

LIVING-WAGE RESOLUTION AND EXPLANATORY STATEMENT

Submitted on behalf of ACA members listed below

Motion: that the Advisory Committee on Apprenticeship should adopt the following resolution and that this resolution is to be included in its entirety in the Biennial Report of the Advisory Committee on Apprenticeship, to be issued in May, 2023.

Be it hereby resolved that –

To address the occupational segregation in apprenticeship that has relegated underrepresented and historically marginalized populations to low-paying, dead-end apprenticeships or has denied them access to apprenticeship altogether; to ensure that underrepresented and historically marginalized populations do not continue to be tracked into low-paying, often dead-end jobs through apprenticeship; to ensure that apprentices have the skills needed to get a job that commands a living wage when they finish their apprenticeship; to make it worthwhile for individuals to invest their time and, often, money in apprenticeship; and to avoid compromising the quality and rigor of the registered apprenticeship system, the ACA advises the Secretary of the US Department of Labor that --

1. The Office of Apprenticeship of the US Department of Labor should revise the definition of “apprenticeable occupation” in 29 CFR § 29.4 as follows:
 - A. To add to the definition of “apprenticeable occupation” in 29 CFR § 29.4 a requirement that, for an occupation to be apprenticeable, the prospective sponsor must demonstrate that the wage profile for that occupation by the last stage of the apprenticeship prior to completion pays a living wage based on local living standards; individual programs that register programs utilizing those occupations would be expected to propose a wage schedule in accordance with that occupation’s wage profile. for their locations.
 - B. The term “living wage based on local living standards” is defined as 200% of the federal poverty level for a family of three, adjusted by a geographic cost-of-living differential for regions where the cost of living exceeds the federal average.
2. Taking into account any future recommendations of the Advisory Committee on Apprenticeship and any public comment, the Office of Apprenticeship of the US Department of Labor should decide how to implement Section 1 of this Resolution, including (but not limited to) how to determine the geographic cost-of-living differentials; whether and how to account for employee benefits; how to handle apprenticeship programs that are currently registered and do not meet the requirement of Section 1 (e.g., whether to allow a phase-in period or “grandfathering” in of programs that do not meet the new standard); and

whether any other change(s) to 29 CFR part 29 or part 30 need(s) to be made to effectuate Section 1.

Submitted on behalf of
(list in formation):

Ray Boyd, United Association of Journeymen and Pipe Fitting Industry of the United States and Canada

Daniel Bustillo, 1199 SEIU Training and Employment Funds, Service Employees International Union

Stephanie Harris-Kuiper, Training & Development Fund District 1199J, American Federation of State County and Municipal Employees

Erin Johansson, Jobs with Justice

Donna Lenhoff, Chicago Women in Trades

Vicki O'Leary, Ironworkers International

Bernadette Rivera, Laborers' International Union of North America

Anton Ruesing, International Finishing Trades Institute, International Union of Painters and Allied Trades

Traci Scott, National Urban League

Marty Riesberg, Electrical Training ALLIANCE

EXPLANATORY STATEMENT

This Explanatory Statement first describes the resolution that the undersigned recommend and the reasons why we have enough information to be able to vote on it today. It also contains background on living-wage ordinances and responses to additional questions asked in the Wage Guidance that OA circulated to the ACA on April 19, 2023, and in other Subcommittees' comments; the OA Wage Guidance is attached for the reader's convenience.

This Statement does not contain the robust economic, social, and equity rationales for this recommendation – for that, please refer to the DEIA Subcommittee's Issue Paper Section 2, "DEIA Subcommittee Statement on Family Sustaining/Living Wages," which we incorporate by reference.

The Recommended Resolution

This recommendation is different from the one the ACA passed at the March, 2023, meeting, primarily because this recommendation uses the term "living wage" instead of "family-sustaining wage" and includes a specific definition of the term. The primary reason that some ACA members felt that they do not have enough information to make an informed decision was that they didn't know what the standard of a "family-sustaining wage" is. In fact, as Group 2 of the IENES Subcommittee and others have noted, the terms "family-sustaining wages" and "living wages" are, in general, not clearly defined. Developed to distinguish the federal poverty-level wage, which rarely is sufficient to cover the costs of a reasonable living standard for a worker and their family, the terms are often used interchangeably to mean the general concept of a wage rate that supports the economic self-sufficiency of a worker/family for full-time work.¹

To clarify the precise requirement and to avoid confusion, *this* recommendation defines the wage standard very clearly as –

200% of the federal poverty level for a family of three, adjusted by a geographic cost-of-living differential for regions where the cost of living exceeds the federal average.

