



Appendix C

REFERENCE GUIDE

AS REQUIRED UNDER 29 CODE OF FEDERAL REGULATIONS PART 30

**DEVELOPED IN COOPERATION WITH THE
U. S. DEPARTMENT OF LABOR
OFFICE OF APPRENTICESHIP**



BACKGROUND

What is an Affirmative Action Program (AAP)?

An AAP is a tool designed to assist a sponsor in detecting, diagnosing, and correcting any barriers to equal opportunity that may exist in its apprenticeship program. AAPs are designed to promote and ensure equal opportunity in apprenticeship for all workers, including women, minorities, and individuals with disabilities and can assist sponsors in building the skilled and diverse workforce needed to compete in the global economy. Communities can also benefit from this proven model to develop talent pipelines for high-growth industries.

An AAP requires the sponsor to take affirmative steps to encourage and promote equal opportunity, to create an environment free from discrimination, and to address any barriers to equal opportunity in apprenticeship. An AAP also helps the sponsor identify and address underutilization and helps the sponsor establish procedures to monitor and examine its employment practices and decisions with respect to apprenticeship. As part of an AAP, sponsors must create and maintain a written Affirmative Action Plan (such as this Appendix C) that memorializes and discusses the contents of the program.

Which sponsors must establish an AAP?

Ordinarily, a registered apprenticeship program sponsor must develop its own AAP, even if individual employers who may be participating in the sponsor's program maintain their own AAPs. However, the Department's regulation at 29 CFR Part 30 on equal employment opportunity in apprenticeship provides **two exemptions** from the requirement to establish and maintain an AAP:

- If a program has fewer than five apprentices (this exemption is based on *the number of apprentices per program sponsor -- not per participating employer*); or
- If a program can demonstrate that it has an affirmative action plan covering apprentices, including the use of goals for underrepresented groups, that currently meets the requirements of either: (a) Executive Order 11246 **and** section 503 of the Rehabilitation Act (administered by the Department's Office of Federal Contract Compliance Programs (OFCCP)); **or** (b) title VII of the Civil Rights Act of 1964 (administered by the Equal Employment Opportunity Commission (EEOC)), provided that the sponsor has extended the affirmative action plan to include individuals with disabilities. Additionally, apprenticeship programs will qualify for this exception only if the goals for any underrepresented group are likely to be equal to or greater than the goals required under the final rule.

Please note that, even if a registered apprenticeship program sponsor satisfies one of the two exemptions listed above, the sponsor must comply with the other requirements contained in the equal employment opportunity (EEO) in apprenticeship final rule at 29 CFR part 30.



By when must a sponsor complete its initial written AAP?

For a new sponsor of an apprenticeship program (as well as for existing sponsors who registered their apprenticeship programs after January 18, 2017), the deadline for completing an initial written AAP is **two years after their registration date**. Sponsors who have registered their apprenticeship programs in an SAA state should contact their local Registration Agency for more information concerning the applicable AAP compliance deadlines in that state.

What other compliance deadlines must a sponsor meet under an AAP?

By the program's **two-year registration anniversary date**, a sponsor must also have conducted an initial review of personnel practices (see Section VII of Appendix C), an initial workforce analysis for race, sex, and ethnicity (see Section I.A. of Appendix C), and a separate workforce analysis for individuals with disabilities (see Section V of Appendix C). Similarly, by the program's two-year registration anniversary, the sponsor must have begun issuing invitations to apprentices and program applicants to self-identify as individuals with disabilities (IWDs).

Under an AAP, the sponsor's review of its personnel practices must occur **on an annual basis**. Additional workforce analyses for race, sex, and ethnicity must be undertaken by the sponsor during each EEO **compliance review** (described below) that is conducted by the Registration Agency, and again in **three years** if there has been no intervening compliance review. Similarly, a workforce analysis for IWDs must be undertaken by the sponsor during each EEO compliance review conducted by the Registration Agency, and again in three years if there has been no intervening compliance review. Sponsors must also remind apprentices on a yearly basis that they may voluntarily update their disability status.

What is an EEO compliance review?

An EEO compliance review of a sponsor's apprenticeship program is a review conducted by a Registration Agency of the sponsor's compliance with the provisions of 29 CFR part 30, including the nondiscrimination obligations and other provisions that apply to all sponsors (which are covered at apprenticeship program reviews); and provisions regarding AAPs that apply only to sponsors that have five or more apprentices or are not otherwise exempt from the affirmative-action requirement (which are covered at extended apprenticeship program reviews).

