

## Chapter 296-05 WAC APPRENTICESHIP RULES

Last Update: 6/15/20

### WAC

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### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

296-05-209 Voting. [Statutory Authority: Chapter 49.04 RCW, 2011 c 308, and 2011 c 21. WSR 13-03-127, § 296-05-209, filed 1/22/13, effective 3/1/13. Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-209, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-209, filed 10/31/01, effective 1/17/02.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.  
296-05-211 Rules of order. [Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-211, filed 10/31/01, effective 1/17/02.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.  
296-05-213 Retroactivity. [Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-213, filed 10/31/01, effective 1/17/02.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.  
296-05-215 Limitations. [Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-215, filed 5/4/11, effective 7/25/11.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.  
296-05-300 Apprenticeship and training programs—Approval. [Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-300, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010 and 2001 c 204 (SHB 1234). WSR 02-10-083, § 296-05-300, filed 4/29/02, effective 6/1/02. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-300, filed 10/31/01, effective 1/17/02.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.  
296-05-302 Apprenticeship committee/program approval process. [Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-302, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, §

- 296-05-302, filed 10/31/01, effective 1/17/02.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.
- 296-05-303 Apprenticeship committees—Duties and responsibilities. [Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-303, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010. WSR 05-04-093, § 296-05-303, filed 2/2/05, effective 4/1/05. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-303, filed 10/31/01, effective 1/17/02.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.
- 296-05-305 Apprenticeable occupations. [Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-305, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-305, filed 10/31/01, effective 1/17/02.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.
- 296-05-307 Types of apprenticeship agreements recognized by the WSATC. [Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-307, filed 10/31/01, effective 1/17/02.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.
- 296-05-309 Apprenticeship programs approved by the WSATC. [Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-309, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-309, filed 10/31/01, effective 1/17/02.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.
- 296-05-311 On-the-job training programs. [Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-311, filed 10/31/01, effective 1/17/02.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.
- 296-05-313 Apprenticeship committees—Composition. [Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-313, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-313, filed 10/31/01, effective 1/17/02.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.
- 296-05-314 Nonjoint and waiver committees—Additional requirements. [Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-314, filed 5/4/11, effective 7/25/11.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.
- 296-05-315 Term of apprenticeship—Standards requirement. [Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-315, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-315, filed 10/31/01, effective 1/17/02.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.
- 296-05-316 Apprenticeship agreements—Standards requirements. [Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-316, filed 5/4/11, effective 7/25/11. Statutory Authority: Chapter 49.04 RCW. WSR 07-22-096, § 296-05-316, filed 11/6/07, effective 1/1/08. Statutory Authority: RCW 49.04.010. WSR 05-10-087, § 296-05-316, filed 5/4/05, effective 6/15/05. Statutory Authority: RCW 49.04.010 and 2001 c 204 (SHB 1234). WSR 02-10-083, § 296-05-316, filed 4/29/02, effective 6/1/02. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-316, filed 10/31/01, effective 1/17/02.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.
- 296-05-317 Related/supplemental instruction. [Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-317, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-317, filed 10/31/01, effective 1/17/02.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.
- 296-05-318 Records required by the WSATC. [Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-318, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-318, filed 10/31/01, effective 1/17/02.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.
- 296-05-319 Apprenticeship agreement—Individual registration. [Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-319, filed 10/31/01, effective 1/17/02.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.
- 296-05-321 Apprenticeship agreement—Cancellation. [Statutory Authority: Chapter 49.04 RCW, RCW 19.285.040, and 29 C.F.R., Part 29. WSR 14-23-065, § 296-05-321, filed 11/18/14, effective 12/19/14. Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-321, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-321, filed 10/31/01, effective 1/17/02.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.
- 296-05-323 Certificate of completion. [Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-323, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-323, filed 10/31/01, effective 1/17/02.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.
- 296-05-325 Union waiver. [Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-325, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-325, filed 10/31/01, effective 1/17/02.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.

296-05-327 Reciprocity. [Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-327, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-327, filed 10/31/01, effective 1/17/02.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.

296-05-329 Certification of apprentice labor standard on renewable energy projects. [Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-329, filed 5/4/11, effective 7/25/11.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.

296-05-449 Program registration cancellation procedures. [Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-449, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-449, filed 10/31/01, effective 1/17/02.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.

296-05-451 Reinstatement of program registration. [Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-451, filed 10/31/01, effective 1/17/02.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.

296-05-453 Adoption of consistent state plans. [Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-453, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-453, filed 10/31/01, effective 1/17/02.] Repealed by WSR 18-17-149, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010 and 19.285.040.

**WAC 296-05-001 Purpose, scope, and authority.** (1) These rules apply to apprenticeships in Washington. The intent of these rules is to carry out the purposes of chapter 49.04 RCW, the National Apprenticeship Act 29 U.S.C. 50, and 29 C.F.R. Parts 29 and 30 to promote apprenticeship, labor standards and to protect the welfare of apprentices.

(a) The Washington state apprenticeship and training council (WSATC) regulates apprenticeships for state and federal purposes. These rules explain how the WSATC regulates apprenticeships.

(b) The apprenticeship section of the department of labor and industries administers apprenticeships for state and federal purposes. These rules explain how the apprenticeship program administers apprenticeships.

(2) These rules establish procedures for administering and regulating apprenticeships. These rules are intended to be read in conjunction with chapter 49.04 RCW, 29 U.S.C. 50, 29 C.F.R. Parts 29 and 30, and other applicable laws as described in these rules.

[Statutory Authority: RCW 49.04.010 and 19.285.040. WSR 18-17-149, § 296-05-001, filed 8/21/18, effective 10/10/18. Statutory Authority: Chapter 49.04 RCW, 2011 c 308, and 2011 c 21. WSR 13-03-127, § 296-05-001, filed 1/22/13, effective 3/1/13. Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-001, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-001, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-003 Definitions.** The following definitions apply to this chapter:

**Adjudicative proceeding:** A proceeding before the WSATC in which an opportunity for a hearing before the WSATC is authorized by chapter 49.04 RCW or these rules before or after the entry of an order by the WSATC.

**Apprentice:** A worker at least sixteen years of age employed to learn an apprenticeable occupation and registered with a sponsor in an approved apprenticeship program under chapter 49.04 RCW and these rules. Building and construction trade occupations require an appren-

tice to be at least seventeen years of age to register with a sponsor in an approved apprenticeship.

**Apprenticeable occupation:** A specified occupation which must:

(a) Involve skills customarily learned in a practical way through a structured, systematic program of on-the-job supervised learning;

(b) Be clearly identified and commonly recognized throughout an industry;

(c) Involve the progressive attainment of manual, mechanical, or technical skills and knowledge which, in accordance with the industry standard for the occupation, would require the completion of at least two thousand hours of on-the-job learning to attain;

(d) Require a minimum of one hundred forty-four hours of related instruction per program year to supplement on-the-job work experience;

(e) Involve sufficient skill to establish career sustaining employment;

(f) Not be part of an occupation previously recognized by the registering agency as apprenticeable.

**Apprenticeship agreement:** A written agreement between an apprentice and either the apprentice's program sponsor, or an apprenticeship committee acting as agent for the program sponsor(s), which contains the terms and conditions of the employment, training and education of the apprentice.

**Apprenticeship cohort:** The group of individual apprentices registered to a specific program during a one year time frame, not including those whose agreements have been canceled during the initial probationary period.

**Apprenticeship committee:** A quasi-public entity approved by the WSATC to administer and perform apprenticeship and training services.

**Apprenticeship program:** A plan for administering an apprenticeship agreement containing all terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices. Apprenticeship programs must include apprenticeship agreements.

**Apprenticeship section:** The division of the department of labor and industries administering registered apprenticeships for state and federal purposes.

**Cancellation:** The termination of registration or cancellation of approval for an apprenticeship program at the request of the supervisor or sponsor, or the termination of registration or approval of an apprenticeship agreement at the request of the apprentice, supervisor, or sponsor.

**Certificate of completion:** A record of the successful completion of a term of apprenticeship issued by the department on behalf of the WSATC. To be eligible for a certificate of completion, an apprentice must have been registered with the department and an active participant of a committee's program for at least six months and have successfully completed their apprenticeship.

**Certification:** Written approval from the WSATC that:

(a) A set of apprenticeship standards established by an apprenticeship program sponsor substantially complies with standards established by the WSATC; and

(b) An individual is eligible for probationary employment as a registered apprentice as part of an apprenticeship program.

**C.F.R.:** Code of Federal Regulations.

**Competent instructor:** An instructor providing related supplemental instruction who has demonstrated satisfactory performance in the occupation for a minimum of three years beyond the customary learning period for that occupation and who:

(a) Meets the requirements of the state board for community and technical colleges for a vocational-technical instructor; or  
(b) Is recognized within an industry as having expertise in a specific occupation and is a subject matter expert; and  
(c) Has training in teaching techniques and adult learning styles. The training may be acquired before, or within one year after, the competent instructor begins to provide related supplemental instruction.

**Competitor:** An apprenticeship program providing training in the same or similar occupation as one already existing in a certain geographic area. To determine whether a program provides training in the same or similar occupation, the WSATC may consider:

(a) Approved apprenticeship standards;  
(b) Collective bargaining agreements;  
(c) Dictionaries of occupational titles;  
(d) Experts from organized labor, licensed contractors, and contractors' associations;  
(e) Recognized labor and management industry practice;  
(f) Scope of work descriptions issued by the department.

**Completion rate:** The percentage of an apprenticeship cohort receiving a certificate of completion within one year of the projected completion date.

**Department:** Department of labor and industries.

**Employer:** Any person or organization with a valid Washington state unified business identifier (UBI) number employing an apprentice.

**Federal purposes:** Any federal contract, grant, agreement, or arrangement dealing with apprenticeship. Includes any federal financial or other assistance, benefit, contribution, privilege, allowance, exemption, preference, or right pertaining to apprenticeship. See e.g., 29 C.F.R. Part 29.2.

**File:** To send to:

Supervisor of Apprenticeship and Training  
Department of Labor and Industries  
Apprenticeship Section  
Post Office Box 44530  
Olympia, Washington 98504-4530

Or deliver to and receipt at:  
Department of Labor and Industries  
7273 Linderson Way S.E.  
Tumwater, Washington 98501

Filing is complete upon deposit in the United States mail, properly addressed, postage prepaid, or personal service.

**First full training cycle:** A full training cycle begins with the registration of the first apprentice and continues for one calendar year regardless of completion, cancellation and/or suspension of the apprentice.

**Individual agreement:** A written agreement between an apprentice and/or trainee and either the apprentice's employer or an apprenticeship committee acting as agent for the employer.

**Industry-wide standards:** The current, acceptable practices, including technological advancements, being used in the different occupations.

**Journey level:** An individual having sufficient skills and knowledge of an occupation to be recognized by a state or federal registra-

tion agency and/or an industry as being fully qualified to perform the occupation. An individual can be fully qualified either through formal apprenticeship training or practical on-the-job work experience equal to or greater than the term of apprenticeship.

**On-the-job training program:** A program that is set up in the same manner as an apprenticeship program with any exceptions authorized by the WSATC and as further described in WAC 296-05-013.

**Probationary period:** A period of time during which the apprentice has not yet reached full status or is subject to corrective action.

(a) Initial probationary period: A period of time in relation to the full apprenticeship term, with full credit given for such period toward completion of apprenticeship, which cannot exceed twenty percent of the apprenticeship term, or one year from the date of registration, whichever is shorter. Apprentices within the initial probationary period may not file apprenticeship complaints with the program sponsor. Apprentices transferring from another program are not subject to additional initial probationary periods.