This formulation is based on the methodology used by a number of cities and counties that have adopted "living wage" standards (more on which below).

¹ Sometimes the two terms are understood to distinguish between a wage rate sufficient to cover the costs of a reasonable living standard for a worker alone ("living wage") and a wage sufficient to cover the costs of a reasonable living standard for a worker *and their family* ("family-sustaining wage") and their family, but this distinction is not reliable – for example, the MIT tool is called the "Living Wage" Calculator, but what it calculates is family-sustaining wages.

With this definition, it can no longer be claimed either that the wage standard is not clearly defined or, as Group 2 of the IENES Subcommittee argued, that the lack of a clear definition makes a wage standard infeasible.

First component of the recommended definition: the federal poverty level

As the below table shows, the federal poverty level for a family of three in 2023 is \$24,860; 200% of that is \$49,720. (The poverty level for other family configurations is also shown for comparison.) 200% of the federal poverty level was the precise suggestion of one of the Pathways Subcommittee members.

Federal Poverty Level (FPL)

Family Size	annual federal poverty wage (2023)	hourly (2080-hour year) federal poverty wage	200% of the FPL - annual	200% of the FPL - hourly
For individuals	\$14,580	\$ 7.01	\$ 29,160	\$ 14.02
For a family of 2	\$19,720	\$ 9.48	\$ 39,440	\$ 18.96
For a family of 3	\$24,860	\$ 11.95	\$ 49,720	\$ 23.90
For a family of 4	\$30,000	\$ 14.42	\$ 60,000	\$ 28.85

The Pathways Subcommittee suggested that the tool used to calculate the appropriate wage for apprentices should be one that is updated annually for inflation, is evidence-based, and accounts for regional differences in cost of living. The federal poverty level meets two of these criteria: it is updated annually for inflation, and it is evidence-based. It does not, however, account for regional cost-of-living differences.

Second component of the recommended definition: the adjustment for a geographic cost-of-living differential

In order to account for regional cost-of-living differences, the recommendation would further adjust the 200%-of-the-federal-poverty-level standard *by a geographic cost-of-living differential* for regions where the cost of living exceeds the federal average. (We note that this step would not be necessary if the MIT Living Wage Calculator were used, because that calculator is not only updated annually for inflation and evidence-based, but also accounts for regional differences in cost of living (down to the county level).)

Consistent with the Office of Apprenticeship’s stated preference (item #1 in the attached OA “Guidance to ACA on the Topics of Wages with regard to Registered Apprenticeship

Programs”) that the ACA’s recommendations focus more on goals and principles than on a specific means of implementation, the recommendation leaves the decisions about how to determine the geographic cost-of-living differentials and to make the adjustments to OA. We see this as a strategic recommendation that allows OA flexibility in the means of implementation. In this connection, we would like to direct OA’s attention to what is probably the most used tool for determining cost-of-living differentials, the Cost-of-Living Index (COLI) published by the [Council for Community and Economic Research \(C2ER\)](#). According to C2ER’s website, the COLI is “the most consistent source of city-to-city cost comparisons available [and] is recognized by the U.S. Census Bureau, U.S. Bureau of Labor Statistics, and CNN Money.”

BACKGROUND ON CITY/COUNTY LIVING WAGE ORDINANCES

Beginning in the mid-1990s, more than 140 cities and counties all over the country adopted “living wage” ordinances, applicable to government contractors and/or, in some places, businesses benefiting from government assistance, to pay workers a wage rate sufficient to lift them above the federal poverty level. Many such ordinances are calculated as a percentage of the federal poverty wage required for a specified family size (which is used as the universal standard), plus a cost-of-living premium. Where the percentage of the federal poverty wage is set at 100%, the wage is generally that needed to support a family of four. Here are some examples:

- a. San Jose calculated its original living-wage wage rate in 1998 by adding a 45% cost-of-living premium to 100% of the federal poverty level for a family of three; this came out to as \$9.50/hour with benefits and \$10.75 without benefits. They review the rate every year, and it goes up with the CPI. Right now, the San Jose living-wage rate is **\$26.96 per hour** (if health benefits are not offered). (Compared to the MIT living wage calculator, that would be about the same rate (\$26.86) as for a person with no children.)
- b. Lawrence, KS: Living wage level is set at 130 percent of the federal poverty level for a family of three.
- c. Lansing, MI: Living wage level is set at 125 percent of the federal poverty level for a family of four. (Employers may deduct health insurance costs from the wage level (up to 20 percent of the wage).
- d. New Britain, CT: Living wage level is set at 118 percent of the federal poverty level for a family of four.

