

U.S. Department of Labor Employment and Training Administration Office of Apprenticeship Washington, D.C. 20210	Distribution: A-541 Hdqtrs A-544 All Field Tech A-547 SD+RD+SAA+; Lab.Com	Subject: Selection Procedures Code: 400
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PURPOSE: To inform the staff of OA and State Apprenticeship Agencies (SAA), Registered Apprenticeship program sponsors, and other Registered Apprenticeship partners of the requirements for the development and implementation of selection procedures in programs with 5 or more registered apprentices and to promote equal opportunity in apprenticeship.

BACKGROUND: The intent of 29 CFR § 30 is to promote equality of opportunity in apprenticeship programs registered with the U.S. Department of Labor and in state apprenticeship programs registered with recognized SAAs. The regulation applies to the selection of apprentices and to all conditions of employment and training during apprenticeship.

Responsibilities of Apprenticeship Program Sponsors

To promote equal opportunity in apprenticeship, sponsors have the following responsibilities:

- Recruit, select, employ, and train apprentices without discrimination because of race, color, religion, national origin, or sex.
- Uniformly apply rules and regulations concerning apprentices, including equality of wages, periodic advancement, promotion, assignment of work, job performance, rotation among all work processes of the trade, imposition of penalties or other disciplinary action, and all other aspects of the apprenticeship program administration.
- Take affirmative action to provide equal opportunity in apprenticeship.
- Adopt a selection procedure that complies with 29 CFR § 30.5, as described below, if the program has 5 or more registered apprentices.
- Keep adequate records, including a summary of the qualifications of each applicant; the basis for evaluation and for selection or rejection of each applicant; the records pertaining to interviews of applicants; the original application for each applicant; information relative to the operation of the apprenticeship program, including job assignment, promotion, demotion, layoff, or termination; rates of pay or other forms of compensation or conditions of work; hours including hours of work and, separately, hours of training provided; and any other records pertinent to a determination of compliance with 29 CFR § 30, as may be required by the Department.
- In connection with its recordkeeping responsibilities, maintain records pertaining to individual applicants, selected or rejected, in such a manner as to permit identification of minority and female (minority and nonminority) participants.

Selection Procedures

Sponsors of programs with 5 or more registered apprentices must adopt one of the selection procedures described in 29 CFR § 30.5(b) as summarized below. The method of selection must be identified by the sponsor in its affirmative action plan (AAP). Any sponsor that wishes to

revise its existing selection procedures must submit the proposed revision to the Registration Agency for review and approval prior to implementation.

Regardless of the method the sponsor adopts, the selection procedure must be facially neutral in terms of race, color, religion, national origin, and sex. The sponsor must apply the selection procedures uniformly and consistently to all applicants and apprentices.

The sponsor must monitor the selection procedure to ensure that it does not have an adverse impact on the basis of race, ethnicity, or sex. An adverse impact occurs when a selection procedure negatively impacts a protected group substantially more than others. If the sponsor determines that its selection procedures have such an adverse impact, the sponsor must justify its use of the procedure under the Uniform Guidelines on Employee Selection Procedures (UGESP) at 41 CFR § 60-3.

Alternative selection methods - 29 CFR § 30.5(b)(4)

A sponsor may select apprentices by any selection method it chooses as long as the requirements of 29 CFR § 30.5(b)(4) are met, including the following:

- Apprentices must be selected on the basis of objective and specific qualification standards that meet the UGESP requirements at 41 CFR § 60-3. Examples of objective and specific standards are fair aptitude tests, high school diplomas or equivalent, occupationally essential health requirements, fair interviews, school grades, and previous work experience.
- If the selection procedure includes interviews, the sponsor must keep adequate records that include a brief summary of each interview and the conclusions on each of the specific factors that are part of the total judgment.
- The sponsor must submit for the Registration Agency's approval both its selection method and its AAP required by 29 CFR § 30.4. The sponsor may implement the selection method once the Registration Agency has approved it or 30 days after submission, whichever comes first.

One of the most common examples of an alternative selection procedure is direct entry. When a program's standards of apprenticeship include provisions for direct entry, the sponsor may directly enter eligible and qualified individuals from specific organizations and often may award them advanced credit for related training and experience. Over the past several years, OA has approved several direct entry selection procedures. These approved procedures are outlined in the model standards of apprenticeship and distributed via bulletin.