(b) Disciplinary probationary period: A period of time after the initial probationary period during which the apprentice's progress is not satisfactory. The program sponsor may withhold periodic wage advancements, suspend or cancel the apprenticeship agreement, or take further disciplinary action. Apprentices subject to a disciplinary probationary period may file complaints with the program sponsor.

**Provisional registration:** Initial one-year approval of a registered program meeting the required standards for registration. After one year, the provisional registration may be made permanent or continued as provisional through the first full training cycle, or rescinded following a compliance review.

**RCW:** Revised Code of Washington.

**Registration:** Both apprenticeship agreements and apprenticeship program standards are registered.

(a) Apprenticeship agreement registration: The acceptance and recording of an agreement by the apprenticeship section of the department of labor and industries as evidence of the apprentice's participation in a particular registered apprenticeship program.

(b) Apprenticeship program registration: The approval and recording of the program standards by the WSATC and the apprenticeship section as meeting the basic standards and requirements for such approval.

**Registration agency:** The apprenticeship section of the department of labor and industries responsible for registering apprenticeship programs and apprentices, providing technical assistance, and conducting reviews for compliance with chapter 49.04 RCW and these rules.

**Related/supplemental instruction (RSI):** An organized and systematic form of instruction designed to provide the apprentice with knowledge of the theoretical and technical subjects related to the apprentice's occupation. It may be provided in any form approved in advance by the WSATC. Apprentices must receive not less than one hundred forty-four hours of RSI per program year.

**Secretary:** The individual appointed by the director of the department according to RCW 49.04.030.

**Sponsor:** Any person, firm, association, committee, or organization operating as an apprenticeship and training program and in whose name the program is registered.

**Standards:** A written agreement containing specific provisions for operation and administration of the apprenticeship program and all terms and conditions for the qualifications, recruitment, selection,

employment, and training of apprentices, as further defined in WAC 296-05-015.

**Supervision:** The necessary education, assistance, and control provided by a journey-level employee to an apprentice. Apprentices must be supervised by a journey-level worker on the same job site at least seventy-five percent of each working day, unless otherwise approved by the WSATC.

**Supervisor:** The individual appointed by the director of the department who acts as the secretary of the WSATC. When these rules create a duty of the supervisor or secretary of the WSATC, the supervisor may designate department of labor and industries' employees to assist in the performance of those duties subject to the supervisor's oversight and direction.

**Trainee:** An individual enrolled in an on-the-job training program, but who is not registered with a sponsor in an approved apprenticeship program under chapter 49.04 RCW and these rules.

**Training agent:** Employer of registered apprentices approved by the program sponsor to furnish on-the-job training. The training agent shall use only registered apprentices to perform work processes in accordance with approved program standards.

**Training agreement:** A written agreement between a training agent and a program sponsor containing the provisions of the apprenticeship program applicable to the training agent and the duties of the training agent in providing on-the-job training.

**Transfer:** A shift of apprenticeship registration from one sponsor to another with a written agreement between the apprentice and the affected apprenticeship committees or program sponsors.

**WAC:** Washington Administrative Code.

**WSATC:** Washington state apprenticeship and training council.

[Statutory Authority: Chapter 49.04 RCW. WSR 20-13-060, § 296-05-003, filed 6/15/20, effective 7/16/20. Statutory Authority: RCW 49.04.010 and 19.285.040. WSR 18-17-149, § 296-05-003, filed 8/21/18, effective 10/10/18. Statutory Authority: Chapter 49.04 RCW, RCW 19.285.040, and 29 C.F.R., Part 29. WSR 14-23-065, § 296-05-003, filed 11/18/14, effective 12/19/14. Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-003, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-003, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-005 WSATC officers, members, and administrator duties.** (1) Officers: The WSATC shall have three officers. The chair and vice chair shall be elected by majority vote of the WSATC members present. Election takes place in odd-numbered years at the regular quarterly meeting in April. Once elected, officers remain in office for a term of two years, until the successor is elected, or until resignation, incapacitation, or death. Officers follow *Robert's Rules of Order* to conduct meetings. Officers may have other powers and duties as provided in these rules and by law. The secretary, chair, and vice chair are required officers, as described in chapter 49.04 RCW and these rules:

(a) Secretary: The supervisor of the apprenticeship section of the department of labor and industries is the secretary of the WSATC. The secretary, with the assistance of a recording secretary, takes mi-

minutes of all special and regular meetings. Minutes are kept in the supervisor's office.

(b) Chair: The presiding officer at all meetings. The chair may vote on and participate in discussion about all matters before the WSATC as a regular member.

(c) Vice chair: Presides over meetings in the absence of the chair. Holds all the powers of the chair when the chair is absent.

(2) Members: WSATC members are appointed for three-year terms and remain on the council until replaced by a qualified successor. When vacancies occur, vacancies must be filled.

(a) Voting members: The director of the department of labor and industries appoints three voting members from employer organizations, three voting members from employee organizations, and a public member.

(b) Nonvoting members: The WSATC may also include members who may participate in discussion of matters before the WSATC, but they may not vote.

(3) Administrator: The supervisor serves as the WSATC administrator and is the supervisor of the apprenticeship section of the department of labor and industries.

(4) All amendments to this chapter must be developed and adopted according to the provisions of chapter 49.04 RCW, Apprenticeship Act; chapter 34.05 RCW, Administrative Procedure Act; and Executive Order 97-02. All proposed amendments to these rules must be approved by a two-thirds majority vote of regular WSATC members before they are published for public hearing. All WSATC members, the apprenticeship supervisor, committees and any other interested parties must be promptly notified, in writing, of any proposed rule amendments, public hearings on proposed rule amendments and new rule adoptions.

[Statutory Authority: RCW 49.04.010 and 19.285.040. WSR 18-17-149, § 296-05-005, filed 8/21/18, effective 10/10/18. Statutory Authority: Chapter 49.04 RCW, 2011 c 308, and 2011 c 21. WSR 13-03-127, § 296-05-005, filed 1/22/13, effective 3/1/13. Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-005, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-005, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-007 Duties of the apprenticeship supervisor.** (1) In addition to serving as the WSATC administrator, the duties of the supervisor and their designee may include, but are not limited to:

(a) Conducting compliance reviews of apprenticeship programs;

(b) Notifying the program sponsor when there is a finding that a program is not in compliance with required standards;

(c) Investigating complaints from individual apprentices;

(d) Assisting in resolving complaints against apprenticeship programs, committees, and entities administering agreements;

(e) Recommending sanctions against programs, committees, and entities administering agreements.

(2) The apprenticeship supervisor provides general information and assistance about apprenticeships and training programs to interested parties.

[Statutory Authority: RCW 49.04.010 and 19.285.040. WSR 18-17-149, § 296-05-007, filed 8/21/18, effective 10/10/18. Statutory Authority: Chapter 49.04 RCW, RCW 19.285.040, and 29 C.F.R., Part 29. WSR



14-23-065, § 296-05-007, filed 11/18/14, effective 12/19/14. Statutory Authority: Chapter 49.04 RCW, 2011 c 308, and 2011 c 21. WSR 13-03-127, § 296-05-007, filed 1/22/13, effective 3/1/13. Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-007, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010. WSR 04-10-032, § 296-05-007, filed 4/28/04, effective 6/1/04. Statutory Authority: RCW 49.04.010 and 2001 c 204 (SHB 1234). WSR 02-10-083, § 296-05-007, filed 4/29/02, effective 6/1/02. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-007, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-008 Meetings and adjudicative proceedings.** (1) Regular meetings: Convened on the third Thursday of January, April, July, and October, held at locations within Washington, and open to the general public. Members of the public cannot be required to register their name, give any information, or fulfill any condition prior to attending council meetings. All council meetings must be conducted according to the provisions of chapter 42.30 RCW, Open Public Meetings Act and chapter 34.05 RCW, Administrative Procedure Act.

(a) Notice of regular meetings: The supervisor must distribute notice not later than thirty calendar days prior to the meeting date to anyone who has requested notice of the regular meetings.

(b) The supervisor must send notices to all WSATC members, including ex officio members, and approved program sponsors.

(c) The following WSATC activities must take place in open public meetings:

(i) All transactions of official business;

(ii) All commitments or promises;

(iii) All collective discussions;

(iv) All collective decisions; and

(v) All council actions.

(d) The approval or disapproval of committee programs, plant programs, or amendments to those programs can only occur at regular quarterly meetings unless the council is responding to a court mandate, which can occur at a special meeting.

(2) Special meetings: Called at the request of the chair or by a majority of the WSATC members, and open to the general public.

(a) Procedure for special meetings: To call a special meeting, the calling members must:

(i) Mail a written notice with the date, time, and location of the meeting that specifies the business to be transacted at the meeting, either personally or by mail, at least seven calendar days before the specified date of the meeting, to each member of the WSATC, all approved program sponsors, and those who have requested prior notice of special meetings.

(ii) Waiver: The notice requirements to WSATC members may be waived in writing at or prior to the meeting, but all members must agree to waive notice and file the waiver with the supervisor.

(b) Content of special meetings: The subject matter of the special meeting must not exceed the scope of the written notice. If the WSATC takes action on a matter exceeding the scope of the written notice, the action is not final even if the members waive notice.

(c) Special meetings for rule changes: To call a special meeting to consider rule changes, the WSATC must:

(i) Mail a written notice with the date, time, and location of the meeting that specifies the rules to be changed at the meeting, ei-

ther personally or by mail, at least twenty calendar days before the meeting.

(ii) Waiver: The notice requirements may not be waived for special meetings when rule changes are contemplated.

(3) Registered apprenticeship standards actions: When a party requests specific action from the WSATC related to apprenticeship standards, such request must:

(a) Be in writing; and

(b) Signed by the committee's elected chair and secretary, or by an authorized signer approved by the petitioning sponsor;

(c) Sent to the apprenticeship supervisor at least forty-five days prior to the date of the regular quarterly meeting.

Requests that are untimely are deferred to the next quarterly meeting.

(4) Other actions: When a party requests specific action or consideration from the WSATC on other issues, such requests must:

(a) Be in writing; and

(b) Sent to the apprenticeship supervisor at least fifteen business days prior to the date of the regular quarterly meeting.

Requests that are untimely are deferred to the next quarterly meeting unless waived by the supervisor.

(5) Voting: All council members, except ex officio members, appointed by the director of the department of labor and industries are voting members of the council.

(a) A quorum is two-thirds of the WSATC members entitled to vote.

(b) The chair shall establish a standing tie-breaker committee comprised of three WSATC members entitled to vote:

(i) An employer representative;

(ii) An employee representative; and

(iii) A public member.

(c) The apprenticeship supervisor or designee shall act as secretary to the tie-breaker committee and furnish all information necessary for a decision.

(d) In case of a tie vote on any proposed standards brought before the WSATC, the tie-breaker committee shall meet or confer, review the record, and render a decision within thirty calendar days.

(6) Adjudicative proceedings: All hearings and adjudication, under chapter 49.04 RCW and these rules, shall be conducted according to chapters 34.05 RCW and 10-08 WAC. The chair (or designee) is the presiding officer for adjudicative proceedings held before the WSATC. The WSATC may either adjudicate matter(s) itself, or refer matter(s) to the office of administrative hearings for initial adjudication.

If the initial adjudication is before the WSATC, the WSATC will enter a final order. If the initial adjudication is held at the office of administrative hearings, the administrative hearings judge shall issue an initial order. The WSATC, upon review of the initial order shall enter the final order. An initial order shall become final without further WSATC action five business days after the next regular quarterly meeting unless:

(a) The WSATC upon its own motion determines that the initial order should be reviewed; or

(b) A party to the proceedings files a petition for review of the initial order.

