

**Notice of Proposed Rulemaking: Apprenticeship  
Equal Employment Opportunity Regulations (29 CFR Part 30)**

**QUESTIONS AND ANSWERS**

**Why is OA proposing revisions to its equal employment opportunity (EEO) regulations?**

The existing EEO regulations have not been updated since 1978. Since that time, both the realities of the workforce and the landscape of EEO law have changed substantially. OA is proposing to modernize and streamline the regulations in an effort to make it easier for apprenticeship sponsors to comply with them and to improve the participation rates of women and other under-represented populations in apprenticeship, who continue to face many barriers to entry. Moreover, it will improve the quality of the applicant pool and thus of the apprenticeship programs.

**Who is this proposed rule intended to benefit?**

The proposed rule is intended to benefit sponsors, apprentices, applicants for apprenticeship, and the general public. Sponsors will benefit from modernization of a regulation last updated in 1978 and that would streamline many of the requirements for the purpose of easier compliance. In addition, by reaching a broader range of applicants, programs will be able to grow and quality will improve. The proposed rule would also allow new program sponsors more time to establish initial affirmative action programs. Apprentices and applicants, as well as the public, will benefit from increase entry for women, minorities, and persons with disabilities. Additionally, by updating the rule to reflect current law and workplace practices and issues, the proposal will improve civil rights enforcement and public understanding of the law.

**What apprenticeship programs will be covered by the new regulation?**

As with the existing regulation, the proposed rule would generally apply to registered apprenticeship sponsors with five or more apprentices. However, the rule would not apply if the sponsor can show that it is already in compliance with an equal employment opportunity program providing for affirmative action for minorities and women. For example, if a federal contractor has a written Affirmative Action Program (AAP) developed in accordance with the Office of Federal Contract Compliance Program's affirmative action program requirements under Executive Order 11246 and if the AAP encompasses the business' apprentices, the sponsor is exempt from complying with this regulation. Under the proposed rule, to qualify for this exemption the sponsor must also be in compliance with OFCCP's affirmative action program requirements for persons with disabilities.

**What types of discrimination are prohibited under the proposed rule?**

The existing regulation prohibits discrimination in the recruitment, selection, employment and training of apprentices on the basis of race, color, religion, national origin, and sex. The proposed rule would add disability, age (40 or older), sexual orientation, and genetic information to protected groups for nondiscrimination purposes, and clarify that sex discrimination includes discrimination on the bases of pregnancy and gender identity.

## **What are the key provisions of the proposed rule?**

The key provisions of the proposed rule would:

- Update the nondiscrimination provisions to reflect current EEO law. Specifically, the Office of Apprenticeship (OA) is proposing to add disability, age (40 or older), genetic information, and sexual orientation to the list of protected bases (which are currently race, color, religion, national origin, and sex). The proposal would also clarify that discrimination on the basis of sex includes discrimination on the basis of pregnancy and gender identity.
- Clarify what sponsors must do to comply with their affirmative action obligations. The proposal does this by setting forth the components of the general affirmative action duty, which include:
  - Assigning responsibility to an individual to oversee EEO efforts;
  - Internally disseminating the EEO policy, including publishing and posting an equal opportunity pledge and conducting orientation and information sessions for apprentices;
  - Conducting certain outreach and recruitment activities, including developing and updating a list of recruitment sources and providing these sources with advance notice of apprenticeship openings, to ensure that recruitment extends to all persons without regard to race, sex, ethnicity or disability; and
  - Keeping the workplace free from discrimination, harassment, intimidation, and retaliation, and providing procedures for handling and resolving complaints on these bases.
- Expand protections for and affirmative action requirements related to individuals with disabilities.
- Streamline the process for analyzing the composition of the apprenticeship workforce.
- Revise the equal employment opportunity rules (29 C.F.R. Part 30) to incorporate recently-updated terms and procedures of the registration of apprenticeship programs (29 C.F.R. Part 29).
- Simplify the rules regarding procedures to select apprentices and provide sponsors greater flexibility in choosing a selection procedure.
- Improve the overall readability of these rules through a reorganization of the requirements, basic editing, and by providing clarifying language where needed.

## **Would the proposal require applicants and apprentices to identify whether or not they have a disability?**

No. Sponsors would be required to make the invitation, but individuals would not be required to self-identify if they choose not to and the sponsor would not be permitted to compel or coerce this self-identification.

## **Under the proposed rule, there is an obligation to invite individuals to self-identify as a person with a disability. How would that work?**

The proposal would require that sponsors invite individuals to self-identify at two separate stages: (1) to all applicants before apprenticeship offers are made ("pre-offer"); and (2) to those who have accepted apprenticeship offers before they begin their apprenticeship ("post-offer").

In making the invitations, sponsors would need to make the invitation using language provided by OA. This will ensure uniformity and reassure individuals that the request is routine and being made pursuant to OA's regulations.

The proposed self-identification inquiry is a limited one and narrowly tailored, as it does not inquire into the general nature of the disability or any limitations the individual has. Further, the proposal would require the sponsor to store the invitation separately from the application materials in a confidential data file to address privacy concerns.

### **What is a Notice of Proposed Rulemaking (NPRM)?**

An NPRM is the government's way of providing the public formal notice that it is proposing a new regulation or modifying an existing regulation and seeking the public's comment on this proposal.

### **How do I submit comments on the NPRM?**

You may submit comments on the NPRM by using any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Mail: Please address all written comments (including disk and CD-ROM submissions) to Adele Gagliardi, Administrator, Office of Policy Development and Research, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-5641, Washington, D.C. 20210.

Hand Delivery/Courier: Adele Gagliardi, Administrator, Office of Policy Development and Research, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-5641, Washington, D.C. 20210.

All comments must be received on or before January 5, 2016.

### **How will I know whether the Office of Apprenticeship (OA) received my comments on the proposed rule?**

OA does not generally acknowledge receipt of comments. You may, however, request confirmation that a mailed or hand delivered submission of your NPRM comments was received by OA by January 5, 2016. All NPRM comments, whether mailed, hand delivered, or submitted through the eRulemaking portal, are posted on the portal's web site. You may go to <http://www.regulations.gov> to view your posted comments.

### **Is there a deadline for submitting comments on the NPRM?**

Yes. OA must receive your comments on or before January 5, 2016.