Reviews are conducted at regular intervals, and may consist of (but are not limited to) comprehensive analyses and evaluations of each aspect of the program through off-site reviews, such as desk audits of records submitted to the Registration Agency, and on-site reviews conducted at the sponsor's establishment that may involve examination of records, inspection and copying of documents, and interviews with employees, apprentices, journeyworkers (i.e., experienced workers), supervisors, managers, and hiring officials. As part of the EEO compliance review process, the Registration Agency will



provide technical assistance to sponsors in conducting the required availability and utilization analyses described immediately below.

What specific analyses must a sponsor conduct in connection with an AAP, and when must these be undertaken?

First, as noted above, each sponsor will conduct a **workforce analysis** within two years of the program's registration. Subsequent workforce analyses should be undertaken at the time of each subsequent program review (or at least once every three years if a program review does not take place). The workforce analysis simply identifies the racial, sex, and ethnic composition of its apprenticeship workforce (as stated above, a separate analysis needs to be conducted at this time to identify the apprentices in each program with disabilities). The EEO in apprenticeship regulation focuses the workforce analysis so that it is conducted at the **occupational title** level.

Second, at the time of the program's first program review after the second anniversary of registration and at each program review thereafter, the sponsor will conduct (with the assistance of the Registration Agency) an **availability analysis** (see Section II of Appendix C). The purpose of the availability analysis is to determine the racial, sex, and ethnic representation of qualified individuals available for apprenticeship in the relevant recruitment area. This analysis, which is conducted at the **major occupation group** level, will yield an availability figure for each major occupation group represented in the sponsor's apprenticeship program.

Finally, at the time of the program's first program review after the second anniversary of registration, the sponsor will compare (with the assistance of the Registration Agency) the racial, sex, and ethnic representation of its apprenticeship workforce to the racial, sex, and ethnic representation of qualified individuals available for apprenticeship in the relevant recruitment area. The comparison of these demographic profiles is referred to as a "**utilization analysis**." (see Section III of Appendix C). If the utilization analysis reveals that the representation of qualified women or racial or ethnic minorities in the sponsor's apprenticeship workforce is significantly lower than would be expected compared with the relevant labor market, then the sponsor must establish utilization goals and engage in targeted outreach, recruitment, and retention activities to meet these goals (see Sections IV and VI of Appendix C).

Why do sponsors who develop AAPs have to analyze their apprenticeship workforces twice: first by occupational title; and then by major occupational group?

The rule provides for utilization analyses by major occupational group to provide a larger data set for comparing to the availability data and deciding whether or not goals need to be established. For many programs, a utilization analysis at the occupational title level would not be very helpful, because there are not many apprentices within each occupation.

The regulations require use of the more granular occupational title data when sponsors perform internal analyses of their workforces, such as during their annual reviews of personnel practices. Having data broken down by occupational title allows sponsors to review their apprentice workforces at a deeper level that could be overlooked when combined in the utilization analysis.



How can a sponsor determine the availability of qualified individuals within its recruitment area?

The availability analysis looks at the racial, sex, and ethnic breakdown of these available individuals. Individuals are considered available if they meet the basic qualifications for enrollment in the apprenticeship program. Registration Agencies work closely with each sponsor at their regular compliance reviews (described above) to develop and conduct an availability analysis.

To determine availability, sponsors must examine the following two factors for each major occupation group in its apprenticeship program:

- The percentage of individuals who are eligible for enrollment in the apprenticeship program within the sponsor's relevant recruitment area - broken down by race, sex, and ethnicity; and
- The percentage of the sponsor's employees who are eligible for enrollment in the apprenticeship program - broken down by race, sex, and ethnicity.

At what point does a sponsor have to establish a utilization goal for race, sex, or ethnicity?

A sponsor is "underutilized" when the percentage of women, Hispanics or Latinos, or individuals of a particular racial minority group in the sponsor's program is significantly less than would be reasonably expected given the availability of such individuals for apprenticeship. If the sponsor finds that its program's percentage of apprentices of a particular race, sex, or ethnicity falls significantly below that group's availability in the relevant recruitment area, it must establish a utilization goal.

What is the significance of a program sponsor's adoption of a utilization goal?