In fact, many jurisdictions’ *minimum* wage rates are in the range of 200% of the federal poverty level for one individual – for example (from UC Berkeley tracker, [here](#)):

Denver (2023): \$17.29/hr
Berkeley (2022): \$16.99

Emeryville (2022): \$17.68
San Francisco (2022): \$16.99
Oakland (2023): \$15.97

This means that RAPs in these locations are currently paying this level of wages to apprentices when they *first* enter an apprenticeship. Since apprentices earn progressively higher wages as they advance through their program, by the time they are in the last stage of their program, their employers are by definition paying them more than these minimum wages.

**RESPONSES TO ADDITIONAL QUESTIONS ASKED IN OA WAGE GUIDANCE
AND IN OTHER SUBCOMMITTEES' COMMENTS**

1. As OA noted in its Wage Guidance, before any programs (and the occupations covered by those programs) are registered, an occupation must be deemed to be apprenticeable. DOL sought to clarify that the ACA's recommendation regarding wages would apply to DOL's review of proposed apprenticeable occupations such that DOL would approve an occupation as suitable for apprenticeship upon the prospective sponsor demonstrating that the wage profile for that occupation upon completion of the apprenticeship meets a certain threshold. Individual programs that register programs utilizing those occupations would then be expected to propose a wage schedule in accordance with that occupational profile. DOL suggests that this is the most feasible way to implement any recommendations regarding wages.

We intend the apprenticeability-determination process to proceed in the way that DOL outlines, with the *caveat* that the determination must be based on local living standards. Thus, the wage profile for the occupation must be for the particular location(s) in which the prospective sponsor operates its RAP(s), and the sponsors that register programs utilizing that occupation would be expected to propose a wage schedule in accordance with that location-specific wage profile.

If the above approach proves unworkable, we suggest that OA instead add the requirement of "living wage based on local living standards" and the definition of that phrase to the required contents of RAPs' Standards under 29 CFR § 29.5. For example, Group 1 of the IENES Subcommittee suggested a mechanism involving Registration Agencies' approval of prospective RA sponsors' applications for registration: that only apprenticeship programs that, at a minimum, pay their participants a living wage by the last stage of their program participation may be approved.

2. We agree with OA that a workable model for achieving a living wage by the last stage of an apprenticeship prior to completion is for DOL to recognize apprenticeable occupations that propose to embed interim credentials (and off-ramps) as part of an occupation that meets the overall wage criteria: in other words, stackable credentials, not stackable apprenticeships.

3. Time Periods to Apply Wage Standards. DOL asks if there is a corresponding standard that we are seeking to establish for apprentices *during* their apprenticeships. The answer is no. If OA wishes to suggest such a standard, nothing in this recommendation would interfere with its doing so.
4. OA asks how this recommended standards would apply to in-school (16-18) youth participating in youth apprenticeship programs (vs. an individual aged 18-24 participating in a RA program). The recommendation applies in the same way to all RAPs and to all registered apprentices, regardless of age or matriculation status. Such broad application will both ensure that young adults are able to support themselves (and their children – many in-school youth are themselves parents of young children) while avoiding any potentially exploitative child labor practice. We note that to the extent that in-school youth work for employers for fewer hours per week than apprentices who are not in school, their wages (as opposed to their wage rates) will be lower.
5. Group 2 of the IENES Subcommittee asks whether existing apprenticeable occupations that do not meet the new wage standard for apprenticeability would be “grandfathered” in. The Group points out that, on the one hand, grandfathering existing occupations in could put an unfair and unreasonable burden on new occupations; but on the other, if they are not grandfathered in, there would need to be a system through which currently apprenticeable occupations could be “recertified” as apprenticeable once having proven they meet the new wages requirement and infrastructure in place to execute that system. These are considerations that OA should take into account as it decides the implementation issues outlined in Paragraph 2 of the Resolution.
6. Group 2 of the IENES Subcommittee suggests that rather than applying a wage threshold to apprenticeability determinations, DOL should apply a formula that includes whether the occupation is part of a pathway that *leads to* family-sustaining wages and whether the *journey*-level wage equals the threshold (among other criteria).

