

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Registered Apprenticeship
	CORRESPONDENCE SYMBOL OA
	DATE February 16, 2022

ADVISORY: OFFICE OF APPRENTICESHIP CIRCULAR NO. 2022-01

TO: NATIONAL APPRENTICESHIP SYSTEM STAKEHOLDERS
OFFICE OF APPRENTICESHIP STAFF
STATE APPRENTICESHIP AGENCIES

FROM: JOHN V. LADD /s/
Administrator, Office of Apprenticeship

SUBJECT: Updated Guidance – Minimum National Program Standards for Registered Apprenticeship Programs

1. Purpose

This policy guidance, which supersedes and replaces OA Circular 2018-01, provides updated criteria that will be considered to determine whether an apprenticeship program registered by OA satisfies the minimum requirements for National Program Standards (NPS) for apprenticeship. This guidance also provides the “minimum national program standards” that the Department of Veterans Affairs (VA) and State Approving Agencies must look to in implementing Section 2 of the Veterans Apprenticeship and Labor Opportunity Reform (VALOR) Act, Pub. L. 115-89.

Note: For purposes of this Circular, the term “State” means any of the 50 States of the United States, the District of Columbia, or any Territory or possession of the United States (see the definition of “State” at 29 CFR section 29.2).

2. Action Requested

The U.S. Department of Labor’s (DOL) Employment and Training Administration’s (ETA) Office of Apprenticeship (OA) requests Registered Apprenticeship stakeholders to familiarize themselves with this guidance. This circular is being sent via electronic mail, and the information in this circular supersedes and replaces the policy guidance provided in OA Circular 2018-01.

3. Summary and Background

- a. **Summary.** In recent years, there has been a dramatic increase in the number of apprenticeship program sponsors that wish to register their programs on a national scale, rather than on a State-by-State (local) basis. This updated guidance clarifies that sponsors that register NPS with OA need not also register their programs on a State-by-

RESCISSIONS Office of Apprenticeship Circular No. 2018-01	EXPIRATION DATE Continuing
---	--------------------------------------

State basis. Accordingly, these sponsors and their standards need only comply with DOL’s regulations on Registered Apprenticeship, set out in 29 CFR Parts 29 and 30, and are not subject to the separate registration requirements set out by DOL-recognized State Apprenticeship Agencies, except as noted below. Consistent with the requirements of 29 CFR section 29.13(b)(7), State Apprenticeship Agencies are obligated to grant reciprocal approval for federal purposes to apprenticeship programs registered by OA under the National Program Standards.

- b. **Background.** In November of 2017, Congress enacted the Veterans Apprenticeship and Labor Opportunity Reform (VALOR) Act (P.L. 115-89) to facilitate the process whereby eligible veteran apprentices enrolled in Registered Apprenticeship programs operating in multiple States can access certain benefits under the GI Bill. To achieve this purpose, the VALOR Act revised 38 U.S.C. 3672(c)(1) to identify the relevant State Approving Agency for multi-State apprenticeship programs, and by defining multi-State apprenticeship programs as those “operating in more than one State that meet . . . the minimum national program standards” developed by the Department of Labor. For the purposes of 38 U.S.C. 3672(c)(1)(B), a multi-state program meets “minimum national program standards” if it has National Program Standards approved by OA under the criteria described below. Accordingly, this guidance also serves to clarify the scope and meaning of the “minimum national program standards” referenced in the VALOR Act.

In January 2021, President Biden issued Executive Order (EO) 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* (86 FR 7009), which emphasized the Federal Government’s commitment to programs and policy that promote the goals of diversity, equity, inclusion, and increased access (DEIA). As part of this effort, OA is redoubling its efforts to ensure compliance with the equal employment opportunity (EEO) regulatory requirements for Registered Apprenticeship programs at 29 CFR Part 30. In keeping with these goals and requirements, and given the national scope and influence of NPS programs, OA will require any apprenticeship programs wishing to register under the NPS framework to demonstrate in their NPS submissions compliance with 29 CFR Part 30 and strongly encourages programs to include a robust commitment to the DEIA principles embodied in EO 13985.

