*Taxpayer*—any corporation, S corporation, partnership, or

individual subject to income and/or franchise taxes imposed

under Title 47 of the Louisiana Revised Statutes.

*Taxable Period*—the taxpayer's annual accounting period,

whether it be a calendar year or a fiscal year or the period for

which the return is made, if a return is made for a period of

less then 12 months.

AUTHORITY NOTE: Promulgated in accordance with R.S.

47:6026.

HISTORICAL NOTE: Promulgated by the Louisiana

Department of Labor, Office of Workforce Development,

Apprenticeship Division, LR 33:2664 (December 2007).

**§705. Purpose**

A. The Louisiana State Legislature has determined that a

major impediment to the economy of the state is the lack of

an adequate number of people in the workforce with

sufficient on-the-job training to find and keep good paying

jobs already present as well as those that would be here if

more of the workforce was of higher quality. The purpose of

this tax credit is to provide an incentive for businesses to

employ apprentices with a goal toward providing such a

workforce.

AUTHORITY NOTE: Promulgated in accordance with R.S.

47:6026.

HISTORICAL NOTE: Promulgated by the Louisiana

Department of Labor, Office of Workforce Development,

Apprenticeship Division, LR 33:2665 (December 2007).

**§707. Eligibility**

A. Any taxpayer who employs an eligible apprentice

duly indentured and registered under the approved Standards

of Apprenticeship terms of a state apprenticeship program or

a person who is enrolled in a training program accredited by

the National Center for Construction Education and

Research which has no less than four levels of training and

no less than 500 hours of instruction is entitled to a

non-refundable apprentice tax credit against any Louisiana

individual or corporation income tax or corporation

franchise tax each tax year equal to $1 for each hour of

employment of each eligible apprentice, not to exceed 1,000

hours for each eligible apprentice provided such

apprenticeships meet the following requirements.

1. A pre-apprentice shall not be considered to be an

eligible apprentice, and a pre-apprentice is therefore not

eligible for tax credits under this regulation.

2. For state apprenticeship training programs and for

purposes of this tax credit only, the tax credit shall be limited

to programs which are not less than 4,000 hours (2 years) of

on the job training nor more than 10,000 hours (5 years) of

on the job training according to the approved Standards of

Apprenticeship.

3. Existing procedures and policies for the awarding

of advanced status to apprentices for previous training or

work experience will remain in effect. Time awarded in

recognition of satisfactory completion of previous training or

work experience shall not be eligible for a tax credit.

4. In accordance with Louisiana apprenticeship law,

rule and policy, a finding that a state apprenticeship program

is not in compliance with its approved standards of

apprenticeship shall be sufficient cause for revocation of tax

credit eligibility. Such revocation shall be applied regardless

if the program sponsor is an employer, an association of

employers, or an organization of employees for a period of

one year or until such program has established compliance

with said standards.

5. For NCCER apprentices, the state Department of

Revenue shall determine, through rules, the enrollment and

transcript data required from the National Center for

Construction Education and Research for students enrolled

in one of its accredited training programs which is sufficient

for the department to determine the employer's eligibility

for, and the amount of the credit, authorized by Public Act

472.

6. In order to be eligible for the tax credit, an NCCER

apprentice enrolled in a training program accredited by the

National Center for Construction Education and Research

must have successfully completed no less than two levels of

training and no less than 250 hours of instruction. Employers

requesting the tax credit shall receive such tax credit only

after such eligibility has been met and confirmed. The tax

credit shall only apply to hours completed after the initial

requirement has been met.

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AUTHORITY NOTE: Promulgated in accordance with R.S.

47:6026.

HISTORICAL NOTE: Promulgated by the Louisiana

Department of Labor, Office of Workforce Development,

Apprenticeship Division, LR 33:2665 (December 2007).

**§709. Method of Computation**

A. Computing Tax Credit. To compute the tax credit

allowable to an employer that has an approved state

apprenticeship program, the following procedure is to be

followed.

1. First, identify the calendar months during the

current tax period claimed in which each eligible apprentice

was employed.

