

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Registered Apprenticeship
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TO: OFFICE OF APPRENTICESHIP STAFF
STATE APPRENTICESHIP AGENCIES

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

SUBJECT: Guidance - State Apprenticeship Agency (SAA) Recognition by the Office of Apprenticeship

1. Purpose

To inform State apprenticeship personnel and the staff of the Office of Apprenticeship (OA) about OA’s policy and process for a State to obtain or retain the recognition of a State Apprenticeship Agency (SAA) within the State¹. This circular describes the required documentation that must be submitted to OA’s National Office (NO) staff to evaluate the conformity of State law, regulations, policies and regulatory guidance to the requirements of 29 CFR parts 29 and 30, and the subsequent process by which those documents will be reviewed. This guidance, as described, is also intended to establish a uniform process for SAA submissions that promotes the provision of comprehensive technical assistance from OA’s Regional and NO staff. Lastly, this circular identifies the goals that are shared by SAAs and OA upon designating the authority to register and oversee Registered Apprenticeship programs (RAP) to the SAA. States that have an SAA that is currently recognized by OA as well as States that are considering establishing an SAA are strongly encouraged to maintain close and regular communication with OA’s Regional staff to remain informed about the subject matter discussed in this circular.

2. Action Requested

The Department’s Employment and Training Administration’s OA requests OA Staff, State Apprenticeship Agencies, and states seeking recognition as a State Apprenticeship Agency to familiarize themselves with this guidance so that they may understand the role and responsibilities of SAAs and the standardized way in which States obtain and maintain SAA recognition. States seeking to establish an SAA will be required to follow the prescribed

¹ State as defined by 29 CFR section 29.2 “means any of the 50 States of the United States, District of Columbia, or any Territory or possession of the United States.”

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process described in 29 CFR section 29.13 and in this Circular to obtain and maintain SAA recognition under 29 CFR parts 29 and 30.

3. Summary and Background

Summary. Under 29 CFR section 29.13, the Department of Labor (DOL) may exercise its authority to grant recognition to an SAA, which confers non-exclusive authority upon that SAA to determine whether an apprenticeship program conforms to the published standards and is therefore eligible for those Federal purposes which would otherwise be determined by OA. At the outset to confer SAA recognition upon a State, OA requires the following:

- Submission of State apprenticeship law, whether through statute, Executive Order, Administrative Rule/regulation, or other regulatory means, that conforms to the requirements of 29 CFR parts 29 and 30; and
- Submission of a State Plan for Equal Employment Opportunity in Apprenticeship that conforms to the requirements published in 29 CFR part 30.

All submissions are carefully reviewed to ensure inclusion of key components that establish the State's conformity with the aforementioned Federal regulations. Additionally, once recognized and in order to maintain recognition, SAAs may not modify any element of those regulations without prior notification and approval from OA.

Background. 29 CFR part 29 defines an SAA as “an agency of a State government that has responsibility and accountability for apprenticeship within the State. Only a State Apprenticeship Agency may seek recognition by the Office of Apprenticeship as an agency which has been properly constituted under an acceptable law or Executive Order and authorized by the Office of Apprenticeship to register and oversee apprenticeship programs and agreements for Federal purposes.”

This definition frames the various roles and responsibilities required of each SAA and serves as a reminder that recognition of an SAA is predicated upon OA's approval of current State laws, statutes, regulations, and policy guidance that allow for the regulatorily compliant administration of RAPs. The existence of this requirement for all SAAs promotes consistency and uniformity across the National Apprenticeship System. OA is committed to working cooperatively with each SAA from the initial application for recognition to ongoing monitoring for compliance with Federal regulations. OA also provides technical assistance as appropriate. To assist in this cooperative and supportive relationship, OA strongly encourages regular and transparent SAA communication with Regional staff and/or the National Office.

Once approved as an SAA, failure to consistently or uniformly adhere to federal law and regulations could negatively impact Register Apprenticeship (RA) sponsors and apprentices in a number of ways including decreased access to opportunities, training that fails to meet Federal quality requirements, and vulnerability to EEO violations. To that end, RA sponsors seeking guidance from an SAA should have a reasonable expectation that information and guidance provided is consistent and equitable.