(7) Final WSATC orders or decisions affecting registration and oversight of apprenticeship programs and agreements for federal purposes may be appealed within thirty calendar days to the director of the department pursuant to the following:

(a) An appellant must file with the director an original and four copies of the notice of appeal.

(i) The notice of appeal must specify findings and conclusions at issue in the appeal;

(ii) The director or designee shall serve notice of receipt of the appeal, including copies of the appeal on all parties within five business days from date of receipt;

(iii) The respondent parties may file with the director or designee written arguments within thirty calendar days after the date the notice of receipt of appeal was served upon them.

(b) The director or designee shall review the record in accordance with the Administrative Procedure Act, chapter 34.05 RCW. The director or designee shall issue a final decision affirming, modifying, or reversing the WSATC final order or decision or may remand the matter to the WSATC for further proceedings.

(c) With respect to cancellation of programs only, any aggrieved party may appeal, for federal purposes, a final decision by the director (or director's designee) by following the procedures in 29 C.F.R. 29.8 (b) (5).

(d) Any aggrieved party may appeal the final decision to superior court pursuant to chapter 34.05 RCW. If no party appeals within the period set by RCW 34.05.542, the director's decision is final and binding on all parties.

(8) Limitations: Nothing in this part or in any apprenticeship agreement will operate to invalidate:

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

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

(9) Retroactivity: The WSATC may make any action or decision which it takes retroactive to the date of the previous business session.

[Statutory Authority: RCW 49.04.010 and 19.285.040. WSR 18-17-149, § 296-05-008, filed 8/21/18, effective 10/10/18. Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-008, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010. WSR 04-10-032, § 296-05-008, filed 4/28/04, effective 6/1/04.]

**WAC 296-05-009 Apprenticeship committees—Composition, duties, responsibilities, and standards.** (1) A sponsoring apprenticeship committee is responsible for the day-to-day operations of the apprenticeship and training program and operating the program consistent with the standards of the WSATC. Committees may be either:

(a) Group: Representing more than one employer or employer association; or

(b) Individual: Representing an individual employer.

(2) An apprenticeship committee consists of at least four but not more than twelve members, of an equal number of management and worker representatives, and may be either:

(a) Joint: Composed of an equal number of representatives of the employer(s) and of the employees represented by a bona fide collective bargaining agent(s); or

(b) Nonjoint: Composed of an equal number of employer and employee representatives but does not have a bona fide collective bargaining agent as a participant.

(3) Apprenticeship committee members must:

(a) At least fifty percent of the members must hold journey-level status, or greater, in their specific occupation when representing one occupation;

(b) Be qualified by education and experience in the areas the committee represents and able to represent the interests of the multiple occupations when representing multiple occupations;

(c) Familiar with the applicable apprenticeship standards.

(4) In order to be considered for approval by the WSATC, a sponsoring apprenticeship committee must ensure as follows for:

(a) Employers: That signing a collective bargaining agreement as a condition of participation in an apprenticeship program is not required; and that a request for approved training agent status requires compliance with WSATC approved agreements and all federal and state apprenticeship rules and standards.

(b) Apprentices: That apprentices work only for approved training agents.

(c) Program sponsors: That training agent agreements are approved and signed; that copies of agreements and lists of approved employers/training agents are furnished to the department within thirty calendar days of approval; and that when training agent agreements are rescinded, notice is sent to the department within thirty calendar days.

(5) An apprenticeship committee must offer apprenticeship and training opportunities on an equal basis to all eligible apprentices and employers, unless the committee represents individual or plant programs. If an existing group committee fails to do so, the WSATC may take action to ensure compliance with chapter 49.04 RCW and these rules.

(6) Apprenticeship committees must meet at least three times per year and elect a chair and secretary to conduct and record meetings. Records of meetings must be kept and forwarded to the department.

[Statutory Authority: RCW 49.04.010 and 19.285.040. WSR 18-17-149, § 296-05-009, filed 8/21/18, effective 10/10/18. Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-009, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-009, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-011 Apprenticeship and training programs—Approval, registration, and objections.** (1) The WSATC approves and registers apprenticeship and training programs. At the regular quarterly meeting, the proposed committee and/or standards will be considered by the WSATC. The WSATC will approve provided the sponsor accepts changes recommended by the WSATC, or disapprove.

At the regular quarterly meeting, the WSATC will allow changes to correct clerical errors. The addition of standard language will be allowed if authorized representatives of the sponsor are present and authorized to accept changes. At the regular quarterly meeting, the

WSATC will not accept changes to the format, language, or provisions of the submitted program standards which are not reasonably consistent with previously approved program standards.

(a) Approval: The WSATC may approve an apprenticeship program when:

(i) If applicable, an apprenticeship and training committee is organized consistent with WAC 296-05-009;

(ii) Standards are proposed by the committee consistent with WAC 296-05-015;

(iii) Standards are presented to the WSATC consistent with WAC 296-05-008;

(b) The WSATC approves the following types of apprenticeship and training programs:

(i) Group joint: Sponsored by both a group of employers and a labor organization with an equal number of representatives from workers and management on the apprenticeship and training committee.

(ii) Individual joint: Sponsored by an individual employer and a labor organization with an equal number of representatives from workers and management on the apprenticeship and training committee.

(iii) Group nonjoint: A program sponsored only by an employer association and administered only by the employer association.

(iv) Individual nonjoint: A program sponsored and administered by an individual employer with no labor organization.

(v) Group waiver: A program sponsored by an employer association and a labor organization but one group waives participation in administering the program.

(vi) Individual waiver: A program sponsored by an individual person or plant and a labor organization, but one party waives participation in administering the program.

(vii) Plant: A program sponsored by the owner of a plant or plants at a particular location or locations. Plant programs are administered in accordance with chapter 49.04 RCW and these rules.

(c) Registration: If a program is approved, it is registered with the WSATC. An initial registration is provisional and lasts one year.

(i) If a program is not approved, the department will inform the sponsor in writing and explain the reasons for denying approval.

(ii) If a program is not initially approved, the WSATC may ask a sponsor to modify the program. The program may be approved with modifications.

(d) Waiver: A party may seek to waive labor union participation in administering a program when apprentices will be union members.

(i) If a program includes labor union participation, the program sponsor must obtain a written statement, known as a "no objection" statement, from the union in support of the program.

(ii) When a labor union chooses not to participate in administering the program, the employer or employers' association must furnish copies of the registration application and the proposed program standards to the union serving as the collective bargaining agent of the employees to be trained. Before taking a final action on the application, the supervisor must give the union forty-five calendar days to respond before final action is taken on the registration.

(iii) If the union fails to comment within forty-five days, it will have waived its right to participate in the program and the supervisor will grant the waiver.

(e) Nonjoint and waiver committees - Additional requirements.

(i) The WSATC shall only recognize nonjoint and waiver standards for a specific occupation or directly related occupations.

(ii) When multiple related occupations are approved on a single standard, each occupation shall be considered as an individual standard.

(iii) Unrelated occupations shall be submitted under separate standards.

(f) Related/supplemental instruction: The WSATC may approve apprentice related/supplemental instruction for apprenticeable occupations based on recommendations from the state board for community and technical colleges. Program sponsors may allow credit for previously completed related/supplemental instruction under WAC 296-05-015(11).

(2) Objections: If a competitor objects to the proposed standards, proposed amendments to existing standards, or initial committee, the competitor must:

(a) Provide timely and specific objections in writing to the apprenticeship supervisor twenty calendar days prior to the next regular quarterly WSATC meeting on a form provided by the department;

(b) Upon receipt of a competitor's objections, the apprenticeship supervisor notifies the program sponsor within two business days and forwards the matter to the WSATC.

(c) The WSATC may adjudicate the matter itself or refer the matter to the office of administrative hearings for initial adjudication:

(i) If the WSATC decides to adjudicate all or part of the objections to the apprenticeship program standards, a hearing on the objections shall take place at the regular quarterly WSATC meeting or at a special WSATC meeting convened for purposes of hearing the objections. The department shall notify the competitor making the objections and the program sponsor that the objection is on the agenda for consideration and shall give its recommendation ten calendar days prior to the WSATC meeting.

(ii) If the WSATC decides to refer all or part of the objections to the office of administrative hearings, the WSATC shall identify the specific matters on which the WSATC is requesting the office of administrative hearings provide findings and conclusions for the initial order.

(d) The department may attempt to facilitate a resolution to any objections during the process identified in this section.

(3) Reciprocity: The WSATC may recognize out-of-state apprenticeship programs when:

(a) The program complies with federal requirements; or

(b) The program is recognized by a recognized state apprenticeship agency; and

(c) The program sponsor agrees to comply with Washington wage and hour laws; and

(d) The program sponsor presents reasonably consistent standards of apprenticeship and asks for recognition from the WSATC.

The WSATC may revoke reciprocity agreements at any time.

[Statutory Authority: Chapter 49.04 RCW. WSR 20-13-060, § 296-05-011, filed 6/15/20, effective 7/16/20. Statutory Authority: RCW 49.04.010 and 19.285.040. WSR 18-17-149, § 296-05-011, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-011, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-013 On-the-job training programs.** (1) An on-the-job training program involves two thousand or fewer hours of employment in

an occupation for which there is no registered apprenticeship program established in accordance with these rules.

(2) On-the-job training programs may be established in accordance with these rules.

(3) The supervisor of apprenticeship may approve on-the-job training programs. The WSATC may review the supervisor's approval, or make exceptions to these rules for on-the-job training programs.

[Statutory Authority: RCW 49.04.010 and 19.285.040. WSR 18-17-149, § 296-05-013, filed 8/21/18, effective 10/10/18. Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-013, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-013, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-015 Apprenticeship program standards.** Apprenticeship program standards govern apprenticeship agreements between a program sponsor and an individual apprentice and define the term of the apprenticeship. The WSATC develops, administers, and enforces apprenticeship program standards, which are incorporated into apprenticeship agreements. Proposed standards must be reasonably consistent with existing standards in the trade or occupation. Proposed standards are reasonably consistent with existing standards when standards meet or exceed the minimum number of hours approved by the United States Department of Labor in the trade or occupation, if approval has been made. If not, the WSATC may use its discretion to determine whether standards are reasonably consistent with existing standards.

All apprenticeship agreements must comply with the approved program standards, chapter 49.04 RCW, and these rules. The standards of apprenticeship agreements must include the following:

(1) A statement of the occupation to be taught and the required hours for completion of apprenticeship which must not be less than two thousand hours of reasonably continuous employment.

(2) A statement identifying the program sponsor, establishing the apprenticeship committee and enumerating the sponsor's and committee's duties and responsibilities. This statement must include provisions to:

(a) Elect a chair and a secretary from employer and employee representatives of the committee;

**Exception:** This provision is not necessary for a plant program.

(b) Convene at least three annual regular meetings of the program sponsor and apprenticeship committee. The meetings shall be attended by a quorum of committee members (as defined in the approved program standards), be documented with minutes which must be periodically submitted to the department and made available to the WSATC upon request. Disciplinary action may only be taken at a face-to-face meeting;

(c) Explain the program sponsor's request for apprentices in the area covered by the apprenticeship standards established under these rules and a plan to include reasonable continuous employment;

(d) Establish minimum standards of education and skilled occupational experience required of apprentices;

(e) Rotate apprentices in the various processes of the skilled occupation to assure a well-rounded, competent worker;

(f) Determine the adequacy of an employer to furnish proper on-the-job training in accordance with the provisions of the approved standards;

**Exception:** This does not apply to plant programs.

(g) Recommend competent instructors as defined in WAC 296-05-003 and related/supplemental instruction in accordance with state board for community and technical college requirements;

(h) Coordinate related/supplemental instruction with on-the-job work experience;

(i) Hear and adjust all complaints of violations of apprenticeship agreements;

(j) Adopt, as necessary, program rules to administer the apprenticeship program in compliance with its standards, chapter 49.04 RCW, and these rules;

(k) Periodically review and evaluate apprentices before advancement to the apprentice's next wage progression period;

(l) Maintain apprenticeship records and records of the administrative program as may be required by the WSATC, chapter 49.04 RCW, and these rules (see WAC 296-05-100).