4. NPS Guidance

- a. **Minimum Requirements for NPS.** National Program Standards of Apprenticeship are programs that are registered by OA on a national basis and that consist of occupational standards which: (1) are developed and sponsored by an employer, national trade or industry organization, labor organization, educational institution, or consortium; (2) are demonstrably national or multi-State in their design, suitability, and scope based on consideration of the National Program Standards criteria (detailed below); and (3) comply with the regulatory requirements contained in 29 CFR Part 29 and 29 CFR Part 30. *Accordingly, potential sponsors seeking national registration of their apprenticeship programs should develop and submit a detailed written plan to OA, which addresses the applicable National Program Standards criteria that are outlined in this circular.*

If a sponsor has successfully registered their apprenticeship program with OA using National Program Standards, those standards must receive reciprocal approval in all States with a DOL-recognized State Apprenticeship Agency (SAA). Thus, a sponsor does not have to register a National Program Standards program with a State's SAA to operate the program in that state, unless there are specific State-mandated requirements, such as wage and hour provisions or apprentice ratio standards, that necessitate changes to the program's standards to be in alignment with State laws and regulations (see 29 CFR section 29.13(b)(7)). Apprenticeship programs registered by OA on a nationwide basis under NPS may nevertheless need to seek separate registration in SAA States when requesting State-specific benefits offered by those States (such as State tax credits).

b. **Criteria for Demonstrating the Multi-State or National Scope of NPS Programs.**

OA recognizes that there are different sponsorship models that may be successful as national apprenticeship programs. For example, a number of "single-employer" national program sponsors (also referenced below as "Category One" NPS sponsors) independently develop sophisticated program standards for the apprentices that they employ across the nation, and maintain individual apprentice records at a single centralized location or electronic database/system. These sponsoring employers also have clear control over the terms and conditions of their apprentices' employment.

Alternatively, "group" or "sector" program sponsors (such as umbrella organizations, national trade or industry groups, labor organizations, educational institutions, or a consortium), referenced below as "Category Two" NPS sponsors) typically establish national curricula and standards that are adopted and utilized by affiliated or contracting employers across the nation (often through the mechanism of employer acceptance agreements). These individual employers, in turn, are usually responsible for hiring and supervising apprentices who are trained in accordance with the standards developed by the program sponsor, and for maintaining some or most of the apprenticeship-related records of these apprentices.

The applicable NPS criteria that OA will consider for Category One and Two program sponsors are described below:

Category One: Criteria for Single-Employer Program Sponsors

OA will generally approve or renew the registration of an employer-sponsored apprenticeship program under the NPS criteria if the sponsoring employer provides OA with a written plan demonstrating that:

- **The sponsor is an employer with at least 300 employees;**

- **The sponsor is either a national or multi-State employer with current business operations in at least five (5) U.S. States or an international or transnational company with current business operations in at least five countries (including the United States); and**
- **The sponsor’s written plan demonstrates that it has an achievable strategy for equitable program growth that is successful in registering at least twenty (20) apprentices within two years of NPS approval by DOL.**

Alternatively, a sponsoring employer will generally receive Category One approval from OA under the NPS criteria if the following are satisfied:

- **The employer has already registered an apprenticeship program that has successfully completed its probationary period and that currently operates in good standing in at least one U.S. State (can be either an OA or an SAA State);**
- **The employer currently enrolls at least ten (10) apprentices in its existing Registered Apprenticeship program, and has a written plan that would be successful in registering at least twenty (20) apprentices within two years of NPS approval; and**
- **The employer’s written plan demonstrates that it has an achievable strategy for multi-state or nationwide expansion which is implemented successfully (i.e., the program operates in at least three (3) States within two years of NPS registration, and in five (5) States within three years of NPS registration).**

Category Two: Criteria for Multi-State, Group Program Sponsors

As noted above, organizations that sponsor “group” or “sector” national programs for apprentices (such as national trade or industry groups or associations, umbrella organizations, educational institutions, or a consortium) typically establish national curricula, standards, and credentials that are adopted and utilized by affiliated employers across the nation. The sponsoring organization is responsible for ensuring that all of the requirements of 29 CFR Parts 29 and 30 are met and has already identified and obtained written commitments from participating employers. Typically, an employer, when adopting an organization’s “group” national program standards of apprenticeship, will utilize the mechanism of an employer acceptance agreement (EAA) to achieve this purpose.