2. Second, add the number of hours worked by the

eligible apprentice in each calendar month in which an

eligible apprentice was employed.

3. Third, add the number of eligible monthly hours

within the tax period claimed.

4. Finally, multiply the result reached in the step

above by $1 to arrive at the total tax credit for the tax period,

not to exceed $1,000 for each eligible apprentice.

AUTHORITY NOTE: Promulgated in accordance with R.S.

47:6026.

HISTORICAL NOTE: Promulgated by the Louisiana

Department of Labor, Office of Workforce Development,

Apprenticeship Division, LR 33:2665 (December 2007).

**§711. Method of Reporting**

A. The department shall provide to the state Department

of Revenue an annual list of businesses which participate in

state apprenticeship programs as well as the number of

eligible apprentices that each employer has employed for the

year.

1. For purposes of this tax credit, a state

apprenticeship program in good standing shall provide to the

department a list of active apprentices for each year. The

state Director of Apprenticeship shall verify the registration

of apprentices and shall then forward such information to the

state Department of Revenue

B. The state Department of Revenue shall make a final

determination on all requests for the apprenticeship tax

credit.

C. All records pertaining to the apprenticeship tax credit

shall be retained by the employer requesting the tax credit

for a period not less than five calendar years.

AUTHORITY NOTE: Promulgated in accordance with R.S.

47:6026.

HISTORICAL NOTE: Promulgated by the Louisiana

Department of Labor, Office of Workforce Development,

Apprenticeship Division, LR 33:2665 (December 2007).

**§713. Limitations**

A. The tax credit shall be allowed against income tax or

corporate franchise tax for the taxable period in which the

credit is earned. If the tax credit exceeds the amount of such

taxes due, then any unused credit may be carried forward as

a credit against subsequent tax liability for a period not to

exceed 10 years.

1. The credit for taxes paid by or on behalf of a

corporation shall be applied against Louisiana corporate

income and corporation franchise taxes of such corporation.

2. The credit for taxes paid by an individual shall be

applied against Louisiana personal income taxes.

3. The credit for taxes paid by or on behalf of a

corporation classified under Subchapter S of the Internal

Revenue Code of 1954, as amended, as an S corporation

shall be applied first against any Louisiana corporate income

and corporation franchise taxes due by such S corporation,

and the remainder of any such credit shall be allocated to the

shareholder or shareholders of such S corporation in

accordance with their respective interests and applied against

the Louisiana income tax of such shareholder or

shareholders of the S corporation.

4. The credit for taxes paid by or on behalf of a

partnership shall be allocated to the partners according to

their distributive shares of partnership gross income and

applied against any Louisiana income tax and corporation

franchise tax liability of such partners.

5. The character of the credit for taxes paid by or on

behalf of a partnership or S corporation and allocated to the

partners or shareholders, respectively, of such partnership or

S corporation, shall be determined as if such credit were

incurred by such partners or shareholders, as the case may be

in the same manner as incurred by the partnership or S

corporation, as the case may be.

6. The credit for taxes paid by an estate or trust shall

be applied against the Louisiana income tax imposed on

estates and trusts.

B. The apprenticeship tax credit shall have an effective

period beginning January 1, 2008, and shall not extend

beyond December 31, 2011. All requests for the tax credit

for hours worked by eligible apprentices and NCCER

apprentices outside of this period shall be invalid and

denied.

C. Nothing in this Chapter or in any apprentice

agreement approved under this Chapter shall operate to

invalidate any apprenticeship provision in any collective

agreement between employers and employees.

AUTHORITY NOTE: Promulgated in accordance with R.S.

47:6026.

HISTORICAL NOTE: Promulgated by the Louisiana

Department of Labor, Office of Workforce Development,

Apprenticeship Division, LR 33:2666 (December 2007

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**Title 40**

**LABOR AND EMPLOYMENT**

**Part XIII. Job Training Partnership Act**

**Chapter 1. General Provisions**

**§101. Definitions**

*Capital Improvement*―any modification, addition,

restoration, or other improvement:

1. which increases the usefulness, productivity, or

serviceable life of an existing building, structure, or major

item of equipment;

2. which is classified for accounting purposes as a

"fixed asset;" and

3. the cost of which increases the recorded value of

the existing building, structure, or major item of equipment

and is subject to depreciation.