(3) The following Equal Employment Opportunity Pledge:

"The recruitment, selection, employment and training of apprentices during their apprenticeship shall be without discrimination because of race, sex (including pregnancy and gender identity), sexual orientation, color, religion, national origin, age, genetic information, disability or as otherwise specified by law. The sponsor shall take positive action to provide equal opportunity in apprenticeship and will operate the apprenticeship program as required by the rules of the Washington State Apprenticeship and Training Council and Title 29, Part 30 of the Code of Federal Regulations."

(4) When applicable, an equal employment opportunity plan and selection procedures.

(5) A numeric ratio of apprentices to journey-level workers may not exceed one apprentice per journey-level worker. It must be consistent with proper supervision, training, safety, continuity of employment, and applicable provisions in a collective bargaining agreement, if any. The ratio must be described in the program standards and shall be specific and clear as to application in terms of job site, work group, department, or plant. An exception to this requirement may be granted by the WSATC.

(6) A statement of the related/supplemental instruction including content, format, and hours of study per year. Related/supplemental instruction shall not be less than one hundred forty-four hours per year and shall be defined in the standards per:

(a) Twelve-month period from date of registration; or

(b) Defined twelve-month school year; or

(c) Two thousand hours of on-the-job training.

If a sponsor does not prescribe hours of study, the WSATC shall adopt (a) of this subsection for compliance purposes.

(7) An attendance policy which includes the following provisions:

(a) If the apprentice fails to fulfill the related/supplemental instruction obligations, the sponsor may withhold the apprentice's periodic wage advancement, suspend or cancel the apprenticeship agreement.



(b) That time spent in related/supplemental instruction classes shall not be considered as hours of work and the apprentice is not required to be paid for the classroom time.

(c) That all hours of actual attendance by the apprentice in related/supplemental instruction classes must be reported to the department on a quarterly basis.

(d) That the hours reported to the department will clearly identify unpaid, supervised related/supplemental instruction time versus paid or unsupervised time for industrial insurance purposes.

(8) A provision to ensure that the sponsor provides for instruction of the apprentice during the apprentice's related/supplemental instruction in safe and healthful work practices in compliance with the Washington Industrial Safety and Health Act, and applicable federal and state regulations.

(9) A provision for a formal agreement between the apprentice and the sponsor and for registering that agreement with the supervisor.

(10) A provision for the timely notice to the department of all requests for disposition or modification of apprenticeship agreements including: Certificate of completion; additional credit; suspension; military service; reinstatement; cancellation; and corrections.

(11) A provision for granting of advanced standing or credit for demonstrated competency, acquired experience, training, education, or skills in or related to the occupation and:

(a) In licensed trades regulated by electrical, plumbing, and elevator programs at the department, apprenticeship sponsors may give advanced credit or grant hours to apprentices only up to the hours that have been approved by the appropriate licensing entity prior to the sponsor granting credit to the registered apprentice. Programs are not required to use all hours granted by the regulatory section of the department.

(b) All apprenticeship programs need to ensure that a fair and equitable process is applied to apprentices seeking advanced standing or credit.

(12) A provision for the transfer of an apprentice from one training agent to another training agent of the sponsor in order to provide to the extent possible, continuous employment and diversity of training experiences for apprentices.

(13) A provision for the amendment of the standards or deregistration of the program. This provision must comply with chapter 49.04 RCW, these rules, and WSATC policies and procedures.

(14) An apprenticeship appeal procedure in compliance with chapters 49.04 and 34.05 RCW, and these rules.

(15) A statement of the processes within the occupation in which the apprentice is to be taught and the approximate amount of time to be spent at each process.

(16) A statement of the number of hours to be spent by the apprentice in work and the number of hours to be spent in related/supplemental instruction. For competency based and hybrid models, the program standards must address how on-the-job learning will be integrated into the program, describe competencies, and identify an appropriate means of testing and evaluation for such competencies.

(17) A statement of the minimum qualifications for persons entering the apprenticeship program including the age of the apprentice which may not be less than sixteen years of age.

**Note:** Seventeen years is the minimum age allowed for applicants registering in building and construction trade occupations. All exceptions to minimum qualifications, if any, must be clearly stated and applied in a nondiscriminatory manner.

(18) Provision that the services of the supervisor and the WSATC may be utilized for consultation regarding the settlement of differences arising out of the apprenticeship agreement where such differences cannot be adjusted locally or as required by the established apprenticeship standards procedure.

(19) Provision that if an individual training agent is unable to fulfill its obligation under the apprenticeship agreement, it will transfer the obligation to the program sponsor.

(20) Such additional standards as may be prescribed in accordance with the provisions of this chapter.

(21) Disciplinary procedures and criteria for apprentices. The procedures may include a committee-imposed disciplinary probation during which the committee may according to expressed criteria:

(a) Withhold periodic wage advancements;

(b) Suspend or cancel the apprenticeship agreement;

(c) Take further disciplinary action; or

(d) The disciplinary procedures must include a notice to the apprentice that the apprentice has the right to file an appeal of the committee's action to the WSATC.

(22) A provision for an initial probation period. The initial probationary period must be expressed in hours of employment. During the initial probationary period, the apprenticeship agreement may be terminated by the sponsor or the apprentice without a hearing or stated cause.

(23) Provisions prohibiting discrimination on the race, sex (including pregnancy and gender identity), sexual orientation, color, religion, national origin, age, genetic information, disability or as otherwise specified by law during all phases of apprenticeship.

(24) Provisions to ensure that local committee rules and regulations be consistent with these rules and the applicable apprenticeship agreement.

(25) Provisions to ensure any proposed standards for apprenticeship are reasonably consistent with any standards for apprenticeship already approved by the WSATC for the industry occupation in question. The goal is to achieve general statewide uniformity of standards in each industry occupation. Proposed standards for a new program shall be considered consistent if they are equal to or exceed the minimum number of hours approved by the United States Department of Labor, Employment and Training Administration, Office of Apprenticeship for a given occupation. If the United States Department of Labor has not established a minimum number of hours for an occupation, the WSATC may utilize its discretion to determine the minimum number of hours that must be achieved. In addition, the course content and delivery method must be designed to achieve reasonably consistent skills as existing standards within the state for that industry occupation.

(26) A provision to ensure progressively increasing wage scales based on specified percentages of journey-level wage. Sponsors must submit the journey-level wage at least annually or whenever changed to the department. Wage reports may be submitted on a form provided by the department.

(27) A sample apprenticeship agreement and a standard form for program standards are available from the supervisor.

(28) An apprenticeship term may be:

(a) Time-based: Measured by skill acquisition. The apprentice must complete at least two thousand hours of on-the-job learning as described in a work process schedule; or

(b) Competency-based: The apprentice successfully demonstrates acquired skills and knowledge, as verified by the program sponsor. Programs utilizing this approach must still require apprentices to complete an on-the-job learning component of registered apprenticeship. The program standards must address how on-the-job learning will be integrated into the program, describe competencies, and identify an appropriate means of testing and evaluation for such competencies; or

(c) Hybrid: The apprentice acquires skills through a combination of specified minimum number of hours of on-the-job learning and the successful demonstration of competency as described in a work process schedule.

[Statutory Authority: RCW 49.04.010 and 19.285.040. WSR 18-17-149, § 296-05-015, filed 8/21/18, effective 10/10/18. Statutory Authority: Chapter 49.04 RCW, RCW 19.285.040, and 2009 c 197. WSR 11-23-138, § 296-05-015, filed 11/22/11, effective 12/31/11.]

**WAC 296-05-100 Records required by the WSATC.** (1) Program sponsors must keep adequate records including, but not limited to, the following:

- (a) Selection of applicants:
  - (i) A summary of the qualifications of each applicant;
  - (ii) The basis for evaluation and for selection or rejection of each applicant;
  - (iii) The records pertaining to the interviews of applicants; and
  - (iv) The original application for each applicant.
- (b) Operation of the apprenticeship program:
  - (i) On-the-job training assignments;
  - (ii) Promotion, demotion, layoff, or termination;
  - (iii) Rates of pay or other forms of compensation or conditions of work;
  - (iv) Hours of training provided on-the-job by work process and in related/supplemental instruction in accordance to the sponsor's approved plan;
  - (v) Signed and approved training agency agreement forms; and
  - (vi) Any other records needed by the WSATC to determine compliance with these rules.

(2) Equal employment opportunity plans:

- (a) A copy of the program's complete equal employment opportunity plan. All data and analysis made to determine enrollment deficiencies;
- (b) Evidence that equal employment opportunity plans are reviewed on an annual basis; and
- (c) Evidence that equal employment opportunity plans, goals, and timetables are updated when necessary.

(3) Documentation necessary to establish a sponsor's good faith effort in implementing its equal employment opportunity plan:

- (a) Who was contacted;
- (b) When the contacts were made;
- (c) Where the contacts occurred;
- (d) How the contacts were made; and
- (e) The content of each contact.

(4) Qualification standards: Evidence that the sponsor's qualification standards meet the requirements of WAC 296-05-015.

Program sponsors must keep adequate records related to operations of the apprenticeship program including, but not limited to, records reflecting selection of applicants, equal employment opportunity plans

and implementation of plans for a minimum of five years. Program sponsors must provide access to records when requested by the WSATC or the apprenticeship supervisor.

[Statutory Authority: RCW 49.04.010 and 19.285.040. WSR 18-17-149, § 296-05-100, filed 8/21/18, effective 10/10/18. Statutory Authority: Chapter 49.04 RCW, 2011 c 308, and 2011 c 21. WSR 13-03-127, § 296-05-100, filed 1/22/13, effective 3/1/13. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-100, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-103 Apprenticeship agreements.** (1) Individual apprentices enter into apprenticeship agreements with the program sponsor. Agreements must be filed with the apprenticeship supervisor. The apprenticeship supervisor approves and registers the agreements.

(2) The WSATC recognizes apprenticeship agreements as follows:

(a) Between an employer association and an employee organization;

(b) Between an individual employer and an employee organization;

(c) Between an individual apprentice and an apprenticeship program.

(3) When a program is canceled by the WSATC, agreements under the program are also canceled.

[Statutory Authority: RCW 49.04.010 and 19.285.040. WSR 18-17-149, § 296-05-103, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-103, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-105 Individual apprentice complaints—Procedures.**

(1) Except as provided otherwise by federal or state law, the apprentice must complete the initial probationary period in order to be eligible to appeal the program sponsor's decision on a complaint.

(2) Complaints involving matters covered by a collective bargaining agreement are not subject to the complaint procedures in this section.

(3) Complaints regarding nondisciplinary matters must be filed with the program sponsor within thirty calendar days from the date of the last occurrence. Complaints must be in writing.