As to the first criterion, even if an occupation leads to family-sustaining wages – i.e., is part of a pathway of “stackable apprenticeships” -- there is no assurance that an apprentice in that program will take the next steps to enter into the next apprenticeship on the pathway, or the apprenticeship after that. Nor is there any guarantee that there will be openings in the next apprenticeships on the pathway for an apprentice in the first program or that an apprentice from the first program will be accepted into the next program(s) on the pathway. On the other hand, if it is all one apprenticeship (in the “stackable credentials” model mentioned above), at least some of that uncertainty is removed – by definition, the apprentice who enters and succeeds at the first level is guaranteed a place at the next level, etc.

As to the second criterion, it proves either too much or too little. If the journey-level wage equals a family-sustaining wage, then the wage for the apprentice at the last stage of their apprenticeship will be so close to the journey-level, family-sustaining wage that it would be almost as difficult for the RAP employer to pay as paying the family-sustaining wage would be – indeed, in RAPs in traditional-apprenticeship occupations, the journey-level wage is usually set at 90% or 95% of the journey-level wage. On the other hand, if the family-sustaining, journey-level wage is significantly higher than the wage for the apprentice at the last stage of their apprenticeship, it would be unlikely for there to be more than a few journey-level jobs for the apprentices to get upon completion, for the same reasons that the last stage of apprenticeships to train for those occupations doesn't pay a family-sustaining wage. There would be little point in going into an apprenticeship which results in little likelihood of landing a family-sustaining job at the end.

7. Group 2 states that requiring apprenticeship programs to achieve living or family-sustaining wages before program completion could lead to the opposite of DOL's goal of encouraging more industries and companies to adopt Registered Apprenticeships. Even if that is true, we do not agree that DOL's primary goal is or should be to encourage more industries and companies to adopt RAPs regardless of wages or any other impact on the well-being of apprentices. To the contrary, the Fitzgerald Act, which initially established RA in federal law, authorizes the Secretary of Labor "to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices." While this provision also promotes extension of "application of such standards by encouraging the inclusion thereof in contracts of apprenticeship, to bring together employers and labor for the formulation of programs of apprenticeship, [and] to cooperate with State agencies engaged in the formulation and promotion of standards of apprenticeship," nowhere does it sanction extension of RA through approval of standards that do not "safeguard the welfare of apprentices."
8. Group 2 asks how a wage standard based on family structure would apply to an apprenticeship in which the apprentices represent a variety of family structures. We agree that a wage standard cannot result in two apprentices who enter the same program being paid at different rates based on their particular family structure. However, Group 2's question fundamentally misapprehends how wage standards work. Like the minimum and prevailing wage, the living wage applies to all covered employees, regardless of their family structures. Family structure may be used to determine what the living wage would be – but once it is determined, the wage would apply in the same way to all covered employees. Thus, Group 2's criticism that "using a family structure to determine appropriate wages for an apprentice would disproportionately and negatively impact workers who are parents [and] disincentivize employers from hiring parents" is not an accurate statement. For the same reason, Group 2's argument that use of family structure to determine the living wage could give rise to "constitutional issues or civil rights or EEO violations" is not accurate.

9. Group 2 argues that “it is impractical to apply a requirement to employers, as wages are currently only recommended in the Schedule D of Apprenticeship Standards.” To the contrary, Schedule D of Apprenticeship Standards (the Employer Acceptance Agreement template) specifically *requires* participating employers to “subscribe[] to the provisions of the Apprenticeship Standards ... and agree[] to carry out the intent and purpose of said Standards...and accompanying Appendices,” and Appendix A of the Standards contains the progressive wage schedule outlining the wages that the participating employers must pay.
10. Finally, Group 2 asserts that “there would be a marketing problem if employers were told what they are required to pay in order to work with registered apprenticeships.” Participating employers in a Group apprenticeship are already told what they must pay by the sponsor, with the Registration Agency’s approval and through negotiation with the union if it is a joint program. The employer in an Individual Joint apprenticeship similarly sets the wages with the Registration Agency’s approval and through negotiation with the union. The employer in an Individual Non-Joint program must only get the approval of the Registration Agency for the wages it sets.

