

**RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING**

AGENCY: Department of Labor and Training

DIVISION: Workforce Regulation and Safety

RULE IDENTIFIER: 260-RICR-30-15-5

REGULATION TITLE: Apprenticeship Programs in Trade and Industry

RULEMAKING ACTION: Amendment

TIMETABLE FOR ACTION ON THE PROPOSED RULE:

Public notice date of: July 27, 2018 from 1:00 pm to 2:30 pm

Comment period ends: August 16, 2018

SUMMARY OF PROPOSED RULE:

By this rulemaking, the Department is proposing to:

1. Revise to comply with the RICR formatting and codification guidelines.
2. Remove unnecessary “cross-reference” sections in §§ 5.3; 5.4; 5.6; and 5.9.
3. Included cross-reference section under § 5.2.
4. Correct statutory citations.
5. Streamline and clarify content to avoid confusion in §§ 5.3; 5.5; 5.10; and 5.10.1.

COMMENTS INVITED:

All interested parties are invited to submit written or oral comments concerning the proposed regulations by **August 16, 2018** to the addresses listed below.

ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:

Mailing Address: Sean M. Fontes, Executive Counsel, Department of Labor and Training, 1511 Pontiac Avenue, Cranston, RI 02920

Email Address: sean.fontes@dlt.ri.gov

WHERE COMMENTS MAY BE INSPECTED:

Mailing Address: Department of Labor and Training, 1511 Pontiac Avenue, Cranston, RI, 02920.

PUBLIC HEARING INFORMATION:

Public Hearing Date & Time: July 27, 2018 from 1:00 pm to 2:30 pm

Public Hearing Location: Department of Labor and Training, 1511 Pontiac Avenue, Cranston, RI, 02920, Conference Room 73-1

THE PLACE OF THE PUBLIC HEARING IS ACCESSIBLE TO THE HANDICAPPED. IF COMMUNICATION ASSISTANCE (READERS/ INTERPRETERS/CAPTIONERS) IS NEEDED, OR ANY OTHER ACCOMMODATION TO ENSURE EQUAL PARTICIPATION, PLEASE CALL 401-462-8000 OR RI RELAY 711 AT LEAST THREE (3) BUSINESS DAYS PRIOR TO THE MEETING SO ARRANGEMENTS CAN BE MADE TO PROVIDE SUCH ASSISTANCE AT NO COST TO THE PERSON REQUESTING.

FOR FUTHER INFORMATION CONTACT:

Sean M. Fontes, Executive Counsel, Department of Labor and Training, 1511 Pontiac Avenue, Cranston, RI 02920, 462-8890, sean.fontes@dlt.ri.gov

SUPPLEMENTARY INFORMATION:

Regulatory Analysis Summary and Supporting Documentation:

It is beneficial for the public to be fully informed of the process for the Department to set forth labor standards to safeguard the welfare of apprentices, and to extend the application of such standards by prescribing rules and regulations concerning the registration of acceptable apprenticeship programs. These labor standards, rules and regulations cover the registration, termination, and deregistration of apprenticeship programs; and of apprenticeship agreements and matters relating thereto.

Authority for This Rulemaking: §§ 28-45-3

Regulatory Findings:

In the development of the proposed adoption consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

Concise Summary of Non-Technical Changes:

1. Revise to comply with the RICR formatting and codification guidelines.
2. Remove unnecessary "cross-reference" sections in §§ 5.3; 5.4; 5.6; and 5.9.
3. Included cross-reference section under § 5.2.
4. Correct statutory citations.
5. Streamline and clarify content to avoid confusion in §§ 5.3; 5.5; 5.10; and 5.10.1.

Date Notice Was Posted: July 16, 2018

The Proposed Adoption:

Department of Labor and Training proposes to adopt the proposed rule as follows:

260-RICR-30-15-5

TITLE 260 – DEPARTMENT OF LABOR AND TRAINING

CHAPTER 30 – WORKFORCE REGULATION AND SAFETY

SUBCHAPTER 15 – PROFESSIONAL REGULATION

PART 5 – Apprenticeship Programs in Trade and Industry

5.1 Authority, Purpose, and Scope

- A. AUTHORITY: R.I. Gen. Laws § 28-45-3~~Title 28, Chapter, 45~~ authorizes Rhode Island Apprenticeship Council to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices and to extend the application of such standards by requiring the inclusion thereof in contracts of apprenticeship.
- B. PURPOSE:~~The purpose of this regulation is I~~to set forth labor standards to safeguard the welfare of apprentices, and to extend the application of such standards by prescribing rules and regulations concerning the registration of acceptable apprenticeship programs. These labor standards, rules and regulations cover the registration, termination, and deregistration of apprenticeship programs; and of apprenticeship agreements and matters relating thereto.
- C. SCOPE: The provisions of this regulation shall apply to a person, firm, corporation, or craft only after such person, firm, corporation, or craft has voluntarily elected to conform with its provision.

