CIRCULAR 2020-03September 17, 2020

|  |  |  |
| --- | --- | --- |
| U.S. Department of LaborEmployment and Training Administration, Office of Apprenticeship (OA) Washington, D.C. 20210 | Distribution:A-541 HdqtrsA-544 All Field TechA-547 SD+RD+SAA+;Lab.Com | Subject: Guidance on theApplicability of the Supportfor Veterans in EffectiveApprenticeships Act of 2019(Public Law 116-134, 134Stat. 277) to StateApprenticeship AgenciesCode: 400.1  |
| Symbols: DRAP/ASR | Action: Immediate |
| **PURPOSE**: To provide guidance to the staff of Registration Agencies (i.e., OA and State Apprenticeship Agencies (SAAs)), Registered Apprenticeship program sponsors, Registered Apprenticeship partners, and other interested parties on the applicability of the Support for Veterans in Effective Apprenticeships Act of 2019 (Public Law 116-134, 134 Stat. 277) to SAAs, and on possible approaches for implementation of the Act’s requirements by SAAs.  **BACKGROUND**: The Support for Veterans in Effective Apprenticeships Act of 2019 (the Act), which was signed by President Donald J. Trump on March 26, 2020, is intended to increase access for veterans and other eligible individuals to certain educational assistance (i.e., G.I. Bill benefits and other VA-administered educational benefits) in connection with apprenticeship programs registered pursuant to the National Apprenticeship Act of 1937 (29 U.S.C. section 50) and its implementing regulations at 29 CFR part 29, subpart A. Section 2(a) of the Act defines a Registered Apprenticeship program as an apprenticeship program registered under the National Apprenticeship Act (NAA).  Under the U.S. Department of Labor’s (Department’s or DOL’s) regulations implementing the NAA the term “Registration Agency” is defined as “the Office of Apprenticeship or a recognized SAA that has responsibility for registering apprenticeship programs and apprentices . . .” 29 CFR § 29.2. Because the Act’s requirements apply to all programs registered under the NAA, the Department takes the position that the substantive requirements of the Act are applicable to apprenticeship programs registered by SAAs as well as those registered by the OA Administrator.  While the language of section 2(b) of the Act stipulates that the Secretary of Labor (Secretary) will undertake the relevant actions with respect to implementation of the Act’s requirements, the Department’s interpretation of the Act is that Congress did not intend to limit the scope or applicability of the Act to only those apprenticeship programs registered by the Secretary. There is no indication that Congress intended to adopt such a limitation in the Act, and Congress’ use of similar language in previously enacted laws (such as the Workforce Innovation and Opportunity Act (WIOA)) to define and reference the full universe of Registered Apprenticeship programs, regardless of whether such programs were registered by the Department’s OA or by an SAA, suggests section 2(b) should not be read so narrowly. In addition, OA’s regulations allow SAAs to exercise the authority to register programs under the NAA, further supporting the broader reading of this section. Thus the Department believes that it is reasonable to require SAAs, as well as OA, to adhere to the requirements of the Act. Section 2(b) of the Act also stipulates that the requirements of the Act shall apply to “any program applying to become a registered apprenticeship program on or after the date that is 180 days after the date of enactment of this Act” (i.e., September 22, 2020). Accordingly, apprenticeship programs that were registered by a Registration Agency before September 22, 2020 are not subject to the Act’s requirements. **IMPLEMENTATION OF THE ACT’S REQUIREMENTS BY REGISTRATION AGENCIES**: In order to implement the Act’s substantive requirements at the federal level, OA has determined that a combination of sub-regulatory approaches are appropriate and feasible. As noted in the section-by-section summary below, these implementation methods – which will involve such actions as the issuance of policy circulars, the modification of existing program registration forms and boilerplate standards of apprenticeship, and the development of an internal Standard Operating Procedure – will vary depending upon the particular provision of the Act involved. The section-by-section summary of the substantive provisions of the Act also offers suggestions to SAAs on possible methods for implementation; SAAs may also wish to consult with their respective legal counsels to confirm what measures are best adapted to achieving implementation of the Act’s requirements in their respective jurisdictions.**Section 2(b)(1)** -- Section 2(b)(1) of the Act requires Registered Apprenticeship program sponsors to provide a written assurance that the sponsor: (1) is aware of the availability of Title 38 educational assistance for veterans and other eligible individuals; (2) will make a good faith effort to obtain approval for such educational assistance for each program location that recruits or employs a veteran or other eligible individual; and (3) will not deny the application of a qualified apprenticeship applicant who is a veteran or other individual qualified for Title 38 educational benefits for the purpose of avoiding making a good faith effort to obtain approval for such benefits.  * *DOL Approach to Implementation*: The Department intends to implement the requirements contained in section 2(b)(1) of the Act by revising ETA Form 671 (Program Registration and Apprenticeship Agreement) to include a formal sponsor attestation that will serve as a written assurance and acknowledgement that the sponsor will comply with the foregoing statutory requirement, and by updating its “boilerplate” standards of apprenticeship for program sponsors so that those documents include the same written assurance.
* *Recommended SAA Approach to Implementation*:The Department