Selection from a pool of eligibles on the basis of rank - 29 CFR § 30.5(b)(1)

A sponsor may select apprentices from a pool of eligible applicants created on the basis of the rank order of their scores on one or more qualification standards as long as the requirements of 29 CFR § 30.5(b)(1) are met, including the following:

- All qualification standards, and the score required on any standard for admission to the pool (including aptitude tests), must be directly related to job performance, as shown by a significant statistical relationship between the rank order of the score(s) required for

admission to the pool and performance in the apprenticeship program. In demonstrating such a relationship, the sponsor must follow the UGESP requirements at 41 CFR § 60-3.

- Only those applicants who have been placed in the eligibility pool may be required to submit to interviews. Interviews must be limited to objective questions required to determine applicants' fitness to enter the apprenticeship program. Each interviewer must record the interview questions and the general nature of the applicant's answers and prepare a summary of any conclusions.
- The sponsor must give each rejected applicant notice of the rejection, including the reasons for the rejection, the requirements for admission to the pool of eligibles, and the appeal rights available to the applicant.

Random selection from a pool of eligibles - 29 CFR § 30.5(b)(2)

A sponsor may select apprentices from a pool of eligible applicants on a random basis as long as the requirements of 29 CFR § 30.5(b)(2) are met, including the following:

- All qualification standards, and the score required on any standard for admission to the pool, must be directly related to job performance, as shown by a significant statistical relationship between the score required for admission to the pool and performance in the apprenticeship program. In demonstrating such a relationship, the sponsor must follow the UGESP requirements at 41 CFR § 60-3.
- Only those applicants who have been placed in the eligibility pool may be required to submit to interviews. Interviews must be limited to objective questions required to determine applicants' fitness to enter the apprenticeship program. Each interviewer must record the interview questions and the general nature of the applicant's answers and prepare a summary of any conclusions.
- The sponsor must give each rejected applicant notice of the rejection, including the reasons for the rejection, the requirements for admission to the pool of eligibles, and the appeal rights available to the applicant.
- The random selection process must be supervised by an impartial person or persons selected by the sponsor, but not associated with the administration of the apprenticeship program.
- The time and place of the selection, and the number of apprentices to be selected, must be announced. The place of the selection must be open to all applicants and the public.
- The names of apprentices drawn by this method must be posted immediately following the selection at the program sponsor's place of business.

Selection from a pool of current employees - 29 CFR § 30.5(b)(3)

A sponsor may select apprentices from an eligibility pool of the workers it already employs as long as the requirements of 29 CFR § 30.5(b)(3) are met. The sponsor may select apprentices in the manner prescribed by a collective bargaining agreement, if one exists, or by the sponsor's established promotion policy.

Responsibilities of Registration Agencies

To promote equal opportunity in apprenticeship, Registration Agencies have the following responsibilities:

- Keep adequate records, including registration requirements, individual program standards and registration records, program compliance reviews and investigations, and any other records pertinent to a determination of compliance with 29 CFR § 30, as may be required by the Department.
- Report to the Department as may be required by the Department.
- Take the necessary action to bring a noncomplying program into compliance with the state plan.

The Department retains the authority to conduct compliance reviews and complaint investigations to determine whether state plans and registered state apprenticeship programs are being administered and operated in accordance with 29 CFR § 30.

Compliance Reviews

The Department regularly conducts systematic reviews of apprenticeship programs to determine the extent to which sponsors are complying with 29 CFR § 30. The Department also conducts compliance reviews when circumstances, including receipt of complaints warrant. Sponsors seeking new registration and those seeking reregistration are subject to compliance reviews as part of the registration or reregistration process.

A compliance review consists of comprehensive analyses and evaluations of all aspects of the apprenticeship program, including on-site investigations and audits. During a compliance review, the following program records, among others, are reviewed and analyzed:

- Standards of apprenticeship
- AAP, including workforce analysis worksheet
- Selection procedures
- Announcements of apprenticeship opportunities
- Records of outreach and recruitment efforts
- Applicant logs
- Application files
- Apprentice records
- Journeyworker statistics

If you have any questions or need assistance, please contact the Chief, Division of Standards and National Industry Promotion, at 202-693-3813.

ACTION: OA and SAA staff should familiarize themselves with this Circular.

NOTE: This Circular is being sent via electronic mail.