5.2 Incorporated Materials

- A. These regulations hereby adopt and incorporate 29 C.F.R. § 18 (1990) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.
- B. These regulations hereby adopt and incorporate 29 C.F.R. § 29 (2008) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.
- C. These regulations hereby adopt and incorporate 29 C.F.R. § 29.5 (2008) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.

- D. These regulations hereby adopt and incorporate 29 C.F.R. § 29.7 (2008) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.
- E. These regulations hereby adopt and incorporate 29 C.F.R. § 29.10 (2008) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.
- F. These regulations hereby adopt and incorporate 29 C.F.R. § 30 (1984) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.
- G. These regulations hereby adopt and incorporate 29 C.F.R. § 30.3 (1984) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.
- H. These regulations hereby adopt and incorporate 29 C.F.R. § 30.4 (1984) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.
- I. These regulations hereby adopt and incorporate 29 C.F.R. § 30.5 (1984) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.
- J. These regulations hereby adopt and incorporate 29 U.S.C. § 651 *et seq.* (2004) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.

5.3 Definitions – As used in this regulation:

- A. “Administrator” means the Administrator of the Office of Apprenticeship, or any person specifically designated by the Administrator.
- B. “Apprentice” means a person of at least sixteen (16) years of age, participating, through employment, in an approved schedule requiring not less than 2,000 hours of on-the-job work experience supplemented by related instruction and who is a party of an approved apprenticeship agreement registered with the Department.
- C. “Apprenticeship agreement” means a written agreement complying with materials incorporated above at § 5.2(D) of this Part, 29 CFR 29.7 between an apprentice and either the apprenticeship program sponsor, or an apprenticeship committee acting as agent for the program sponsor(s), which contains the terms and conditions of the employment and training of the apprentice.
- D. “Apprenticeship cohort” means the group of individual apprentices registered to a specific program during a one (1) year time frame, except that a cohort does not

include the apprentices whose apprenticeship agreement has been cancelled during the probationary period.

E. "Apprenticeship committee" means ~~these~~ persons designated by the sponsor to act for it in the administration of the program. ~~A committee may be "joint", i.e., it is composed of an equal number of employer representatives and employees representatives represented by a bona fide collective bargaining agent(s) and has been established to conduct, operate, or administer an apprenticeship program and enter into apprenticeship agreements with apprentices. A committee may be "unilateral" or "non-joint" and shall mean a program sponsor in which a bona fide collective bargaining agent is not a participant; it includes an individual non-joint sponsor and a group non-joint sponsor. A committee may be:~~

1. "Joint" – composed of an equal number of employer representatives and employee representatives, represented by a bona fide collective bargaining agent; and has been established to conduct, operate or administer an apprenticeship program and enter into apprenticeship agreements with apprentices.

2. "Unilateral" or "Non-Joint" – a program sponsor in which a bona fide collective bargaining agent is not a participant; it includes an individual non-joint sponsor and a group non-joint sponsor

F. "Apprenticeship program" means a plan containing all terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices, as required ~~under 29 CFR parts 29 and 30~~ by materials incorporated above at §§ 5.2(B) through (F) of this Part, including such matters as the requirements for a written apprenticeship agreement.

G. "Cancellation" means the termination of the registration or approval status of a program at the request of the Ssponsor, or termination of an Apprenticeship Agreement at the request of the apprentice.