*Construction*―the erection, installation, assembly, or

painting of a new structure or a major addition, expansion,

or extension of an existing structure, and the related site

preparation, excavation, filling and landscaping, or other

land improvement.

*Consulting Service*―work, other than professional,

personal, or social service, rendered by either individuals or

firms who possess specialized knowledge, experience, or

expertise to investigate assigned problems or projects and to

provide counsel, review, design, development, analysis, or

advice in formulating or implementing programs or services,

or improvements in programs or services, including but not

limited to such areas as management, personnel, finance,

accounting, planning, data processing, and advertising

contracts, except for printing associated therewith.

*Dependent*―any person for whom, both currently and

during the previous 12 months, the applicant has assumed 50

percent of his support, and is:

1. a member of the immediate household (parent,

spouse, or child);

2. not a member of the household, but a parent, child

or spouse of the applicant, who is unemployed because of a

mental or physical disability; or

3. one who may be claimed as a dependent on the

applicant's tax return.

*Employing Agency*―any public or private employer which

employs participants and which establishes and maintains

the personnel standards applicable to those participants

covering such areas as wage rates, fringe benefits, job titles,

and employment status.

*Entry Level*―the lowest position in any promotional line,

as defined locally by collective bargaining agreements, past

practice, or applicable personnel rules.

*Family* (as defined by Section 4(34) of the Act)―

1. two or more persons living in a single residence, as

defined in §626.5 of the regulations, related by blood,

marriage, or decree of court and are included in one or more

of the following categories (a stepchild or a stepparent is

considered to be related by marriage):

a. husband, wife and dependent child;

b. parent or guardian and dependent child;

c. husband and wife;

2. for purposes of §101.*Family*.1, persons not living in

the single residence but who were claimed as a dependent on

another person's Federal Income Tax return for the previous

year, unless otherwise demonstrated, shall be presumed to be

part of the other person's family;

3. a handicapped individual may be considered an

individual when applying for programs under the Act;

4. an individual 18 years of age or older, except as

provided in §101.*Family*.2 or 3, who receives less than 50

percent of support from the family, and who is not the

principal earner nor the spouse of the principal earner, is not

considered a member of the family. Such an individual is

considered a family of one.

*Family Income*―all income received from all sources by

all members of the family for the six-month period prior to

application computed on an annual basis. Family size shall

be the maximum number of family members during the

income determination period. When computing family

income, income of a spouse, parent or child shall be counted

for the portion of the income determination period that the

person was actually a part of the family unit of the applicant.

1. In accordance with §626.5 of the JTPA Regulations,

for the purpose of determining eligibility, family income

includes:

a. money wages and salaries before any deductions;

b. net receipts from nonfarm self-employment

(receipts from a person's own unincorporated business,

professional enterprise, or partnership, after deductions for

business expenses);

c. net receipts from farm self-employment (receipts

from a farm which one operates as an owner, renter, or

sharecropper, after deductions for farm operating expenses);

d. regular payments from Social Security, railroad

retirement, strike benefits from union funds, workers'

compensation, veterans' payments, and training stipends;

e. alimony;

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f. military family allotments or other regular

support from an absent family member or someone not

living in the household;

g. pensions whether private, government employee

(including military retirement pay);

h. regular insurance or annuity payments;

i. college or university grants, fellowships, and

assistantships;

j. dividends, interest, net rental income, net

royalties, periodic receipts from estates or trusts; and

k. net gambling or lottery winnings.