But in all these cases, there is a floor below which the wages cannot drop: the employer is required to pay the highest of the federal (or state, if there is one) minimum wage; the prevailing wage (if the work is on a Davis-Bacon-covered or similar contract); and the city/county living wage (if there is one, and if the work is funded by city/county contracts). The recommendation simply adds another floor: 200% of the federal poverty wage for a family of three, adjusted by a geographic cost-of-living differential for regions where the cost of living exceeds the federal average.

Guidance to ACA on the Topics of Wages with regards to Registered Apprenticeship programs

During the March 30th meeting, the ACA voted to approve the following recommendation:

1. A registered apprenticeship must end in a family sustaining wage.

The ACA also agreed that the subcommittees should consider any implications of this recommendation for the further development of their issue papers. Given the limited time available before the ACA submits its final issue papers, the Department provides the following additional guidance to the ACA and the subcommittees to use in developing any additional recommendations related to wages and Registered Apprenticeship.

1. **Recommendations should focus more on goals and principles than those that focus on a specific means of implementation.** In general, recommendations that are clear about their intended goal or underlying principle are typically more helpful than those that recommend a specific form of implementation. There are many factors that go into implementation of any recommendation ranging from resources, legal constraints, capacity, feasibility, etc. DOL would prefer to receive strategic recommendations that allow for flexibility in terms of the means of implementation of the recommendation vs. too specific a mechanism for implementation. This is general guidance that typically would apply to any recommendation. For example, rather than focusing on which tool DOL should utilize regarding wages, DOL prefers that the ACA identify the criteria the Department should use in evaluating various tools and could provide examples of tools that meet aspects of the criteria.
2. **Clarifying that a Wage Threshold would primarily apply to Apprenticeability (vs. Individual Programs).** While much of the ACA discussion and recommendation revolved around approving programs, DOL is seeking to clarify that this discussion actually applies to the current apprenticeability process. Before any programs (and the occupations covered by those programs) are registered, an occupation must be deemed to be apprenticeable. DOL is clarifying that the ACA's recommendation regarding wages would apply to DOL's review of proposed apprenticeable occupations such that DOL would approve an occupation as suitable for apprenticeship upon the prospective sponsor demonstrating that the wage profile for that occupation upon completion of the apprenticeship meets a certain threshold. Individual programs that register programs utilizing those occupations would then be expected to propose a wage schedule in accordance with that occupational profile. DOL suggests that the Committee should consider this as the most feasible way to implement any recommendations regarding wages.
3. **Interim (Stackable) Credentials not Stackable Apprenticeships.** Given the vote and subsequent discussion held at the March 30th meeting, there also appeared to be an emerging consensus of an approach that would recommend that DOL could recognize apprenticeable occupations that propose to embed interim credentials (and off-ramps) as part of the occupation that met the overall wage criteria. DOL believes this is a workable approach and would encourage the ACA to develop recommendations that would enable these kind of models. An example of this approach (for illustration only) could include the following:
 - Approved Apprenticeable Occupation: Early Head Start Director (meets wage threshold)
 - Interim Credential(s) to be Obtained: ECE Instructor Certificate

4. **Other Specific Wage Related Issues to be clarified.** Given general guidance above to provide goals/principles vs. specific implementation methods, DOL is seeking further clarity on:
- *Living Wage vs. Family Sustaining Wage.* These are very different standards that can vary widely by family size, geography, etc. and could present a wide range of implementation challenges. Why did the ACA specifically propose family sustaining wages as the wage threshold? What is (are) the overall goal(s) or principle(s) the ACA is seeking to achieve for apprentices in establishing a wage threshold that DOL can utilize moving forward?
 - *Time Periods to Apply Wage Standards.* Given the challenges of DOL imposing a wage standard across industries, is there a corresponding standard the ACA is seeking to establish for apprentices during their apprenticeship (living wage?)?
 - *Apprentices in “Youth Apprenticeship Models.”* How might these standards apply to in-school (16-18) youth participating in youth apprenticeship programs (vs. an individual aged 18-24 participating in a RA program)? How would a wage standard apply to in-school youth?

We hope this guidance is helpful as you move forward in finalizing your issue papers and recommendations. If you have any questions, please reach out to the ACA Chairs. Thank you.