H. "Certification" or "Certificate" means documentary evidence that:

1. The Office of Apprenticeship has approved ~~as~~ a set of National Guidelines for Apprenticeship Standards developed by a national committee or organization, joint or unilateral, for policy or guideline use by local affiliates, as conforming to the standards of apprenticeship set forth in materials incorporated above at § 5.2(C) of this Part~~29 CFR 29.5;~~

2. The Department has established that an individual is eligible for probationary employment as an apprentice under a registered apprenticeship program;

3. The Department has registered an apprenticeship program as evidenced by a Certificate of Registration or other written indicia;

4. The Department has determined that an apprentice has successfully met the requirements to receive an interim credential; or
 5. The Department has determined that an individual has successfully completed apprenticeship pursuant to R.I. Gen. Laws § 28-45-3.
- I. "Competency" means the attainment of manual, mechanical, or technical skills and knowledge as specified by an occupational standard and demonstrated by an appropriate written and hands-on proficiency measurement pursuant to R.I. Gen. Laws § 28-45-9.
 - J. "Completion rate" means the percentage of an apprenticeship cohort who receives a certificate of apprenticeship completion within one (1) year of the projected completion date. ~~An apprenticeship cohort is the group of individual apprentices registered to a specific program during a 1 year time frame, except that a cohort does not include the apprentices whose apprenticeship agreement has been cancelled during the probationary period.~~
 - K. "Council" or "State Apprenticeship Council" or "SAC" ~~means~~ is an entity established as part of the ~~D~~e~~p~~artment of ~~L~~abor and ~~T~~raining, and operating under its direction, in order to assist the department by:
 1. promulgating regulations consistent with ~~materials incorporated above at §§ 5.2(B) through (F) of this Part;~~ and
 2. providing advice and guidance to the director of the ~~D~~e~~p~~artment of ~~L~~abor and ~~T~~raining on the operation of the Rhode Island ~~A~~pprenticeship ~~P~~rogram.
 - L. "Department" means the Rhode Island Department of Labor and Training.
 - M. "Electronic media" means media that utilize electronics or electromechanical energy for the end user (audience) to access the content.
 1. This ~~and~~ includes, but is not limited to, electronic storage media, transmission media, the Internet, extranet, lease lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic media and/or interactive distance learning.
 - N. "Employer" means any person or organization employing an apprentice, regardless of ~~or not~~ such person or organization is a party to an apprenticeship agreement with the apprentice.
 - O. "Federal purposes" ~~means~~ includes any Federal contract, grant, agreement or arrangement dealing with apprenticeship; and any Federal financial or other assistance, benefit, privilege, contribution, allowance, exemption, preference or right pertaining to apprenticeship.

- P. "Interim credential" means a credential issued by the Department, upon request of the appropriate sponsor, as certification of competency attainment by an apprentice.
- Q. "Journeyworker or Journeyperson" means a worker ~~who has attained a level of skill, abilities and competencies recognized within an industry as having mastered the skills and competencies required for the occupation~~recognized within the industry as having mastered the skills, abilities, and competencies required for the occupation.
1. Use of the term may also refer to a mentor, technician, specialist, or other skilled worker who has documented sufficient skills and knowledge of an occupation, either through formal apprenticeship or through practical on-the-job experience and formal training.
- R. "Office of apprenticeship" means the office designated by the Employment and Training Administration to administer the National Apprenticeship System or its successor organization.
- S. "Provisional registration" means the one (1) 4-year initial provisional approval of newly registered programs that meet the required standards for program registration, after which program approval may be made permanent, continued as provisional, or rescinded following a review by the Council, as provided for in the criteria described in § 5.4~~Section 3~~ of this Part.
- T. "Quality assurance assessment" means a comprehensive review conducted by the Department regarding all aspects of an ~~A~~apprenticeship ~~P~~program's performance, including but not limited to, determining if apprentices are receiving: on-the-job training in all phases of the apprenticeable occupation; scheduled wage increases consistent with the registered standards; related instruction through appropriate curriculum and delivery systems; and that the Department is receiving notification of all new registrations, cancellations, and completions as required herein.
- U. "Registration agency" means the Office of Apprenticeship (acting as a registration agency) or a state recognized apprenticeship agency, including the Department.
- V. "Registration of an apprenticeship agreement" means the acceptance and recording thereof by the Department as evidence of the participation of the apprentice in a particular registered apprenticeship program.
- W. "Registration of an apprenticeship program" means the acceptance and recording of such program by the Department as meeting the basic standards and requirements of the Department for approval of such program. Approval is evidenced by a certificate of registration or other written indicia.