2. Family income does not include:

a. unemployment compensation;

b. child support payments;

c. welfare payments (including Aid to Families with

Dependent Children, Supplemental Security Income,

Emergency Assistance money payments, and non-federallyfunded

General Assistance or General Relief money

payments);

d. capital gains;

e. any assets drawn down as withdrawals from a

bank, the sale of property, a house, or a car;

f. tax refunds, gifts, loans, lump-sum inheritances,

one-time insurance payments, or compensation for injury; or

g. non-cash benefits:

i. employer-paid fringe benefits;

ii. food or housing received in lieu of wages;

iii. Medicare or Medicaid;

iv. food stamps;

v. school meals; and

vi. housing assistance.

*Job Training Plan*―the plan of a service delivery area for

operating programs under the Act, consisting of the Master

Plan and Program Plan.

*Labor Organization*―a local labor organization that

represents employees in the service delivery area in the same

or substantially equivalent jobs as those for which recipients

and subrecipients provide, or propose to provide,

employment and training under the Act.

*Limited English Language Proficiency*―the limited ability

of a participant, whose native language is not English, to

communicate in English, resulting in a job handicap.

*Long-Term Unemployment*―any individual who is

unemployed at the time of application and has been

unemployed for 15 or more of the 26 weeks immediately

prior to such and has limited opportunities for employment

and reemployment in the same or similar occupation in the

area in which such individual resides, including any older

individual who may have substantial barriers to employment

by reason of age.

*Master Plan*―the part of the Job Training Plan which

serves as a long-term agreement between the governor and a

service delivery area.

*Matching Funds for Eight Percent Programs*―shall

include all non-JTPA funds, whether in cash or in kind, used

in direct support of employment or training services

provided by state or local educational agencies.

*Part-Time Employment*―employment in which a worker

is regularly scheduled to work less than the employer's

full-time schedule for the worker's position.

*Personal Service*―work rendered by individuals which

require use of creative or artistic skills, such as but not

limited to graphic artists, sculptors, musicians,

photographers, and writers, or which require use of highly

technical or unique individual skills or talents, such as, but

not limited to, paramedicals, therapists, handwriting

analysts, and expert witnesses for adjudications or other

court proceedings.

*Placement*―the act of securing unsubsidized employment

for or by a participant.

*Professional Service*―work rendered by an independent

contractor who has a professed knowledge of some

department of learning or science used by its practical

application to the affairs of others or in the practice of an art

founded on it, which independent contractor shall include

but not be limited to lawyers, doctors, dentists, veterinarians,

architects, engineers, landscape architects, and accountants.

A profession is a vocation founded upon prolonged and

specialized intellectual training which enables a particular

service to be rendered. The word *professional* implies

professed attainments in special knowledge as distinguished

from mere skill.

*Program Plan*―the part of the Job Training Plan which

consists of the description of program activities and services

to be provided by the service delivery area during the

program year.

*Property*―all tangible nonconsumable moveable property

purchased with funds under the Act. The term moveable

distinguishes this type of property from property attached as

a permanent part of a building or structure. Please note that

state law requires each item of moveable property having an

acquisition cost or appraised value of $250 or more to be

placed on inventory.

*Public Service Employment*―the type of work normally

provided by governments and includes, but is not limited to

work (including part-time work) in such fields as

environmental quality, child care, health care, education,

crime prevention and control, prisoner rehabilitation,

transportation, recreation, maintenance of parks, streets, and

other public facilities, solid waste removal, pollution control,

housing and neighborhood improvement, rural development,

conservation, beautification, veterans outreach, development

of alternative energy technologies, and other fields of human

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betterment and community improvement. This activity is

distinguished from work experience in that in general PSE is

full-time and long term or open-ended and the participant is

employed by the agency involved and not the SDA.

*Real Property*―land, including land improvements,

structures and appurtenances thereto, excluding movable

machinery and equipment.

*Unsubsidized Employment*―employment not financed

from funds provided under the Act. In accordance with

Section 106(k) of the Act for performance standard

purposes, employment means employment for 20 or more

hours per week.

*Welfare Recipient*―an individual who receives or whose

family receives cash payments under AFDC (Title IV of the

Social Security Act), General Assistance, or the Refugee

Assistance Act of 1980 (P.L. 96-212). (This term excludes

recipients of supplemental security income under Title XVI

of the Social Security Act.)