A sponsor's adoption of a utilization goal (or goals) as part of an AAP constitutes neither a finding nor an admission of discrimination. Utilization goals are used to measure the effectiveness of the sponsor's outreach, recruitment, and retention efforts. Utilization goals are not rigid and inflexible quotas that must be met, nor are they to be considered either a ceiling or a floor for the selection of particular groups as apprentices. Quotas are expressly forbidden. 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. Utilization goals do not create "set-asides" for specific groups, nor are they intended to achieve proportional representation or equal results. Utilization goals may not be used to supersede eligibility requirements for apprenticeship, and do not require sponsors to select a person who lacks qualifications to participate in the apprenticeship program or to select a less qualified person in preference to a more qualified one.



How can a sponsor know if it is meeting its utilization goals?

Sponsors will work with the Registration Agency at each compliance review to establish or review utilization goals. Sponsors then compare their workforce analyses to the goals to determine if they are meeting their goals.

What happens if an apprenticeship program doesn't reach its utilization goals?

If the Registration Agency determines that a sponsor is not meeting its utilization goal(s), the Registration Agency will work with that sponsor to identify potential problem areas in the program and devise action-oriented programs, such as engaging in more targeted outreach, recruitment, and retention activities.

Failure to meet utilization goals will not, in and of itself, result in any enforcement actions or sanctions. A sponsor's compliance with the final rule will be determined based upon the sponsor's good faith efforts to eliminate impediments to equal employment opportunity and not purely on whether it has met its goals. The Registration Agency will look at the totality of the sponsor's affirmative action efforts to determine whether it is in compliance with its affirmative action obligations.

For programs in which individuals with disabilities comprise less than 7% of the apprentice workforce, sponsors will need to determine if the program's policies or practices create impediments to participation. If impediments to equal opportunities for individuals with disabilities do exist, the sponsor is required to undertake targeted outreach, recruitment and retention activities that are likely to generate an increase in applications from, and improve the retention of individuals with, disabilities (see Section V of Appendix C).

Should a sponsor include journeyworkers (i.e., experienced workers) in its analyses?

Generally, no it should not. If journeyworkers are eligible for enrollment in the apprenticeship program, those workers should be included within the sponsor's availability analysis. But journeyworkers that the sponsor currently employs should not be included in the sponsor's workforce analysis.

When the sponsor is a community college or business association that places apprentices with participating employers, what data should be included in the AAP – the sponsor's apprentice workforce data or the participating employers' data?

The workforce that should be analyzed for the AAP is the sponsor's apprentice workforce – whether those apprentices are employed by the sponsor or by participating employers.

What is the Demographic Analysis Tool, and how can it assist a program sponsor in conducting an AAP utilization analysis?

The Demographic Analysis Tool (DAT) is a sophisticated electronic platform established by the U.S. Department of Labor to assist eligible sponsors and Registration Agency staff in conducting the



mathematical calculations involved in the availability and utilization analyses required by the EEO in apprenticeship regulation at 29 CFR Part 30. The DAT facilitates this demographic analysis by comparing the sponsor's data concerning the racial, sex, and ethnic composition of its current apprenticeship workforce with the availability of qualified individuals in the relevant labor market. Utilizing relevant U.S. Census Bureau data, the DAT produces a report indicating whether women or racial or ethnic minorities in the sponsor's workforce are (or are not) significantly underrepresented compared with their availability in the relevant labor market. The complementary Universal Outreach Tool (UOT) can help connect sponsors with local organizations who may be able to assist sponsors in meeting their goals. The UOT may be viewed at: <https://apprenticeshipusa.secure.force.com/eoresourceool>.

(Please review the instructions for Section III A. of Appendix C for more information on which sponsors are eligible to use the DAT, and how to access it).

Which sponsors are required to conduct annual reviews of personnel practices, and what should be included in those reviews?

All sponsors that are required to develop an AAP must also conduct an annual review of their personnel practices to help ensure the program is free from unlawful discrimination. This review must be a careful, thorough, and systematic review of all aspects of the apprenticeship program at the program, industry and occupation level. The review includes, but is not limited to, the qualifications of apprentices, application and selection procedures, wages, outreach and recruitment activities, advancement opportunities, promotions, work assignments, job performance, rotations among all work processes of the occupation, disciplinary actions, handling of requests for reasonable accommodations, and the program's accessibility to individuals with disabilities. The AAP must include a description of the review the sponsor undertook and any modifications it made to its practices as a result of the review.



ATTACHMENT 1: DEFINITIONS OF RELEVANT RACIAL AND ETHNIC GROUPS ¹

HISP = Hispanic

A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term, "Spanish origin," can be used in addition to "Hispanic or Latino."