(4) If the apprentice disagrees with the resolution of the complaint or wishes to contest the outcome of a disciplinary action by the program sponsor, the apprentice must file a written request for reconsideration with the program sponsor within thirty calendar days from the date the apprentice received written notice of action by the program sponsor.

(5) The program sponsor must reply, in writing, to the request for reconsideration within thirty calendar days from the date the program sponsor receives the request. The program sponsor must send a copy of the written reply to the apprentice within the thirty calendar days.

(6) Appeal to apprenticeship section: If the apprentice disagrees with the program sponsor's decision, the apprentice may file an appeal with the apprenticeship section within thirty days from the date the program sponsor provides the decision to the apprentice.

(a) If the apprentice does not file an appeal within thirty days, the decision of the program sponsor is final.

(b) Appeals must describe the subject matter of the appeal in detail and include a copy of the decision of the program sponsor being appealed along with any documents or correspondence relevant to the complaint. The apprentice must send a copy of the complaint to the interested local committee or other organization. The apprenticeship section will complete an investigation within thirty days from the date the appeal is received and attempt to resolve the appeal. If the controversy is not settled during the investigation, the supervisor must issue a written decision resolving the controversy when the investigation is concluded.

(7) Request for review to WSATC: Following an appeal to the apprenticeship section, either party may file a request for review to the WSATC. Requests for review to the WSATC must be in writing. Requests for review must be filed within thirty days from the date the decision is mailed to the parties. The WSATC will conduct an informal hearing to consider the request for review. The WSATC will issue a written decision resolving the request for review, which is the final decision of the WSATC. All parties will receive a copy of the WSATC's written decision. The WSATC conducts hearings as described in WAC 296-05-008.

[Statutory Authority: RCW 49.04.010 and 19.285.040. WSR 18-17-149, § 296-05-105, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-105, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-107 Decisions against training agents for violating ratio, supervision and/or approved work process requirements.** The supervisor may investigate whether a training agent is in compliance with RCW 39.04.350 (1)(e) and/or 39.12.055(3).

(1) The supervisor shall notify the training agent and the program sponsor that an investigation has commenced.

(2) When the investigation is complete, the supervisor shall prepare a report identifying the results. If the results indicate that the training agent has violated RCW 39.04.350 (1)(e) and 39.12.055(3), the supervisor will notify the training agent and program sponsor in writing, and provide a copy of the report to the WSATC.

(a) Following an investigation, the supervisor may require a training agent to submit and implement a voluntary corrective action plan to the department.

(b) If the training agent does not follow the voluntary corrective action plan or if a second investigation within one year of the initial inspection reveals the training agent is not operating as required by the program standards, the supervisor shall refer the matter to the WSATC for a hearing.

(3) The WSATC will conduct a hearing and issue a determination whether the training agent has violated RCW 39.04.350 (1)(e) and 39.12.055(3).

(4) A determination by the WSATC that a training agent has violated RCW 39.04.350 (1)(e) and 39.12.055(3) shall be stated in writing, along with the reasons supporting it, and shall be served upon the training agent, program sponsor, and supervisor as provided by RCW 34.05.010(19). Judicial review of the WSATC's written decision under this section shall be as provided in chapter 34.05 RCW.

(5) The supervisor shall place WSATC determinations under this section on file for public review. The supervisor shall maintain a list of all training agents who, as a result of a determination, are out of compliance pursuant to RCW 39.04.350 (1)(e) and 39.12.055(3) and are ineligible to bid on a public works contract, or to have a bid accepted. The supervisor shall make the list available to the public upon request.

[Statutory Authority: RCW 49.04.010 and 19.285.040. WSR 18-17-149, § 296-05-107, filed 8/21/18, effective 10/10/18. Statutory Authority: Chapter 49.04 RCW, 2011 c 308, and 2011 c 21. WSR 13-03-127, § 296-05-107, filed 1/22/13, effective 3/1/13. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-107, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-109 Apprenticeship program compliance reviews and sanctions.**

(1) The apprenticeship section conducts reviews as required by RCW 49.04.030 to determine a program's compliance with chapter 49.04 RCW, 29 C.F.R. Parts 29 and 30, and these rules. Compliance reviews consist of a comprehensive analysis and evaluation, including an on-site visit and performance review. Compliance reviews may be required for all existing programs on a regular and comprehensive basis.

(2) Compliance reviews may be conducted when:

(a) The WSATC receives a complaint about a program that has not been referred to a private review body;

(b) A sponsor seeks to register a new program or reregister an existing program;

(c) A review is necessary, within the discretion of the apprenticeship section or the WSATC.

(3) When a compliance review finds a program is not in compliance with its approved program standards or these rules, the supervisor of apprenticeship must:

(a) Notify the program sponsor of the results of the compliance review in writing and identify steps the program sponsor can make to be in compliance;

(b) Provide a reasonable opportunity for the program sponsor to correct any deficiencies identified in the compliance review;

(c) Provide notice of potential sanctions, if any, for noncompliance.

(4) Sanctions: When a program sponsor has not taken corrective action to address material deficiencies identified by the apprenticeship section in a compliance review, and the apprenticeship supervisor determines the program sponsor refuses to correct deficiencies, the WSATC must, at the request of the supervisor:

(a) Begin proceedings to cancel the program's registration IAW WAC 296-05-200;

(b) Refer the matter to the equal employment opportunity commission;

(c) Refer the matter to the attorney general with recommendations for the institution of a court action under Title VII of the Civil Rights Act of 1964, as amended; or any other court action as authorized by law.

(5) When a program is provisionally approved, and the supervisor identifies deficiencies in a performance review, the WSATC may continue provisional program approval through the first full training term, or rescind program approval.

[Statutory Authority: RCW 49.04.010 and 19.285.040. WSR 18-17-149, § 296-05-109, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-109, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-200 Apprenticeship programs—Cancellation.** (1) When the supervisor determines that a program is operating in violation of its program standards, these rules, or applicable laws, the supervisor may recommend a program's registration be canceled. Cancellation of a program also serves to cancel any apprenticeship agreements.

(2) The supervisor must:

(a) Provide notice of deficiencies to the program and sixty calendar days to correct the identified deficiencies;

(b) Provide notice that the program's registration may be canceled if the deficiencies are not corrected within sixty calendar days of receipt of the notice, and a notice of correction is sent to the supervisor within sixty calendar days of receipt of the notice;

(3) If the program does not correct identified deficiencies in a timely manner, the supervisor may begin the following procedures to cancel the program's registration. The supervisor must:

(a) Make a written recommendation to the WSATC that the program be canceled;

(b) Provide a record to the WSATC detailing the notice given to the program to correct identified deficiencies;

(c) Provide notice of the recommendation to the program sponsor and the apprenticeship committee responsible for administering the program;

(d) Provide the required notice thirty calendar days before the next regularly scheduled quarterly meeting for the WSATC to act on the supervisor's recommendation to cancel a program's registration. Absent an emergency, if notice is given fewer than thirty calendar days, the supervisor's recommendation to cancel a program's registration is heard at the subsequent regularly scheduled quarterly meeting.

(4) When the recommended program cancellation is heard before the WSATC, the supervisor or any interested party may present evidence or testimony to the WSATC regarding the recommended cancellation. The WSATC must vote on the supervisor's recommendation to cancel a program's registration. If a majority of the members approve the supervisor's recommendation, the WSATC provides written notice to all interested parties that the program's registration has been canceled. The program sponsor has thirty days from the date the WSATC mails its notice to the program sponsor to file an appeal with the director.

(5) When the supervisor recommends a program be canceled because the program violates federal law, and the WSATC cancels the program's registration as required by federal law, the program may also file an appeal with the U.S. Department of Labor, pursuant to 29 C.F.R. Parts 29 and 30.

[Statutory Authority: RCW 49.04.010 and 19.285.040. WSR 18-17-149, § 296-05-200, filed 8/21/18, effective 10/10/18. Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-200, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-200, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-203 Equal opportunity in employment fundamentals.**

(1) The apprenticeship section is a state apprenticeship agency for federal purposes, as required by 29 C.F.R. Part 30.

(2) Registered apprenticeship programs are required to adopt written rules containing equal opportunity in employment standards required by 29 C.F.R. Part 30. Programs shall:

(a) Not discriminate on the basis of any category prohibited by federal law;

(b) Engage in affirmative recruiting action;

(c) Incorporate an equal opportunity pledge into its apprenticeship program standards;

(d) Adopt an affirmative action recruiting program;

(e) Adopt a defined selection procedure for apprentices.

(3) The standards required by 29 C.F.R. Part 30 do not apply to programs with fewer than five apprentices.

[Statutory Authority: RCW 49.04.010 and 19.285.040. WSR 18-17-149, § 296-05-203, filed 8/21/18, effective 10/10/18. Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-203, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-203, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-205 Reinstatement of program registration.**

Any apprenticeship program deregistered as authorized by these rules may be reinstated upon presentation of adequate evidence to the WSATC that the apprenticeship program is operating in compliance with these rules.

[Statutory Authority: RCW 49.04.010 and 19.285.040. WSR 18-17-149, § 296-05-205, filed 8/21/18, effective 10/10/18. Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-205, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-205, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-207 Certification of apprentice labor standard on renewable energy projects.**

(1) The WSATC establishes minimum levels of apprentice labor hours to be met through apprenticeship programs so that utilities can qualify for renewable energy credits as defined in RCW 19.85.040.

(2) The WSATC certifies a renewable energy project meets the required minimum when an applicant can show:

(a) A minimum of fifteen percent of the total labor hours used to construct the project are apprentice hours;

(b) Labor hours meet the definition in RCW 39.04.310(3). Hours worked by foremen, superintendents, owners, and workers who are not subject to prevailing wages must be reported and included in the total labor hours if the foreman, superintendent, or worker is counted in satisfying the required apprentice to journey supervision ratio as required by apprenticeship standards;

(c) The applicant requests certification within forty-five days of the start of the on-site construction for the project.



(3) Requests for certification are filed with the department and heard by the council at the council's next regular quarterly meeting. Requests for certification must include:

(a) The name, occupational title, and registration number for each registered apprentice;

(b) The number of apprentices and labor hours worked, categorized by occupational title and employer;

(c) The number of journey level workers and labor hours worked, categorized by occupational title and employer;

(d) Copies of weekly or monthly reporting forms and certified payroll records used to capture the required information;

(e) A statement affirming the hours reported meet the definition of "labor hours" as defined by subsection (2)(b) of this section.

(4) The department reviews requests for certification and recommends to the WSATC whether the request should be granted.

(5) The WSATC decides whether requests for certification are granted within thirty days from the date the matter is heard at the quarterly meeting. The WSATC can:

(a) Grant the request for certification;

(b) Deny the request for certification;

(c) Defer the request for certification and ask for additional information.

(6) If the request is granted, the WSATC certifies the apprentice labor hours on the project.

(7) If the request is denied, the aggrieved party may file an appeal pursuant to chapter 34.05 RCW.

[Statutory Authority: RCW 49.04.010 and 19.285.040. WSR 18-17-149, § 296-05-207, filed 8/21/18, effective 10/10/18. Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-207, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-207, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-217 Apprentice utilization requirements (AUR) verification on public works projects.** The supervisor will verify compliance of apprentice utilization requirements on public works projects as required by RCW 49.04.035.

(1) The apprentice utilization requirement on public works is established in accordance with RCW 39.04.320.

(2) The supervisor must verify compliance in the following manner:

(a) The prevailing wage intents and affidavits system will be the primary method used to verify compliance, however, the supervisor may use any appropriate reporting system or method.