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:2022.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 9:331 (May 1983), amended LR 9:473

(July 1983), LR 10:546 (July 1984), LR 12:439 (July 1986), LR

13:359 (June 1987), amended by the Department of Employment

and Training, Office of Labor, LR 17:357 (April 1991), amended

by the Department of Labor, Office of Labor, LR 19:1581

(December 1993).

**§105. Accounting Procedures**

A. Accounting for JTPA funds must be on an accrual

basis in accordance with generally acceptable accounting

principles. In accordance with §627.430(g)(2) of the

regulations, a recipient/subrecipient shall not be required to

maintain a separate bank account but shall separately

account for federal funds on deposit.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:2022.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 9:333 (May 1983), amended by the

Department of Employment and Training, Office of Labor, LR

17:357 (April 1991), amended by the Department of Labor, Office

of Labor, LR 19:1583 (December 1993).

**§107. Reporting of Expenditures**

A. The service delivery area grant recipient shall prepare

expenditure reports in accordance with procedures

established by the recipient. These reports shall be on an

accrual basis and conform to federal and state requirements

in regard to the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:2022.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 9:333 (May 1983), amended by the

Department of Employment and Training, Office of Labor, LR

17:357 (April 1991), amended by the Department of Labor, Office

of Labor, LR 19:1583 (December 1993).

**§109. Requests for Cash**

A. The financing of the JTPA Program will be on an

advance or reimbursement basis in accordance with

procedures established by the recipient. Service delivery

area grant recipients shall establish procedures that will

minimize the time elapsing between the receipt of advanced

funds and their disbursements in accordance with 31 CFR

Part 205. At no time shall the service delivery area grant

recipient have funds which exceed three days expenditure

needs.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:2022.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 9:333 (May 1983), amended by the

Department of Employment and Training, Office of Labor, LR

17:357 (April 1991), amended by the Department of Labor, Office

of Labor, LR 19:1584 (December 1993).

**§111. Purchasing Procedures**

A. All purchases and leases of furniture, equipment,

supplies, property, office and building space, capital

improvements, and services shall be processed in accordance

with procedures established by the recipient. All purchases

of furniture, equipment, supplies, property, office and

building space, and capital improvements, with a unit cost of

$5,000 or more must have the prior approval of the recipient.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:2022.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 9:333 (May 1983), amended by the

Department of Employment and Training, Office of Labor, LR

17:357 (April 1991), amended by the Department of Labor, Office

of Labor, LR 19:1584 (December 1993).

**§112. Advertising**

A. Advertising media includes newspapers, magazines,

radio and television programs, direct mail, trade papers, and

the like. The advertising costs allowable are those which are

solely for:

1. recruitment of personnel required for the grant

program;

2. solicitation of bids for the procurement of goods

and services required;

3. disposal of scrap or surplus materials acquired in

the performance of the grant agreement;

4. recruitment of participants, employers, other

service providers, and general advertising for the SDA; and

5. other purposes specifically provided for in the grant

agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:2022.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 19:1584 (December 1993).

**§113. Travel and Transportation Regulations**

A. All reimbursement for travel will be made in

accordance with the travel regulations of the recipient,

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service delivery area grant recipient, administrative entity or

subrecipient. Where subrecipient travel regulations are

utilized, they shall, at a minimum, conform with applicable

standards of the recipient, service delivery area grant

recipient, or administrative entity.

B. Travel costs are allowable for expenses for

transportation, lodging, subsistence, and related items

incurred by employees who are in travel status on official

business incident to the recipient or subrecipient program.

Such costs may be charged on an actual basis on a per diem

or mileage basis in lieu of actual costs incurred, or on a

combination of the two provided the method used is applied

to an entire trip and results in charges consistent with those

normally allowed in like circumstances in nonfederally

sponsored activities. The difference in cost between firstclass

air accommodations and less-than-first-class air

accommodations are unallowable except when less-thanfirst-

class air accommodations are not reasonably available.

Each recipient or subrecipient must have clearly defined

travel regulations including documentation requirements.