recommends that SAAs update their program registration forms to include an attestation by program sponsors that will serve as a written assurance and acknowledgement that the sponsor will comply with the statutory requirement contained in section 2(b)(1) of the Act, and to advise sponsors to include such acknowledgements and assurances in their apprenticeship program standards as well.   **Section 2(b)(2)** -- Section 2(b)(2) of the Act requires the sponsors of Registered Apprenticeship programs, to the extent practicable, to provide standards that grant advanced standing or credit, and provide increased wages commensurate to such standing or credit, for any veteran or other individual eligible for educational assistance under chapters 30 through 36 of title 38, United States Code, provided that such an eligible individual: (1) is enrolled in the registered apprenticeship program; and (2) has a demonstrated competence applicable to the apprenticeship occupation, or has acquired experience, training, or skills through military service that is applicable to the apprenticeship occupation.  The Department notes that 29 CFR §§ 29.5(b)(5) and (b)(12), governing the provision of progressive wages and the granting of advanced standing and credit, apply to all qualified apprentices and apprenticeship candidates – irrespective of whether such individuals are veterans or other individuals eligible for Title 38 educational benefits. Nevertheless, in implementing the requirements of section 2(b)(2) of the Act, the Department reaffirms and emphasizes that the specialized experience, skills, and training acquired by veterans and other individuals eligible for Title 38 educational benefits must be given appropriate consideration and weight by Registered Apprenticeship program sponsors in determining the granting of advanced standing or credit and increased wages to such persons. * *DOL Approach to Implementation*: The Department intends to implement the requirements contained in section 2(b)(2) of the Act by issuing a separate policy circular that provides program sponsors (and providers of related instruction (RI)) with strategies for developing flexible apprenticeship standards that facilitate the recognition and translation of veteran apprentices’ service-acquired skills and experiences into advanced program standing, academic credit, and a higher apprenticeship wage increment.
* *Recommended SAA Approach to Implementation*: OA urges SAAs to consider the strategies and approaches for implementation of section 2(b)(2) of the Act outlined in this separate OA circular in providing guidance and advice to program sponsors and RI providers with respect to implementation of this requirement of the Act.

**Section 2(b)(3)** -- Section 2(b)(3) of the Act requires that, when a Registered Apprenticeship program is approved by OA or by an SAA, a copy of the program’s Certificate of Registration must be provided to the State Approving Agency (i.e., the agency that has a signed Cooperative Agreement with the U.S. Department of Veterans Affairs (VA)) in the state where the program is located. * *DOL Approach to Implementation*: The Department intends to address section 2(b)(3) of the Act by developing a Standard Operating Procedure (SOP) that will outline a regular process for OA’s transmittal of such Certificates of Registration to the appropriate State Approving Agency, with an additional copy of the certificate sent to the VA.
* *Recommended SAA Approach to Implementation*: The Department

recommends that SAAs continue to maintain or establish a liaison with the State Approving Agencies in their respective jurisdictions in order to develop workable procedures for the transmittal of such Certificates of Registration. **OA REVIEW OF SAA IMPLEMENTATION ACTIONS:** Pursuant to 29 CFR § 29.13(b)(9), SAAs are required to submit “all proposed modifications in legislation, regulations, policies and/or operational procedures planned or anticipated by a State Apprenticeship Agency, either at the time of application for recognition or subsequently, to the Office of Apprenticeship for review and obtain the Office of Apprenticeship’s concurrence prior to implementation.” Accordingly, SAAs adopting such modifications to implement the requirements of the Act are advised to provide these adjustments to OA promptly to ensure that the modifications conform with both the Act and the content of this Circular. **ACTION**: SAAs, OA staff, sponsors of Registered Apprenticeship programs, Registered Apprenticeship partners, and other interested persons should familiarize themselves with the information and guidance contained in this Circular. Interested persons should contact OA if they have questions about the Act or the content of this Circular.  **EFFECTIVE DATE**: As the Act’s requirements must be implemented within 180 days after the date of enactment, this circular shall be effective as of September 22, 2020 or the date listed at the beginning of this circular, whichever is earlier. **FOR MORE INFORMATION CONTACT**: Mr. Andrew Ridgeway, Division Chief, Division of Registered Apprenticeship and Policy (DRAP), at (202) 693-3536.  |