(b) The supervisor may coordinate with any appropriate agency or organization to assist in verification of apprentice labor hours.

(c) The supervisor will compile a compliance report by awarding agencies, contractors, and subcontractors.

(3) Compliance reports on completed projects will be made available to the WSATC each quarter and must be used to determine compliance for the purposes of RCW 39.04.350 and 39.12.055.

(4) The WSATC shall accept or reject the report.

[Statutory Authority: Chapter 49.04 RCW. WSR 20-13-060, § 296-05-217, filed 6/15/20, effective 7/16/20.]

**WAC 296-05-400 Equal employment opportunity plan—Purpose, scope and authority.** The WSATC's equal employment opportunity plan is based on the statutory authority granted in chapter 49.04 RCW and according to the provisions of 29 C.F.R. Part 30. The purpose of the equal employment opportunity plan is to promote equality of opportunity in apprenticeship by:

- Prohibiting discrimination in apprenticeship programs based on race, sex (including pregnancy and gender identity), sexual orientation, color, religion, national origin, age, disability, genetic information, or as otherwise specified by law;
- Requiring equal employment opportunities in apprenticeship programs; and
- Coordinating the WSATC's equal employment opportunity programs with other affirmative action policies and procedures and equal opportunity programs.

The following sections contain the policies and procedures to promote equality of opportunity and equity of treatment of apprentices in apprenticeship programs approved by the WSATC. These policies and procedures are to be used to:

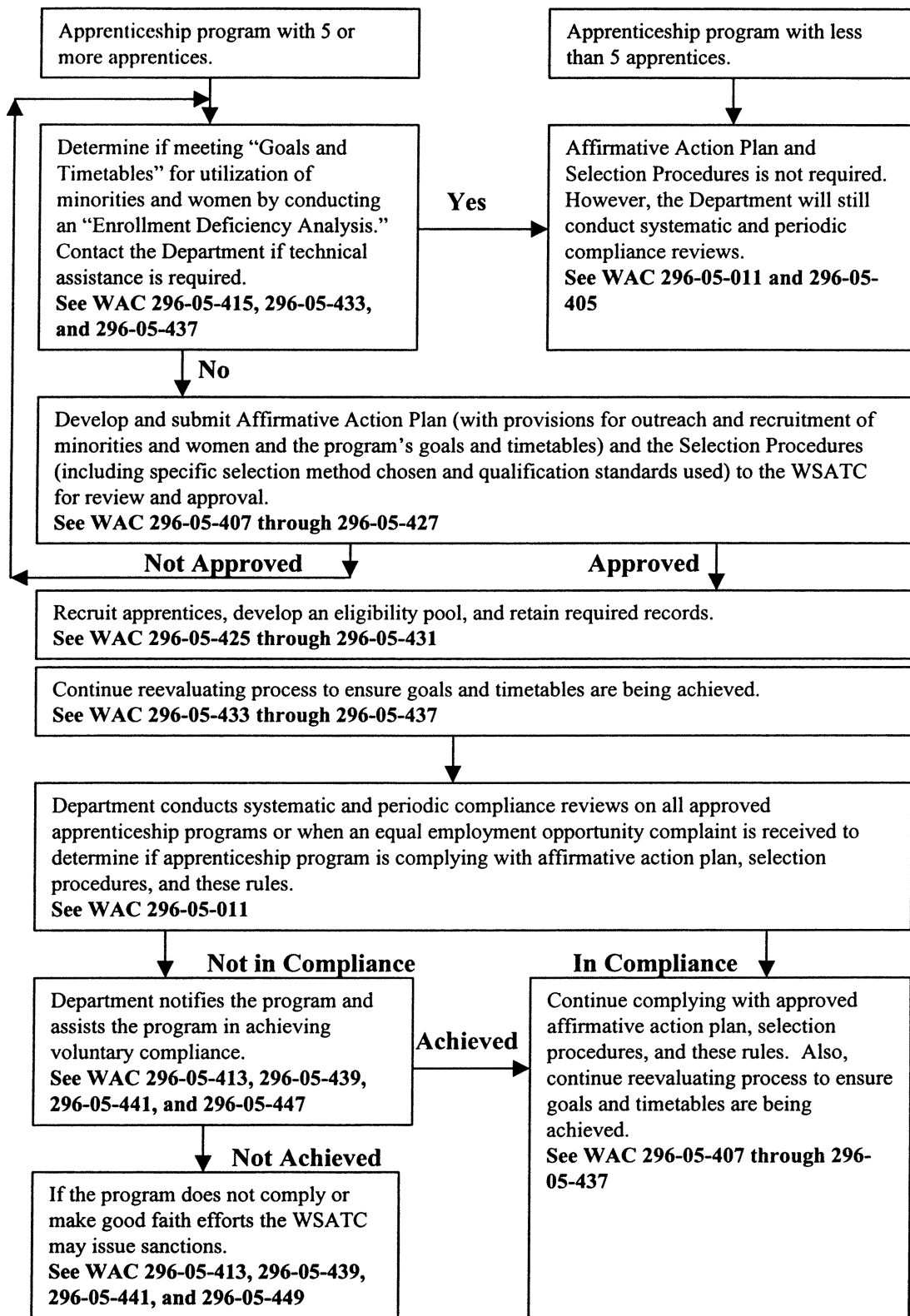
- Recruit and select apprentices;
- Review and revise apprenticeship programs;
- Process equal employment opportunity complaints;
- Take corrective action when appropriate; and
- Continue recognition or withdraw recognition of apprenticeship programs.

An equal employment opportunity program must not be used to discriminate against any qualified applicant or apprentice on the basis of race, sex, color, religion, national origin, age, disability or as otherwise specified by law.

[Statutory Authority: RCW 49.04.010 and 19.285.040. WSR 18-17-149, § 296-05-400, filed 8/21/18, effective 10/10/18. Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-400, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-400, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-402 Equal employment opportunity process.**

# Equal Employment Opportunity Process



[Statutory Authority: RCW 49.04.010 and 2001 c 204 (SHB 1234). WSR 02-10-083, § 296-05-402, filed 4/29/02, effective 6/1/02. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-402, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-403 Definitions.** The following definitions are to be used with this part.

**Underutilization:** Enrolling minorities and women in a ratio not proportionate to the participation of minorities and women that is representative of the geographical region served.

**Women or female:** Refers to minority women and nonminority women. See 29 C.F.R. 30.2 (December 2016) for definitions of the following:

- Direct threat;
- Disability;
- Genetic information;
- Major life activities;
- Physical or mental impairment;
- Reasonable accommodation;
- Undue hardship.

[Statutory Authority: Chapter 49.04 RCW. WSR 20-13-060, § 296-05-403, filed 6/15/20, effective 7/16/20. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-403, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-405 Exceptions to the requirement for adopting an affirmative action plan and a selection procedure.** (1) A sponsor is not required to adopt an affirmative action plan or a selection procedure if:

- (a) It has fewer than five apprentices; or
- (b) The program is determined by the WSATC to be in compliance with an approved equal employment opportunity program. An approved program is one which:
  - (i) Provides for selection of apprentices;
  - (ii) Provides for affirmative action in apprenticeship;
  - (iii) Includes goals and timetables for participation of minorities and women in the labor force in apprenticeship which meet or exceed the requirements of WAC 296-05-415; and
  - (iv) Meets the requirements of the following laws:
    - Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000, et seq.);
    - The regulations implementing 42 U.S.C. 2000, et seq.;
    - Executive Order 11246 as amended; and
    - The regulations (41 C.F.R. Part 60) implementing Executive Order 11246.
    - Title I of the Americans with Disabilities Act (ADA);
    - 42 U.S.C. 12112 and 12113, as amended;
    - Regulation promulgated by the Equal Employment Opportunity Commission (EEOC) (29 C.F.R. Part 1630); and
    - The Genetic Information Nondiscrimination Act (GINA), 29 U.S.C. 2000ff et seq.

(2) A program sponsor must submit satisfactory evidence of its qualification for the exception to the WSATC. If the program sponsor

designed the apprenticeship program or the equal opportunity program to circumvent the requirements of these rules, the program will not qualify for an exception.

[Statutory Authority: Chapter 49.04 RCW. WSR 20-13-060, § 296-05-405, filed 6/15/20, effective 7/16/20. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-405, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-407 Apprenticeship program sponsor's obligations.**

- (1) A sponsor of an approved apprenticeship program must:
  - (a) Promote equal opportunity in its apprenticeship program; and
  - (b) Recruit, select, employ and train apprentices without discrimination based on race, sex, color, religion, national origin, age, disability or as otherwise specified by law.
- (2) A sponsor of an approved apprenticeship program with five or more apprentices must uniformly apply all rules related to apprentices. Such rules include, but are not limited to:
  - Equality of wages;
  - Periodic advancement;
  - Promotion;
  - Assignment of work;
  - Job performance;
  - Rotation among all work processes for the occupation;
  - Imposition of penalties or other disciplinary action; and
  - All other aspects of the apprenticeship program administered by the program sponsors.
- (3) Adopt and implement an equal employment opportunity plan and selection procedure as required by chapter 49.04 RCW, 29 C.F.R. Part 30, and these rules unless the approved apprenticeship program qualifies for an exception (see WAC 296-05-405).
- (4) Anti-harassment training must be provided to all individuals connected with the administration or operation of the apprenticeship program to include apprentices and journey level workers who work with apprentices.
  - (a) The training session must be in-person or interactive online training;
  - (b) The training must include communication of the following at a minimum:
    - (i) Harassing conduct will not be tolerated;
    - (ii) The definition of harassment and the types of conduct that constitute unlawful harassment; and
    - (iii) The right to file a harassment complaint and how to do so.
  - (c) Orientation and periodic information sessions must be conducted to inform and remind all such individuals of the sponsor's equal employment policy and to provide the anti-harassment training.

[Statutory Authority: Chapter 49.04 RCW. WSR 20-13-060, § 296-05-407, filed 6/15/20, effective 7/16/20. Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-407, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-407, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-409 Affirmative action information required by WSATC.**

In addition to the program standards required by WAC 296-05-015, program sponsors seeking new program registration and approval by the WSATC must submit the following:

- (1) The proposed affirmative action plan;
- (2) The proposed selection procedures; and
- (3) Any other information about the sponsor's equal employment opportunity plan required by the WSATC.

The affirmative action plan and additional information is considered in conjunction with the program standards in the WSATC's decision whether to approve or disapprove an apprenticeship program. If the WSATC disapproves the apprenticeship program, it shall direct the department to inform the sponsor in writing the reason for disapproval.

[Statutory Authority: RCW 49.04.010 and 19.285.040. WSR 18-17-149, § 296-05-409, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-409, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-411 Affirmative action plan.** An approved affirmative action plan must:

- (1) Be in writing.
- (2) Be more than passive nondiscrimination.
- (3) Include procedures, methods and programs to:
  - (a) Clearly identify present and potential minority and female apprentices.
  - (b) Establish affirmative action goals and timetables.
  - (c) Equalize opportunity in apprenticeship to allow full utilization of the work potential of minorities and women.
  - (d) Assure equal opportunity in apprenticeship for all individuals participating in or seeking entrance into Washington's labor force.
- (4) Include provisions for outreach and positive recruitment to increase the participation of minorities and women in apprenticeship programs by expanding and promoting apprenticeship opportunities to minorities and women. (See WAC 296-05-413.)

Nothing in a sponsor's approved affirmative action plan may be used to discriminate against any qualified applicant or apprentice on the basis of race, sex (including pregnancy and gender identity), sexual orientation, color, religion, national origin, age, disability, genetic information, or as otherwise specified by law.