These requirements must include travel reports which

include the date of travel, travel destination, purpose,

beginning and ending odometer reading, amount to be

reimbursed, and supervisor signatures.

C. Costs incurred for freight, cartage, express, postage

and other transportation costs relating either to goods

purchased, delivered, or moved from one location to another

are allowable.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:2022.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 9:333 (May 1983), amended by the

Department of Employment and Training, Office of Labor, LR

17:357 (April 1991), amended by the Department of Labor, Office

of Labor, LR 19:1584 (December 1993).

**§114. Printing and Reproduction Costs**

A. Costs for printing and reproduction services necessary

for grant administration, including but not limited to forms,

reports, manuals, and informational literature are allowable.

Reasonable publication costs of reports or other media

relating to grant program accomplishments or results are

allowable.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:2022.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 19:1584 (December 1993).

**§115. Personnel, Salary Regulations and Fringe**

**Benefits**

A. All employment practices, salary schedules and

related personnel procedures will be in accordance with the

regulations of the service delivery area grant recipient,

administrative entity or subrecipient.

B. Compensation for personal services includes all

remuneration, paid currently or accrued, for services

rendered during the period of performance under the grant

agreement, including but not necessarily limited to wages,

salaries, and supplementary compensation and benefits. The

costs of such compensation are allowable to the extent that

total compensation for individual employees:

1. is reasonable for the services rendered;

2. follows an appointment made in accordance with

recipient or subrecipient rules; and

3. is determined to be supported as provided below.

Compensation surveys providing data representative of the

labor market involved will be an acceptable basis for

evaluating reasonableness.

C. Amounts charged to grant programs for personnel

services will be based on payrolls documented and provided

in accordance with generally accepted practice of the

recipient or subrecipient. Payrolls must be supported by time

and attendance or equivalent records for individuals. Salaries

and wages of employees chargeable to more than one grant

program or other cost objective will be supported by

appropriate time distribution records. The method used

should produce an equitable distribution of time and effort.

D. Employee benefits in the form of regular

compensation paid to employees during periods of

authorized absences from the job, such as for annual leave,

sick leave, court leave, military leave and the like are

allowable, if they are:

1. provided pursuant to an approved leave system; and

2. the cost thereof is equitably allocated to all related

activities, including grant programs.

E. Employee benefits in the form of employers'

contribution or expenses for Social Security, employee's life

and health insurance coverage, workers' compensation

insurance, pension plans, severance pay, and the like, are

allowable, provided such benefits are granted under

approved plans and are distributed equitably to grant

programs and to other activities.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:2022.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 9:334 (May 1983), amended by the

Department of Employment and Training, Office of Labor, LR

17:357 (April 1991), amended by the Department of Labor, Office

of Labor, LR 19:1584 (December 1993).

**§116. Advisory Councils**

A. Costs incurred by state advisory councils or

committees, including the GETCC and PICs, established

pursuant to the JTPA Regulations to carry out grant

programs are allowable.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:2022.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 19:1585 (December 1993).

**§117. Auditing Requirements**

A. SDA grant recipients, administrative entities and

subrecipients who are government or nonprofit entities must

comply with the audit requirements of the "Single Audit Act

of 1984"/OMB Circular-128 or OMB-Circular 133 as

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appropriate. Commercial organizations who are

subrecipients shall be audited in accordance with

§627.480(a)(3) of the federal regulations. Audit costs for

auditing SDA grant recipients and administrative entities

will be paid from state administrative funds upon request.

Audit costs for subrecipients of SDA grant recipients and

administrative entities must be paid by the service delivery

area grant recipient or administrative entity. Other

subrecipients contracted directly by the Louisiana

Department of Labor will be audited in accordance with the

"Single Audit Act of 1984" which incorporates the use of

private audit firms or the legislative auditors.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:2022.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 9:334 (May 1983), amended LR 10:546

(July 1984), amended by the Department of Employment and

Training, Office of Labor, LR 17:357 (April 1991), amended by the

Department of Labor, Office of Labor, LR 19:1585 (December

1993).