AA = African American/Black

A person having origins in any of the Black racial groups of Africa. It includes people who indicate their race as "Black or African American," or report entries such as African American, Kenyan, Nigerian, or Haitian.

AS = Asian

A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam. This includes people who reported detailed Asian responses such as: "Asian Indian," "Chinese," "Filipino," "Korean," "Japanese," "Vietnamese," and "Other Asian" or provide other detailed Asian responses.

AIAN = American Indian or Alaska Native

A person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment. This category includes people who indicate their race as "American Indian or Alaska Native" or report entries such as Navajo, Blackfeet, Inupiat, Yup'ik, or Central American Indian groups or South American Indian groups.

NHPI = Native Hawaiian or Other Pacific Islander

A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands. It includes people who reported their race as "Fijian," "Guamanian or Chamorro," "Marshallese," "Native Hawaiian," "Samoan," "Tongan," and "Other Pacific Islander" or provide other detailed Pacific Islander responses.

White

A person having origins in any of the original peoples of Europe, the Middle East, or North Africa. It includes people who indicate their race as "White" or report entries such as Irish, German, Italian, Lebanese, Arab, Moroccan, or Caucasian.

¹ The definitions in this Attachment are from the U.S. Department of Labor's Registration and Equal Employment Opportunity in Apprenticeship Programs Information Collection Request (OMB Control No. 1205-0223), ETA 671 Section II, https://www.reginfo.gov/public/do/PRAICList?ref_nbr=202104-1205-001.



ATTACHMENT 2: STANDARD OCCUPATIONAL CLASSIFICATION AND CODING STRUCTURE (SOC)

Major Occupation Groups

The Standard Occupational Classification (SOC) system is a [federal statistical standard](#) that enables federal agencies to combine related occupational titles. To facilitate classification, these detailed occupations are combined to form 23 major occupational groups. These groups comprise the highest-level classification in the SOC and are designated by the two-digit SOC code and the two-digit prefix of the O*NET code. These 23 major occupational groups are listed below and can be accessed at the following link: <https://www.bls.gov/soc/> (accessed 3/9/19).

2018 Major Occupation Groups

See the following link: https://www.bls.gov/soc/2018/major_groups.htm (accessed 3/9/19):

Each individual occupational title contained in the 2018 SOC is classified within one of the following 23 major occupational groups:

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| 11 | Management Occupations | 35 | Food Preparation and Serving Related Occupations |
| 13 | Business and Financial Operations Occupations | 37 | Building and Grounds Cleaning and Maintenance Occupations |
| 15 | Computer and Mathematical Occupations | 39 | Personal Care and Service Occupations |
| 17 | Architecture and Engineering Occupations | 41 | Sales and Related Occupations |
| 19 | Life, Physical, and Social Science Occupations | 43 | Office and Administrative Support Occupations |
| 21 | Community and Social Service Occupations | 45 | Farming, Fishing, and Forestry Occupations |
| 23 | Legal Occupations | 47 | Construction and Extraction Occupations |
| 25 | Educational Instruction and Library Occupations | 49 | Installation, Maintenance, and Repair Occupations |
| 27 | Arts, Design, Entertainment, Sports, and Media Occupations | 51 | Production Occupations |
| 29 | Healthcare Practitioners and Technical Occupations | 53 | Transportation and Material Moving Occupations |
| 31 | Healthcare Support Occupations | 55 | Military Specific Occupations |
| 33 | Protective Service Occupations | | |



ATTACHMENT 3: DEFINITIONS OF U.S. CENSUS BUREAU GEOGRAPHICAL CATEGORIES ²

State The primary legal subdivision of the United States. The District of Columbia, Puerto Rico, and the Island Areas (the U.S. Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands) are each treated as the statistical equivalent of a state for census purposes.

County The primary legal subdivision of most states. In Louisiana, these subdivisions are known as parishes. In Alaska, which has no counties, the county equivalents are boroughs, a legal subdivision, and census areas, a statistical subdivision. In four states (Maryland, Missouri, Nevada and Virginia), there are one or more cities that are independent of any county and thus constitute primary subdivisions of their states. The District of Columbia has no primary divisions, and the entire area is considered equivalent to a county for statistical purposes. In Puerto Rico, *municipios* are treated as county equivalents.

² Except where otherwise noted, the definitions in this Attachment are from U.S. Census Bureau, American FactFinder, Glossary, <https://factfinder.census.gov/help/en/index.htm#glossary.htm>.