4. States Applying for Initial SAA Recognition

- a. **The Application for SAA Recognition.** In order to apply for recognition as an SAA, States must formally submit all documentation specified in 29 CFR section 29.13(a) and demonstrate the ability to (1) establish and maintain an administrative entity that is capable of performing functions of a Registration Agency (Agency) under 29 CFR part 29; and (2) provide sufficient resources to carry out the functions of an Agency (i.e. outreach and education, registration of programs and apprentices, provision of technical assistance, and monitoring.)

In accordance with 29.13(a) a State seeking initial recognition as an SAA must submit the following documentation as part of its application for recognition:

- Proposed State apprenticeship regulations;
- Current State apprenticeship laws, statutes, or administrative rules; and
- Current EEO State Plan

Proposed regulatory documents included in the application for review must include the following information:

- A description of the SAA's basic standards, criteria, and requirements for program registration and/or approval;
- A demonstration of linkages and coordination with the State's economic development strategies and publicly funded workforce investment system;
- An explanation of the SAA's policies and procedures that promote equality of opportunity in RA programs pursuant to a State Plan for Equal Employment Opportunity in Apprenticeship; and
- A thorough overview of the contents of apprenticeship agreements, in conformity with 29 CFR section 29.7.

In order to conform to the requirements contained in 29 CFR parts 29 and 30, the application must address and satisfy the following items stipulated in 29 CFR section 29.13, which in addition to documentation requires the following procedural activities be addressed:

- The SAA's establishment of a State Apprenticeship Council (SAC), a regulatory or advisory body that is composed of persons familiar with apprenticeable occupations and an equal number of representatives of employers and of employee organizations. The Council must include public members who shall not number in excess of the number named to represent either employer or employee organizations;
- A clear delineation by the SAA of the respective powers and duties of the State office, the SAA, and the SAC;
- An affirmation by the SAA of reciprocal approval for Federal purposes to apprentices, apprenticeship programs and standards that are registered in other States by OA or another Registration Agency if sought by a RA sponsor. In this instance, all of the State wage/hour provisions and apprenticeship ratio standards must be met by the program

- requesting reciprocity in that particular State;
- An affirmation by the SAA that only those occupations deemed apprenticeable, as provided in 29 CFR section 29.4, will be eligible for registration as apprenticeship programs;
- An established process to be utilized by the SAA for the cancellation and/or deregistration of programs, and for temporary suspension, cancellation, and/or deregistration of apprenticeship agreements; and
- A description of any proposed SAA policies and operating procedures which depart from or impose requirements in addition to those prescribed in 29 CFR section 29.13.

- b. **Review by OA.** Upon submission to OA, all documentation is reviewed by Regional and National Office staff. In the event the initial application is incomplete or unsatisfactory, OA provides ongoing technical assistance to the State to support its pursuit of SAA recognition.

Ultimately, the OA Administrator will provide a written response to the application. If approved, SAA recognition lasts for five years from the date of recognition.

5. Obligations of Notifications for the SAA

- a. **Modifications to State Laws, Regulations, and Statutes.** In accordance with 29 CFR section 29.13(b)(9), all proposed modifications in legislation, regulations, policies, and/or operational procedures planned or anticipated by an SAA, must be submitted to OA for review and concurrence prior to implementation. In these instances, the review is preceded by a formal request to the Administrator of OA seeking approval of the proposed changes.

This review is necessary to ensure continued conformity with 29 CFR parts 29 and 30. States are strongly encouraged to proactively communicate with OA Regional staff should they believe changes to State apprenticeship laws or regulations are forthcoming to arrange for the provision of technical assistance from OA as required. Instances where technical assistance is required could include a transition of SAA authority to a new Agency (as described in the next section), or the introduction of new apprenticeship laws or regulations in their respective States.

- b. **Notifying OA of Registration Agency Changes.** As previously stated, there are notification requirements, as provided in 29 CFR section 29.13(b)(9), when and if any changes, whether minor or substantial, occur in contrast to approved SAA laws. A common example is the transition of SAA authority from one State registration agency to another.