[Statutory Authority: RCW 49.04.010 and 19.285.040. WSR 18-17-149, § 296-05-411, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-411, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-413 Outreach and recruitment requirements—Specific.**

To gain approval, an equal employment opportunity plan must include the following specific provisions for outreach and recruitment criteria:

- (1) To increase minority and female participation in apprenticeship, program sponsors are expected to strengthen program outreach and

recruitment efforts. The equal employment opportunity plan must specify the activities they will use to achieve this result.

(2) The program sponsor is not necessarily required to include all of the listed activities in its equal employment opportunity program. The WSATC, when approving the sponsor's equal employment opportunity plan, will determine the number of specific activities a sponsor must implement to satisfy this outreach and recruitment requirement. The WSATC will consider all circumstances including the size and type of the program and its resources. When special circumstances exist, the WSATC may provide financial or other assistance it deems necessary to implement the requirements of this section from any funds made available to it for such purpose.

(3) Examples of positive outreach and recruitment activities are:

(a) Distributing information about the nature of apprenticeship programs, program admission requirements, current apprenticeship opportunities, sources of apprenticeship applications, and the equal opportunity policy of the sponsor.

For programs only accepting applications at specific intervals, such information shall be disseminated at least thirty calendar days in advance of each application date. For programs that accept applications throughout the year, this information must be distributed at least semiannually.

To be effective, the information described in this section must be given to the WSATC, local schools, employment service offices, women's centers, outreach programs and community organizations which effectively reach minorities and women. Also it must be 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.

(b) Participating in workshops conducted by employment service agencies, school districts, and community based organizations to increase apprenticeship program awareness of apprenticeship opportunities.

(c) Cooperating with local school districts, vocational education systems, and school employees to develop programs for preparing students to meet the standards and criteria required to qualify for entry into apprenticeship programs.

(d) Increasing awareness of a sponsor's equal opportunity policy within the sponsor's organization. The goal of this increased awareness within the sponsor's organization is to foster understanding, acceptance, and support among the sponsor's various officers, supervisors, employees, employers, and members. This is to encourage the necessary active assistance in achieving the program's obligations required by these rules.

(e) Participating in existing outreach programs whose focus is the recruitment and preparation of minority and female apprenticeship applicants. Whenever possible, these should provide applicants with pretesting experience and training.

(f) Developing outreach programs whose focus is the recruitment and preparation of minority and female apprenticeship applicants. If apprenticeship outreach programs do not exist, the sponsor should attempt to develop them. This effort may require working with other sponsors and appropriate community organizations. It may require obtaining financial assistance from the WSATC. Also, the sponsor shall initiate programs that prepare and encourage women to enter traditionally male dominated apprenticeship programs and occupations.

(g) Encouraging the development and use of programs for apprenticeship preparation education or other work related experiences that prepare candidates for apprenticeship.

(h) Granting to all applicants, without prejudice, advance standing or credit for previously acquired experience, training, skills, or aptitude.

(i) Engaging in other activities to ensure that the recruitment, selection, employment, and training of apprentices without discrimination based upon race, color, religion, national origin, sex (including pregnancy and gender identity), sexual orientation, age, disability, genetic information, or as otherwise specified by law. Some examples of these activities include:

(i) General publication of advertisements, industry reports, articles on apprenticeship opportunities and advantages.

(ii) Use minority and female apprentices and journey-level workers as recruiters.

(iii) Provide career counseling to prospective applicants.

(iv) Periodically audit equal employment opportunity programs to see if goals are being met.

(v) Develop monitoring procedures to ensure that employers are granting equal employment opportunities to apprentices (these procedures may include reporting systems, on-site reviews, or briefing sessions).

[Statutory Authority: RCW 49.04.010 and 19.285.040. WSR 18-17-149, § 296-05-413, filed 8/21/18, effective 10/10/18. Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-413, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-413, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-415 Equal employment opportunity goals and timetables.** (1) An equal employment opportunity plan must include goals and timetables. The first step in deciding whether goals and timetables are necessary is the completion of an analysis of the sponsor's program to determine whether there is an underutilization of minorities and/or women in the occupations represented by the program. This analysis must be:

(a) Conducted by the sponsor with technical assistance provided by the department;

(b) In writing; and

(c) Included in the sponsor's equal employment opportunity plan.

(2) If the sponsor's analysis demonstrates that minorities and females are underutilized in the program, the program has an enrollment deficiency that must be corrected. Enrollment goals and timetables to correct this deficiency must be established and they must be included in the sponsor's equal employment opportunity plan. (See WAC 296-05-433.)

(3) If the sponsor's analysis demonstrates that no enrollment deficiencies exist, enrollment goals and timetables are not required. However, where no goals and timetables are established, the equal employment opportunity plan must include a detailed explanation why no goals and timetables have been established.

(4) Utilization goals may not provide a sponsor with a justification to extend a preference to any individual, select an individual,



or adversely affect an individual's status as an apprentice on the basis of that person's race, sex, or ethnicity.

[Statutory Authority: Chapter 49.04 RCW. WSR 20-13-060, § 296-05-415, filed 6/15/20, effective 7/16/20. Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-415, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-415, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-417 Selection of apprentices for approved apprenticeship programs.** In addition to development of a written equal employment opportunity plan, the sponsor must submit a written plan for the selection of apprentices. The selection plan must ensure that minorities and women have an equal opportunity to be selected as apprentices and that full utilization and equal opportunity in apprenticeship is achieved promptly. The selection procedures must use one of the methods specified in this section.

(1) A sponsor may not implement any selection method until the WSATC approves the program's equal employment opportunity plan. In the equal employment opportunity plan, the sponsor must identify the approved selection method it has adopted. The WSATC allows the following selection methods to be used:

(a) **Selection on basis of rank from pool of eligible applicants.** With this method, a sponsor selects apprentices from a pool of eligible applicants based upon a rank ordering of applicant qualifying standard scores. A sponsor adopting this method must create a pool of eligible candidates who have either reached the minimum legal working age and meet the sponsor's minimum physical requirements or who have reached the minimum legal working age and meet the sponsor's qualification standards.

(b) **Random selection from pool of eligible applicants.** A pool of eligible applicants must be created from persons who have either reached the minimum legal working age and meet the sponsor's minimum physical requirements **or** who have reached the minimum legal working age and meet the sponsor's qualification standards. With WSATC approval, a sponsor may randomly select apprentices from a pool of eligible applicants. This method must be supervised by an impartial person(s) not associated with the administration of the apprenticeship program. The time and place of the selection, and the number of apprentices to be selected, must be publicly announced before the selection takes place. The selection process must be open to all applicants and the public. The names of apprentices drawn by this method shall be posted immediately following the selection at the program sponsor's place of business.

(c) **Selection from pool of current employees.** A sponsor may select apprentices from an eligibility pool of program employees. The actual selection process may be prescribed by a collective bargaining agreement where one exists, or by the sponsor's established promotion policy.

(d) **Alternative selection methods.** In addition to the above specified methods, the WSATC allows a sponsor to select apprentices by alternative methods, including its present selection method. However, the sponsor who adopts an alternative method of selection must submit the following information to the apprenticeship supervisor:

- (i) A detailed discussion of the selection method it proposes to use;
- (ii) A copy of its equal employment opportunity plan;
- (iii) A copy of its enrollment deficiency analysis; and
- (iv) If necessary, its goals and timetables for increasing the number of minority and female applicants and apprentices in the program.

The sponsor may not implement any such alternative method until the WSATC has approved the method and the equal employment opportunity program (including its goals and timetables).

When an alternative selection method is used and the training agent selects the apprentices, the employer must sign an agreement with the WSATC, agreeing to comply with the equal employment opportunity requirements of these rules and 29 C.F.R. Part 30.

(2) Exceptions to selection procedures may be used if:

(a) An employee of an employer not qualifying as a journey-level worker becomes a training agent, he/she shall be evaluated by the apprenticeship program using constant standard nondiscriminatory means and registered at the appropriate period of apprenticeship based on previous work experience and related training.

(b) The individual who signs an authorization card during the organizing effort by an employer wherein fifty percent or more of the employees have signed whether or not the individual is approved as a training agent, an individual not qualifying as a journey-level worker shall be evaluated by the sponsor and registered at the appropriate period of apprenticeship based on previous work experience and related training.

(3) Organizing statements specified in subsection (2) of this section, that result in direct entry into the apprenticeship program, shall be properly placed within the program selection procedure as an exemption.

(4) If the WSATC or the department fails to act upon the sponsor's selection method and equal employment opportunity program within thirty calendar days of its submission to the department, the sponsor may implement the selection method until acted upon by the WSATC.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-417, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-417, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-419 Qualification standards.** Qualification standards are the criteria, used by sponsors to select applicants into an eligibility pool. These qualification standards and the procedures used to determine the standards must be specified in detail in the sponsor's equal employment opportunity plan and must:

- Identify the specific criteria and attributes used to evaluate applicants;
- Specify the acceptable scores required for each qualification standard;
- Demonstrate a direct relationship between each qualification standard, its required score and the expected job performance;
- Establish a significant statistical relationship between the score required for admission to the pool and the applicant's performance in the apprenticeship program. This statistical relationship must

be based upon the procedures discussed in 41 C.F.R. Part 60-3 (Guidelines on employee selection procedures); and

- Specify that the applicant has achieved an acceptable score on all the qualification. Unless an applicant achieves an acceptable score on all the qualification standards, the applicant will be ineligible for admission to the pool.

(1) **Aptitude test scores for use as qualification standards.** Aptitude tests may be used as qualification standards; however, any aptitude test score used as a qualification standard must be directly related to apprenticeship job performance. To demonstrate this relationship, there must be a significant statistical relationship between the aptitude test scores required for admission to the pool and performance in the apprenticeship program. In determining this relationship, the sponsor must follow the procedures discussed in 41 C.F.R. Part 60-3. These requirements also apply to any aptitude tests used by a program sponsor and administered either by a state employment agency or any person, agency or organization engaged in the selection or evaluation of personnel. If a national aptitude test is developed and administered by a national apprenticeship committee, it must meet these requirements before it will be approved by the United States Department of Labor, Employment and Training Administration, Office of Apprenticeship.

(2) **Educational achievements for use as qualification standards.** Educational achievements can be used as qualification standards; however, all such achievements used to determine admission to a program pool must be directly related to apprenticeship job performance. This direct relationship must be demonstrated by a significant statistical relationship between the achievement scores required for admission and expected performance in the apprenticeship program. In demonstrating such a statistical relationship, the sponsor must meet the requirements of 41 C.F.R. Part 60-3.

Official school records or a certified passing grade on a general educational development (GED) test recognized by state or local public instruction officials shall be evidence of educational achievement. These education achievement requirements must be uniformly applied to all applicants.

(3) **Role of the interview in the applicant selection process.** Interviews must not be used as a qualification standard for admission to an eligibility pool for programs using the selection methods described in WAC 296-05-417 (1) and (2). However, after an applicant is placed in a pool and before selections are made from that pool, an applicant can be interviewed. When interviews are conducted, they must:

(a) Consist only of objective questions relevant to the applicant's fitness for the apprenticeship program.

(b) Not include questions related to qualifications previously used to determine entrance to the pool.

(c) Require each interviewer to record the questions and the general nature of the applicant's answers.

(d) Require each interviewer to prepare a summary of any interview conclusions.

Adequate records of the interviews must be kept including a brief summary and conclusion and how the specific factors like applicant motivation, ambition, and willingness to accept direction affected the interviewer's final decision.