- X. “Related instruction” means an organized and systematic form of instruction designated to provide the apprentice with knowledge of the theoretical and technical subjects related to the apprentice’s occupation. Such instruction may be given in a classroom, through occupational or industrial courses, or by correspondence courses of equivalent value, electronic media, or other forms of self-study approved by the Department.
- Y. “Secretary” means the U.S. Department of Labor Secretary of Labor or any person designated by the Secretary.
- Z. “Sponsor” means any person, association, committee, or organization operating an apprenticeship program and in whose name the program is (or is to be) registered or approved.
- AA. “Standards of apprenticeship” means the written document which sets forth the minimum labor standards required by law for training apprentices in a specified industry, area or plant. By reference, it is a part of the apprenticeship agreement. There are two basic types of standards:
1. one providing for joint employer-union participation in the program; and
 2. the second, referred to as unilateral standards, where responsibility for the apprenticeship is assumed by either management or organized labor, but not both. Normally, unilateral programs are sponsored by single employers.
- BB. “Technical assistance” means guidance provided by Department staff in the development, revision amendment, or processing of a potential or current program sponsor’s Standards of Apprenticeship, Apprenticeship Agreements, or advice or consultation with a ~~S-program~~ sponsor to further compliance with this part.
- CC. “Transfer” means a shift of apprenticeship registration from one program to another or from one employer within a program to another employer within that same program, where there is agreement between the apprentice and the affected ~~A~~apprenticeship ~~C~~committees or ~~program~~~~S~~sponsors.

5.4 Eligibility and Procedure for Council Registration

- A. Eligibility for registration of an apprenticeship program for various Federal ~~P~~urposes is conditioned upon a program's conformity with the apprenticeship program standards published in this part. For a program to be determined by the Secretary as being in conformity with these published standards, the program must apply for registration and be registered with the Office of Apprenticeship or with a State Apprenticeship Agency recognized by the Office of Apprenticeship. The determination by the Secretary that the program meets the apprenticeship program standards is effectuated only through such registration.

- B. Only an apprenticeship program or agreement that meets the following criteria is eligible for Department registration:
1. It is in conformity with the requirements of this part and the training is in an apprenticeable occupation having the characteristics set forth in § 5.5; and
 2. It is in conformity with the requirements of the Office of Apprenticeship regulations on Equal Employment Opportunity in Apprenticeship and Training as incorporated in § 5.2(F) of this Part in 29 CFR 30.
- C. Except as provided ~~under paragraph~~ § 5.4(D) of this Part, apprentices must be individually registered under a registered program. Such individual registration may be affected:
1. By filing copies of each individual Apprenticeship Agreement with the Department; or
 2. Subject to Department approval, by filing a master copy of such agreement followed by a listing of the name, and other required data, of each individual, when apprenticed.
 3. Such registration shall be made by filing the individual Apprenticeship Agreement with the Department within forty-five (45) calendar days of the date of selection, and shall become effective upon signature by the Department.
 - a. _____ The names of persons in probationary employment as an apprentice under an apprenticeship program registered by the Department, if not individually registered under such program, must be submitted within forty-five (45) days of employment to the Department for certification to establish the apprentice as eligible for such probationary employment, unless prohibited by applicable licensing law.
- D. The Department must be notified within forty-five (45) days of persons who have successfully completed apprenticeship programs; and of transfers, suspensions, and cancellations of apprenticeship agreements, including and a statement of the reasons therefore.
- E. Operating Apprenticeship Programs, when approved by the Department, are provided with~~accorded~~ registration and/or approval evidenced by a certificate of registration or other similar written indicia.
- F. Applications for new programs that the Department determines meet the required standards for program registration must be given provisional approval for a period of one (1) year. The Department must review all new programs for quality

and for conformity with the requirements of this part at the end of the first year after registration. At that time:

1. A program that conforms with the requirements of this part may:
 - a. ~~May~~ be made permanent; or
 - b. ~~may~~ continue to be provisionally approved through the first full training cycle.
 2. A program not in operation or not conforming to the regulations during the provisional approval period ~~shall~~must be recommended for deregistration procedures.
- G. The Department must review all programs for quality and for conformity with the requirements of this part at the end of the first full training cycle. A satisfactory review of a provisionally approved program will result in conversion of provisional approval to permanent registration. Subsequent reviews must be conducted no less frequently than every five years. Programs not in operation or not conforming to the regulations must be recommended for deregistration procedures.
- H. Any sponsor proposals or applications for modification(s) or change(s) to registered programs for Apprenticeship Standards must be submitted to the Department. The Department ~~shall determine~~must make a determination on whether to approve such submissions within ninety (90) days from the date of receipt. If approved, the modification(s) or change(s) will be recorded and acknowledged within ninety (90) days of approval as amendment(s) to such program. If not approved, the sponsor must be notified of the disapproval and the reasons therefore; and provided the appropriate technical assistance.
- I. If the ~~S~~sponsor is involved in any abnormal labor condition such as a strike, lockout, or other similar condition, the application for an apprenticeship program may be withheld until such issue is resolved.
- J. If it should be determined by the Department that a ~~S~~sponsor is in violation of any Federal or State Labor laws, or rules and regulations affecting registration of programs, the application for an apprenticeship program may be withheld until such issues are resolved.
- K. Under a program proposed for registration by an employer or employers' association, where the standards, collective bargaining agreement or other instrument, provides for participation by a union in any matter in the operation of the substantive matters of the apprenticeship program, and such participation is exercised, written acknowledgement of union agreement or no objection to the registration is required. Where no such participation, by a union, is evidenced and practiced, the employer or employers' association shall simultaneously

furnish to an existing union, if any, which is the collective bargaining agent of the employees to be trained, a copy of its application for registration and of the Apprenticeship Program. The Department shall provide for receipt of union comments, if any, within forty-five (45) days before final action on the application for registration and/or approval.

- L. Where the employees to be trained have no collective bargaining agreement, an Apprenticeship Program may be proposed for registration by an employer or group of employers, or an employer association.

5.5 Criteria for Apprenticeable Occupations

A. An apprenticeable occupation ~~shall possess all of the following characteristics:~~ is one which:

1. Is customarily learned in a practical way through a structured systematic program of fn on-the-job supervised learning;
2. ~~It~~ is clearly identified and commonly recognized throughout an industry;
3. ~~It~~ involves the progressive attainment of manual, mechanical, or technical skills and knowledge which, in accordance with the industry standard for the occupation;;
4. ~~would r~~ Requires the completion of at least 2,000 hours of on-the-job learning ~~to attain~~; and
5. ~~It~~ Rquires related instruction to supplement the on-the-job learning.

5.6 Standards of Apprenticeship

A. An apprenticeship Program to be eligible for registration by the Department shall conform to the following standards:

1. The program is a written plan embodying the terms and conditions of employment, training and supervision of one or more apprentices in the apprenticeable occupation, as defined in R.I. Gen. Laws Chapter § 28-45 ~~Title 28, Chapter 45,~~ and this regulation, ~~and this regulation,~~ and subscribed to by a Sponsor who has undertaken to carry out the apprentice training program.
2. The following standards are prescribed for an Apprenticeship Program:
 - a. The employment and training of the apprentice in a skilled trade, craft or occupation;

- b. The term of apprenticeship, which for an individual apprentice may be measured either through the completion of the industry standard for on-the-job learning (at least 2,000 hours) (time-based approach), the attainment of competency (competency-based approach), or a blend of the time-based and competency-based approaches (hybrid approach):
- (1) The time-based approach measures skill acquisition through the individual apprentice's completion of at least 2,000 hours of on-the-job learning as described in a work process schedule.
 - (2) The competency-based approach measures skill acquisition through the individual apprentice's successful demonstration of acquired skills and knowledge, as verified by the program sponsor. Programs utilizing this approach must still require apprentices to complete an on-the-job learning component of registered apprenticeship. The program standards must address how on-the-job learning will be integrated into the program, describe competencies, and identify an appropriate means of testing and evaluation for such competencies.
 - (3) The hybrid approach measures the individual apprentice's skill acquisition through a combination of specified minimum number of hours of on-the-job learning and the successful demonstration of competency as described in a work process schedule.
 - (4) The determination of the appropriate approach for the program standards is made by the program sponsor, subject to approval by the Department of the determination as appropriate to the apprenticeable occupation for which the program standards are registered.
- c. An outline of work processes in which the apprentice will receive supervised work experience and on-the-job learning, and the allocation of the approximate time to be spent in each major process;
- d. Provision for organized, related instruction in technical subjects related to the occupation, including a description of how testing and evaluation will be administered. A minimum of one hundred and forty-four (144) hours for each year of apprenticeship is recommended. This instruction in technical subjects may be accomplished through media such as classroom, occupational or industry courses, electronic media, or other instruction approved by

the Department. Related and supplemental instruction may be provided in person or via electronic media.