When the OA Administrator grants recognition to an SAA, such recognition is exclusively conferred upon the Registration Agency stipulated within the application for SAA recognition; accordingly, such recognition may not be unilaterally withdrawn from the Agency by the State and transferred to another governmental agency, department or entity

within the State. Unilateral withdrawal or transfer will lead to the initiation of derecognition proceedings outlined in 29 CFR section 29.14.

To prevent OA from initiating the derecognition proceedings in 29 CFR section 29.14, withdrawal and transfer of an SAA requires prior written notice to the OA Administrator of the change as stipulated in 29 CFR section 29.13(h)(1). An SAA that intends to withdraw Registration Agency functions from the Agency recognized for that purpose by OA and transfer them to another State governmental agency, department or entity must first transmit to OA a written communication that includes: (1) a written formal withdrawal of the existing SAA; (2) a statement of the State's intent to designate a specified new governmental agency, department or entity as the new SAA, and (3) the re-submission of all required documents outlined in 29 CFR section 29.13(a) and in Section II of this Circular.

6. Reporting Requirements for Current SAAs

RAPIDS. The Registered Apprenticeship Partners Information Management Database System (RAPIDS) was created in support of uniform data collection and has been enhanced to include reporting capabilities for the SAAs. While optional, usage of RAPIDS by the SAAs is strongly encouraged for reporting the activities of RA sponsors and is an integral strategy for capturing both comprehensive demographic and programmatic data. SAA staff should contact OA staff to familiarize themselves with RAPIDS and include RAPIDS training in both onboarding procedures established for new sponsors as well as periodic refreshers. Additionally, the SAA should routinely review RAPIDS data to monitor the progress of apprentices and sponsor compliance with EEO and affirmative action requirements.

7. Reciprocity

Concerning Occupations Deemed Apprenticeable in other SAA States. Pursuant to 29 CFR § 29.13(b)(7), to obtain recognition as a State Apprenticeship Agency, States must accord reciprocal approval for Federal purposes to apprentices, apprenticeship programs and standards that are registered in other States by the OA or a SAA if such reciprocity is requested by the apprenticeship program sponsor. Program sponsors seeking reciprocal approval must meet the applicable Federal, state, and local wage and hour provisions and apprentice ratios. States must also ensure that the registration of apprenticeship programs occurs only in apprenticeable occupations, as provided in 29 CFR § 29.4, including occupations in high growth and high demand industries.

In instances where an apprenticeship program sponsor seeks reciprocity in an occupation deemed apprenticeable by an SAA but **not** previously approved by OA or another SAA, the SAA must first determine the occupation apprenticeable in accordance with 29 CFR § 29.4. For example, if the XYZ occupation is deemed apprenticeable only by SAA Alpha and an apprenticeship program sponsor seeks reciprocity in SAA Beta, then SAA Beta must first determine that the XYZ occupation is apprenticeable in accordance with 29 CFR § 29.4.

Should SAA Beta determine the occupation is apprenticeable, then these reciprocity requirements apply. Should SAA Beta determine that the occupation is not apprenticeable, then it is not obligated to provide reciprocity.

If an SAA elects to evaluate the apprenticeability of an occupation, OA recommends consulting the North American Industry Classification System (NAICS) Manual. Upon consulting the manual, the SAA must analyze whether an occupation is clearly identified and commonly recognized throughout an industry and should consult with relevant stakeholders in their state.

8. Inquiries

If you have any questions, please contact Andrew Ridgeway, Director, Division of National System Building, at Ridgeway.Andrew@dol.gov.

9. References

- National Apprenticeship Act, 29 U.S.C. 50
- 29 CFR parts 29 and 30

10. Attachments

SAA Self-Assessment Tool. Provided for technical assistance purposes and may be used by SAAs to conduct periodic self-assessments of conformity with requirements outlined in 29 CFR Parts 29 and 30. OA advises SAAs that it may require submission of a self-assessment for certain opportunities that require confirmation of conformity with federal regulations.