**§119. Nonallowable Costs**

A. In accordance with §627.435(e), (f), and (i) of the

federal regulations some costs associated with JTPA are not

considered as necessary and reasonable for proper and

efficient administration of the program. These include:

1. costs of fines and penalties resulting from

violations of or failure to comply with federal, state, or local

laws and regulations;

2. back pay, unless it represents additional pay for

JTPA services performed for which the individual was

underpaid;

3. entertainment costs;

4. bad debts expenses;

5. insurance policies offering protection against debts

established by the federal government;

6. contributions to a contingency reserve or any

similar provision for unforeseen events;

7. costs prohibited by 29 CFR Part 93 (Lobbying

Restrictions);

8. costs of activities prohibited in §627.205, Public

Service Employment Prohibition; §627.210,

Nondiscrimination and Nonsectarian Activities; §627.215,

Relocation; §627.225, Employment Generating Activities;

and §627.230, Displacement of the Federal Regulations;

9. legal services furnished by the chief legal officer of

a state or local government or staff solely for the purpose of

discharging general responsibilities as a legal officer are

unallowable;

10. legal expenses for the prosecution of claims against

the federal government, including appeals to an

administrative law judge, are unallowable;

11. construction costs are not allowable costs except

those specified in §627.435(h)(1) and (2) of the federal

regulations;

12. fund-raising activities;

13. interest expense including interest on borrowing,

bond discounts, cost of financing and refinancing operations,

and legal and professional fees paid in connection therewith;

and

14. contributions and donations as specified in OMB

Circular A-87.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:2022.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 9:334 (May 1983), amended by the

Department of Employment and Training, Office of Labor, LR

17:357 (April 1991), amended by the Department of Labor, Office

of Labor, LR 19:1585 (December 1993).

**§120. Fees or Profits**

A. Any fees or profits earned by the SDA grant recipient

or subrecipients must be consistent with §627.420(e)(3) of

the federal regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.

23:2022.

HISTORICAL NOTE: Promulgated by the Department of

Labor, Office of Labor, LR 19:1585 (December 1993).

**§121. Carry-Over Balances**

A. Funds obligated for any program year may be

expended by each recipient or service delivery area grant

recipient during that program year and the two succeeding

program years with the following exceptions.

1. Title II-A and Title II-C―Reallotment and

Reallocation Policy

a. For program years beginning on or after July 1,

1993, the governor shall, in accordance with §109 of the Act

and §627.410 of the federal regulations, reallocate to eligible

service delivery areas within the state funds appropriated for

such program year that are available for reallocation.

b. The amount available for reallocation is equal to

the amount by which the unobligated balance of the SDA's

allocation under Part A and Part C of Title II at the end of the

program year prior to the program year for which the

determination is made exceeds 15 percent of such allocation

for the prior program year.

c. In addition, Louisiana will use the reallotment

process for SDAs at the end of each program year whether

or not the state is subject to a reduction in funding due to

reallotment. This will allow the state to deal with significant

underexpenditure of funds by individual SDAs even when

the state maintains a high overall level of expenditures.

d. In the event that Louisiana is not subject to a

reduction in funding, but one or more SDAs are subject to a

reduction based on Louisiana's policy, funds deobligated

from such SDAs will be allocated to the remaining SDAs

who are not subject to a reduction that have the highest rates

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of unemployment for an extended period of time and to

those with the highest poverty rates.

2. Title II-B―Reallocation Policy

a. Section 161(b) of the Act provides that no

amount of funds "shall be deobligated on account of a rate of

expenditure which is consistent with the job training plan."

In order to remain consistent with this policy, if an SDA's

rate of expenditure is inconsistent with the job training plan,

its new obligational authority (NOA) may be reduced in

subsequent years in order to, in effect, reallocate funds from

that program year.

b. Beginning in Program Year 1995 and applying to

Program Year 1994, an amount equivalent to 15 percent of

the previous year's total funds available will be classified as

"allowable carry-out."

c. All other carry-out will be designed as "excess

carry-out" and the obligational authority (NOA) to the SDA

will be reduced by the amount of the excess carry-out.