(4) **Examples of qualification standards include:**

- Standardized aptitude tests;
- School diplomas or the equivalent;

- Health requirements essential to the chosen occupation;
- Interviews conducted in a fair manner (see subsection (3) of this section);
- School grades; and
- Previous work experience.

In applying these standards, the sponsor must meet the requirements of 41 C.F.R. Part 60-3.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-419, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-419, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-427 Notification requirements.** All applicants who meet the program admission requirements must be notified that they have been placed in an eligibility pool. All program sponsors must give a written notice of rejection to each applicant who is not selected for either an eligibility pool or the apprenticeship program. This rejection notice must include the reasons for rejection, the admission requirements for those admitted to the pool or program and the appeal procedures available.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-427, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-429 Existing lists of eligibles and public notice.**

(1) A sponsor who adopts a selection method under WAC 296-05-417 must conduct an enrollment deficiency analysis (see WAC 296-05-433). If, as a result of this analysis, the sponsor concludes that there are fewer minorities and/or women on its existing pools and lists than there should be, these pools and lists must be discarded.

(2) Once the existing pools and lists have been discarded, new eligibility pools must be established and lists must be posted at the sponsor's place of business. Sponsors must allow at least a two-week period for accepting applications for admission to the apprenticeship program. There must be at least thirty calendar days of public notice in advance of the earliest date for application for admission to the apprenticeship program (see WAC 296-05-411).

(3) Once an applicant has been placed in an eligibility pool, they must be retained on the eligibility lists for two years unless they request, in writing, that they be removed or unless they fail to respond to an apprentice job opportunity mailed to applicant's last known address by certified mail, return receipt requested. It is the applicant's responsibility to keep the sponsor informed of the applicant's current mailing address. A sponsor, upon receiving a written request from a former applicant whose name was removed from an eligibility list, may restore the applicant's name to the list.

(4) Applicants who have been accepted in the program must be given a reasonable time in which to report for work. A "reasonable time" will be interpreted in light of the customs and practices of the industry for reporting for work. All applicants must be treated equally in the determination and application of "a reasonable time."

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-429, filed 5/4/11, effective 7/25/11. Statutory

Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-429, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-431 Equal employment opportunity records of the WSATC retained by the department.** The WSATC must keep the following types of records in the apprenticeship supervisor's office:

- (1) Registration requirements;
- (2) Individual program standards;
- (3) Registration records;
- (4) Program compliance reviews and investigations;
- (5) Any other records pertinent to the determination of compliance with these rules; and
- (6) Any records that must be reported to the United States Department of Labor, Employment and Training Administration, Office of Apprenticeship.

The records required by these rules and any other information relevant to compliance with 29 C.F.R. Part 30 must be maintained for five years. Also, these records and related information must be made available upon request to the United States Department of Labor or other authorized representatives.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-431, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-431, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-433 Enrollment deficiency analysis.** (1) In analyzing a program to determine whether a deficiency exists, the sponsor must consider at least the following factors:

- (a) The percentage of the working age minority and female population in the program sponsor's labor market area;
- (b) The percentage of the minority and female labor force in the program sponsor's labor market area;
- (c) The percentage of the minority and female apprentices participating in a particular occupation compared to the percentage of minorities and women in the labor force in the program sponsor's labor market area;
- (d) The percentage of minorities and women participating as journey-level employee(s) employed by the employer(s) participating in the program as compared with the percentage of minorities and women 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
- (e) The general availability of minorities and women in the sponsor's labor market that have present or potential capacity for apprenticeship in the program sponsor's labor market area.

(2) To calculate the above percentage(s) or any other percentages for the analysis, the sponsor must use the following formula: Divide the number of minority individuals or females in a particular classification in the labor force or population by the total labor force or population.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-433, filed 5/4/11, effective 7/25/11. Statutory

Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-433, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-435 Data and information.** (1) The apprenticeship supervisor must provide program sponsors with data and information on minorities and women labor force characteristics generated by the employment security department or the office of financial management. This information is available for standard metropolitan statistical areas as well as special statistical areas.

(2) The specific data used to calculate the percentages in WAC 296-05-433 must be obtained from records maintained by apprenticeship committees.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-435, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-437 Developing and evaluating enrollment goals and timetables.** (1) Goals and timetables must be based upon the sponsor's enrollment analysis of its underutilization of minorities and women and its entire affirmative action program. Specific enrollment goals for minorities and a separate single goal for women may be acceptable unless a particular group is employed in a substantially disparate manner. In such a case, separate goals must be established for the disparate group. An example of such a situation would be where a specific minority group of women were underutilized even though the sponsor had achieved its enrollment goals for women generally. A separate, additional goal should be established to increase the enrollment of this specific group.

(2) In establishing the enrollment goals and timetables, the sponsor should establish reasonable goals that can be achieved through a good faith effort.

(3) In evaluating whether a sponsor has satisfied the affirmative action requirements of these rules, the WSATC must determine whether the sponsor has made a good faith effort to do so.

(4) The sponsor's good faith efforts shall be judged by whether the sponsor is following its affirmative action program and attempting to make it work. A specific example of a good faith effort by a sponsor would be when a sponsor conducts evaluations of its affirmative action program and makes the necessary changes to achieve success in the attainment of its goals.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-437, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-439 Failure to meet goals and timetables.** (1) If 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 in order to obtain maximum effectiveness toward the attainment of its goals.

(2) If the WSATC determines the failure of a sponsor to meet its goals and timetables is substantially a result of the enrollment selection method adopted, the sponsor may be required to develop and adopt a WSATC prescribed selection method.

(3) If a sponsor's failure to meet its goals is substantially a result of the qualification standard it used to select minorities and/or women, the sponsor may be required to show that the qualification standards directly relate to job performance. Specifically, the sponsor will be expected to demonstrate a significant statistical relationship between the qualification standards used and the required job performance. This statistical relationship must be based upon the procedures discussed in 41 C.F.R. Part 60-3 (Guidelines on employee selection procedures).

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-439, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-441 Noncompliance with federal and state equal opportunity requirements.** When a compliance review concludes that a sponsor is not operating according to the federal or state laws or regulations requiring equal opportunity, the apprenticeship supervisor must take action. Such action must include:

- (1) Notifying the sponsor in writing of the review results;
- (2) Making a reasonable effort to secure voluntary compliance from the program sponsor; and
- (3) Giving the sponsor a reasonable amount of time to comply with the review recommendations before undertaking sanctions under WAC 296-05-109.

[Statutory Authority: RCW 49.04.010 and 19.285.040. WSR 18-17-149, § 296-05-441, filed 8/21/18, effective 10/10/18. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-441, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-443 Complaint filing.** (1) Any apprentice or applicant for apprenticeship who believes they have been discriminated against may file a complaint. The basis of the complaint may be:

- (a) Discrimination on the basis of race, sex (including pregnancy and gender identity), sexual orientation, color, religion, national origin, age, disability, genetic information, or as otherwise specified by law by a sponsor or a sponsor's program;
- (b) The equal opportunity standards have not been followed; or
- (c) The sponsor's equal employment opportunity plan does not comply with the requirements of this chapter.

(2) A complaint may be filed in person or through an authorized representative. The complainant may choose to file a complaint with the WSATC or with a private review panel as established in WAC 296-05-445.

(3) A complaint must be in writing and shall be signed by the complainant. The complaint 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 leading to the complaint.

(4) The complaint must be filed not later than one hundred eighty calendar days from the date of the alleged discrimination or violation of the sponsor's equal employment opportunity plan or the rules of this chapter. If a complaint is initially filed with the private review panel and the complainant later wishes to refer the complaint to the WSATC, the referral must occur within one hundred eighty calendar

days of the circumstances leading to the complaint or within thirty calendar days of the private review panel's final decision, whichever is later.

(5) Sponsors must provide written notice to applicants and apprentices of their right to file discrimination complaints. This notice must be included in the application materials and must also be displayed in a prominent public location where all apprentices will see the notice.

[Statutory Authority: Chapter 49.04 RCW. WSR 20-13-060, § 296-05-443, filed 6/15/20, effective 7/16/20. Statutory Authority: RCW 49.04.010 and 19.285.040. WSR 18-17-149, § 296-05-443, filed 8/21/18, effective 10/10/18. Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-443, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-443, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-445 Private review panels.** Sponsors may establish private review panels to resolve affirmative action complaints. The WSATC encourages sponsors to establish, fair, speedy, and effective procedures for the operation of the private review panel. Private review panels should be comprised of three or more responsible persons from the community who will serve without compensation. They should not be directly associated with the administration of an apprenticeship program. If necessary, sponsors may join together to establish a private review panel.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-445, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-447 Processing of complaints.** (1) All approved programs must establish procedures explaining the program's complaint review process. These procedures must comply with the requirements of this section. Each sponsor must give a copy of the complaint procedures to each apprenticeship applicant and to all enrolled apprentices.

(2) When the apprenticeship supervisor receives a complaint and the sponsor has a private review panel in place, the complaint must be referred to the panel unless the complainant chooses otherwise or unless the council concludes that the panel will not satisfactorily resolve the complaint.

(3) Once the complaint is referred to the private review panel, the panel has no more than thirty calendar days to resolve it. At the end of the period, the supervisor will obtain the reports from the complainant and the review body as to the disposition of the complaint. If the complaint has been satisfactorily resolved and there is no other indication of failure to apply equal opportunity standards, the case shall be closed and the parties formally notified.

(4) If the private review panel has not satisfactorily resolved the complaint within ninety calendar days, the WSATC may conduct a compliance review and take all necessary steps to resolve the complaint.

(5) If the review panel satisfactorily resolves the complaint but there is evidence that the equal opportunity practices of the sponsor's program are not in compliance with the requirements of this



chapter, the council must conduct a compliance review and take all steps necessary to bring the program into compliance.

(6) When a private review panel does not exist, the WSATC may conduct a compliance review to determine the facts of the complaint and any other information necessary to resolve the dispute.

(7) If the WSATC believes that satisfactorily resolving a complaint requires a change in the time limits established in this section, it can modify the time constraints by adopting special processing procedures. However, special processing procedures must only be adopted when circumstances warrant them and only if they will not prejudice any person or party associated with the complaint.

(8) Equal employment opportunity complaints may be referred to the appropriate state or federal entity upon receipt.

[Statutory Authority: Chapter 49.04 RCW. WSR 20-13-060, § 296-05-447, filed 6/15/20, effective 7/16/20. Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-447, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-447, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-455 Intimidatory or retaliatory acts.** (1) Any intimidation, threat, coercion, or retaliation by or with the approval of a sponsor, against a person who has exercised rights or privilege under Title VII of the Civil Rights Act of 1964 as amended or the amended Executive Order 11246 is a violation of the equal opportunity standards of these rules. Such acts may be investigated by the WSATC and, if appropriate, will be prosecuted.

(2) Identity of a complainant must be kept confidential except when it is necessary to carry out the intent of these rules, for example, the need to conduct an investigation, hearing, or judicial proceeding.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-455, filed 10/31/01, effective 1/17/02.]

**WAC 296-05-457 Exemptions.** A sponsor may request an exemption from Part D of these rules. The request may ask exemption from all of the section or from selected ones. The request must be in writing and must be addressed to the apprenticeship supervisor. It must explain why an exemption is needed. An exemption may be granted either by the WSATC or by the secretary of the United States Department of Labor, but can only be granted for good cause. If the WSATC approves an exemption that affects a substantial number of employers, it must notify the United States Department of Labor explaining why the exemption was allowed.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-457, filed 10/31/01, effective 1/17/02.]