OA will generally approve or renew the registration of an apprenticeship program under the NPS criteria for Category Two group sponsors if the group apprenticeship sponsor provides OA with a written plan demonstrating that:

- **The sponsor has at least three (3) employers using the sponsor’s standards (or has written commitments from at least three (3) employers to adopt the sponsor’s standards prior to program registration);**
 - **The program demonstrates in its written plan that it has an achievable strategy for growth that is successful in registering at least twenty (20) apprentices within two years of approval by DOL; and**
 - **The program demonstrates an achievable strategy in its written plan for multi-State or nationwide expansion which is implemented successfully (i.e., the program operates in at least three (3) States and in two (2) OA regions within two years of NPS registration, and in five (5) States within three years of NPS registration).**
- c. **Suitability of Apprenticeship Programs for Nationwide Registration under the NPS Criteria.**

Not all apprenticeship programs may be suitable candidates for nationwide registration under the National Program Standards of Apprenticeship. For example, programs whose geographic operations are confined to only one or two States or to a particular region may find it more appropriate to register with the Registration Agencies in those jurisdictions. In addition, potential apprenticeship sponsors with nationally designed Standards of Apprenticeship that cover certain occupations that are subject to State licensing requirements, that depend upon and vary by jurisdiction, may find it more appropriate to obtain approval and recognition of their Standards under OA’s National Guideline Standards (NGS) for Apprenticeship criteria, and then register each program, utilizing such NGS Standards, on a State-by-State basis.

In addition, the NGS approach may be more suitable for those labor organizations, trade or industry associations, or other organizations with national scope who wish to provide State or local affiliates of their organizations with the flexibility to adapt a set of nationally designed Standards of Apprenticeship to meet local conditions, and to register such programs on a State-by-State basis. Similarly, the NGS approach may be more suitable for potential workforce intermediary program sponsors that only intend to provide supportive services (such as related instruction) in connection with a Registered Apprenticeship program.

In addition to reviewing applications from potential program sponsors for nationwide registration under the NPS criteria described above, OA may decline nationwide registration based on its consideration of the factors discussed in this section. In those cases, OA may recommend alternative approaches (such as NGS and/or State-by-State registration) as appropriate.

Table 1: Comparison of NPS vs. NGS

<u>Elements</u>	<u>National Program Standards</u>	<u>National Guideline Standards</u>
Program certified nationally by OA and registered locally by the Registration Agency		✓
Registered nationally by OA	✓	
Program standards may be modified or adapted to meet state or local requirements		✓
Must follow Equal Employment Opportunity (EEO) requirements at 29 CFR Part 30 upon program registration	✓	✓
Requires development of Affirmative Action Program for programs with 5 or more apprentices within 2 years of program registration	✓	✓
More suitable for employer sponsors with national scope and reach	✓	✓
More suitable for Federal, State, or locally licensed occupations		✓
More suitable for local affiliates of national labor organizations and national trade industry groups		✓
More suitable for Related Instruction sponsors		✓
General Program Information (Name of sponsor, occupation, address, contact) is shared publicly on Apprenticeship.gov	✓	✓
All Program Registration documentation is shared publicly for local adaptation		✓
Used in defining minimum national program standards for purposes of the VALOR Act	✓	

NPS PROGRAM REGISTRATION AND ADHERENCE TO FEDERAL, STATE, AND LOCAL LAW REQUIREMENTS

The Office of Apprenticeship’s registration of an apprenticeship program on a nationwide basis under the National Program Standards of Apprenticeship (and the registration of individual apprentices under the same program) does not exempt the program sponsor,

and/or any employer(s) participating in the program, and/or the individual apprentices registered under the program from abiding by any applicable Federal, State, and local laws or regulations relevant to the occupation covered by the program, including those pertaining to occupational licensing requirements and minimum wage and hour requirements.