Determination of total carry-out and the excess carry-out

will be made after submittal of the final program year

expenditure report and reallocation of funds will be made to

those SDAs which request the funds and have expended

more than 85 percent of their total funds available. The

reallocation will be based on the degree that SDAs exceed

the 85 percent expenditure level.

3. Title III―Reallotment and Reallocation Policy

a. Excess Unexpended Funds

i. The U.S. Department of Labor has established

Title III reallotment procedures that have the effect of

limiting the amount of unexpended funds that can be carried

over by the state at the end of each program year.

Reallotment also rewards states with high expenditure rates

by providing additional funds. These procedures are

described in Section 303 of the Job Training Partnership Act,

Section 6305(e) of the Economic Dislocation and Worker

Adjustment Assistance Act, §631.12 of JTPA Federal

Regulation, and Training and Employment Guidance Letter

(TEGL) No. 4-88 issued by the U.S. Department of Labor.

ii. Reallotment will occur around September 1

and will result in an increase or decrease in the state's

formula-allotted funds for the current year based on a

reallotment process applied to the prior year's Title III funds

and expenditures. When reallotment results in an increase in

funding, such reallocation is subject to allocation procedures

specified in §631.32 of the federal regulations. When

reallotment results in a decrease in funding, the procedures

that follow will be used to recover funds from substate

grantees and, where appropriate, state subcontractors in

order to make funds available to the U.S. Department of

Labor for reallotment. Any remaining funds would come

from the governor's 40 percent funds.

iii. Louisiana will apply the same reallotment

procedures to sub-state grantees and state subcontractors that

the U.S. Department of Labor applies to the state. Our

reallotment policy states that the amount available for

reallotment from substate grantees and state subcontractors

is equal to the sum of unexpended funds in excess of 20

percent of the prior year's allocation or subgrant amount and

all unexpended previous program year funds. For PY 88

allocations and subgrants, 30 percent shall be substituted for

20 percent in the previous sentence. Unexpended reallocated

funds at the end of the year will also be subject to the 20

percent limitation on allowable carry forward. Substate

grantees and state subcontractors that lose funds through the

reallotment process will use their allocation or subgrant

amount before reallotment in order to calculate allowable

carry forward.

iv. In addition, Louisiana will use the reallotment

process for substate grantees and, where appropriate, state

subcontractors at the end of each program year whether or

not the state is subject to a reduction in funding due to

reallotment. This will allow the state to deal with significant

underexpenditure of funds by individual substate grantees

and state subcontractors even when the state maintains a

high overall level of expenditures.

v. In the event that Louisiana is not subject to a

reduction in funding, but one or more substate grantee(s) or

state subcontractor(s) are subject to a reduction based on

Louisiana's policy, funds deobligated from such substate

grantees will be allocated by formula to the remaining

substate grantees who were not subject to a reduction. This

allocation will be in addition to any funds reallocated by the

U.S. Department of Labor and subsequently allocated to

substate areas. Any funds deobligated from state

subcontractors as a result of these procedures are subject to

regular Title III state obligation procedures.

b. Projected Excess Unexpended Funds

i. Louisiana is subject to a U.S. Department of

Labor JTPA Title III reallotment process based on

expenditures at the end of each program year. In order to

avoid a reduction in funding from such a reallotment, a

deobligation procedure has been established.

ii. Title III substate grantees and state

subcontractors are subject to deobligation of projected

excess unexpended funds based on expenditures during the

first five months of their subgrant or subcontract period.

Projected excess unexpended funds are defined as any

amount of projected unexpended funds in excess of 20

percent of a substate grantee's available funds (excluding

carry-in funds and any additional funds reallocated during

that program year as a result of the U.S. Department of

Labor's reallocation process) or 20 percent of a subcontract

amount. Projected unexpended funds are total available

funds (excluding reallocated funds) less expenditures

reported for the first five months and less an amount equal to

the higher of the last two months reported expenditure

amounts times the number of