The NPS program's Standards of Apprenticeship must also conform in all respects with any such applicable Federal, State, and local laws and regulations. Any failure by the program to satisfy this requirement may result in the initiation of deregistration proceedings for reasonable cause by the Office of Apprenticeship under 29 CFR section 29.8.

d. **NPS Application and Approval Process.**

Prospective sponsors seeking registration under the National Program Standards of Apprenticeship must contact staff from OA to request consideration for approval of their apprenticeship program under the NPS framework. For existing registered programs seeking NPS consideration, please contact your current program Registration Agency representative. For new programs seeking an NPS consideration, please visit: <https://www.apprenticeship.gov/employers/express-interest-instructions> to be connected to an appropriate Registration Agency staff contact; additionally, state contacts can be accessed through <https://www.apprenticeship.gov/about-us/state-offices>. Upon receiving such a request, OA will evaluate the proposed program based on the criteria described above.

When a Regional OA office receives an application from a prospective program sponsor for NPS registration, the appropriate OA Regional Director will consult with other Regional Directors and/or National Office staff as appropriate concerning the suitability of the program for NPS before making a recommendation to the OA Administrator for registration under the NPS criteria. Among other things, this consultative process should consider the criteria described above and take into account whether the prospective program involves an occupation that is subject to widespread State occupational licensing requirements, the sponsor's adherence to the Labor Standards for Registration in 29 CFR Part 29, the sponsor's adherence to the applicable Equal Employment Opportunity and Affirmative Action provisions and activities of 29 CFR Part 30, and whether the proposed program may be more appropriate for OA approval and recognition under the National Guideline Standards (NGS) of Apprenticeship criteria. In instances where the OA Regional office makes a recommendation for NPS, the OA Administrator will review the application and render a final determination on national registration of the program under NPS.

To assess the extent to which an occupation is licensed at the Federal or State level, program sponsors and OA staff are encouraged to make use of the CareerOneStop License Finder tool (at: <https://www.careeronestop.org/Toolkit/Training/find-licenses.aspx>) and search for an occupation title for "All Locations" to see the number of locations that have licensing requirements. This site also provides links to specific State

licensing information. An additional resource for more in-depth information on aspects for a selected set of licensed occupations is available from the National Conference of State Legislatures, <https://www.ncsl.org/research/labor-and-employment/occupational-licensing-statute-database.aspx>.

With respect to the governing minimum wage requirements in the various States, program sponsors and OA staff may wish to consult a chart maintained by DOL's Wage and Hour Division at the following web address: <https://www.dol.gov/agencies/whd/mw-consolidated>. In addition, program sponsors with questions concerning which of the States have established apprentice-to-journeyworker ratios that are more stringent than those required by OA under 29 CFR section 29.5(b)(7) and described in Circular 2021-02 are advised to contact their OA Regional Office for further information and technical assistance.

e. **Maintaining Status Under NPS.**

Registered Apprenticeship programs that are approved for NPS status will be reviewed by OA at two-year intervals after the initial date of registration to ensure that they continue to meet the criteria outlined above for such national status. In instances where OA determines that programs previously approved for NPS registration no longer meet the criteria discussed above, OA will advise the sponsor that other alternatives may be appropriate based upon the applicable facts and circumstances, including but not limited to registration of the program's standards under the NGS criteria, program registration on a State-by-State basis, or deregistration of the program if the program is not in compliance with 29 CFR Parts 29 and 30.

f. **Disclosure of Program Information by NPS Applicants and Sponsors.**

OA routinely makes public *general information* relating to Registered Apprenticeship programs. Such general information includes the name and contact information of the sponsor, the location of the program, and the occupation(s) offered. In addition, **OA will consider the other contents of a program sponsor's NPS application as releasable to the public unless the sponsor makes a written request for the non-disclosure by OA of the contents of the NPS application by signing an "opt-out" statement provided in OA's boilerplate standards of apprenticeship.** In the absence of the exercise of such an "opt-out" by the NPS program sponsor, the components of an application that OA may disclose to the public may include a copy of the program's Standards of Apprenticeship, Appendix A, and Appendix D (as applicable), but ***not*** completed versions of ETA Form 671 or Appendix C "Affirmative Action Plan" because those documents are submitted after a sponsor's application is approved and the program is registered.

5. Inquiries

If you have any questions, please contact Andrew Ridgeway, Division Director, Division of Registered Apprenticeship and Policy, at (202) 693-3536.

6. References

- National Apprenticeship Act, 29 U.S.C. 50
- 38 U.S.C. 3672(c)(1)
- 29 CFR Part 29

7. Attachment



NPS Checklist