(1) The Sponsor shall provide the following information ~~in order~~ to be granted approval for the use of electronic media:

(AA) The rationale for implementing the electronic media;

(BB) The type(s) and availability of electronic media to be utilized; and

(CC) A list of the courses, description, and the number of hours required to complete each course being delivered by electronic media.

(2) Every apprenticeship instructor must:

(AA) Meet the Rhode Island Department of Education's requirements for a vocational-technical instructor in Rhode Island or be a subject matter expert, which is an individual, such as a journeyworker, who is recognized within an industry as having expertise in a specific occupation; and

(BB) Have training in teaching techniques and adult learning styles, which may occur before or after the apprenticeship instructor has started to provide the related technical instruction.

e. A statement of the progressively increasing scale of wages to be paid the apprentice consistent with the skill acquired, the entry wage to be not less than the minimum wage prescribed by the Federal and State Labor Standards Acts, where applicable, unless a higher wage is required by other applicable Federal law, State law, respective regulations, or by Collective Bbargaining Agreement;

f. A provision for probationary period reasonable in relation to the full apprenticeship term, with full credit given for such period toward completion of apprenticeship; the probationary period cannot exceed twenty-five (25) percent of the length of the program, or one (1) year, whichever is greater;

g. Authority for the cancellation of an Apprenticeship Agreement during the probationary period by either party without stated cause; cancellation during the probationary period will not have an adverse impact on the sponsor's completion rate;

- h. A provision that after the probationary period, the Council shall be empowered to terminate an ~~A~~apprenticeship ~~A~~agreement upon agreement of the parties thereto~~;~~, or for good cause on the Council's own motion after giving all parties notice and opportunity to be heard;
- i. Adequate and safe equipment and facilities for training and supervision, and safety training for apprentices on the job and in related instruction;
- j. Provision for the numeric ratio of apprentices to ~~J~~journeymen consistent with proper supervision, training, safety, and reasonable continuity of employment, and applicable provisions in collective bargaining agreements. The ratio language shall be specific and clear as to application in terms of jobsite, work force, department~~,~~ or plant. The initial ratio of apprentice to journeymen is 1-1 and the remaining ratios are set forth in ~~§ 5.17 of this Part~~~~Appendix A attached hereto~~ and made a part herein and is applicable to all participating employers in each apprenticeable trade, craft~~,~~ or occupation;
- k. The transfer of an apprentice between apprenticeship programs and within an apprenticeship program must be based on agreement between the apprentice and the affected ~~A~~apprenticeship ~~C~~committees or program ~~S~~sponsors, and must comply with the following requirements:
 - (1) The transferring apprentice must be provided a transcript of related instruction and on-the-job learning by the committee or ~~program~~~~S~~sponsor;
 - (2) Transfer must be to the same occupation;
 - (3) A new ~~A~~apprenticeship ~~A~~agreement must be executed when the transfer occurs between program ~~S~~sponsors;
 - (4) The apprentice conforms to the work process contained in the new apprenticeship agreement.
- l. Provision for minimum qualifications required by a ~~S~~sponsor for persons entering the ~~A~~apprenticeship ~~P~~program; an apprentice may be ~~sixteen~~ (16) years of age or ~~older, higher~~ unless a higher minimum age is fixed by law;
- m. The granting of advanced standing or credit for demonstrated competency, acquired experience, training, or skills for all

applicants equally, with commensurate wages for any progression step so granted;

- n. A provision that the employer shall instruct the apprentice in safe and healthy~~ful~~ work practices and shall ~~e~~insure that the apprentice is trained in facilities and other environments that are in compliance with either the occupational safety and health standards promulgated by the Secretary ~~of Labor~~ under ~~the Occupational Safety and Health Act of 1970 as amended~~materials incorporated above at § 5.2(J) of this Part, or State standards that have been found to be at least as effective as the Federal standards;
- o. A provision for the placement of an apprentice under a written ~~A~~apprenticeship ~~A~~agreement, which shall directly, or by reference, incorporate the standards of the program as part of this agreement;
- p. A provision for periodic evaluation review ~~and evaluation~~ of the apprentice's progress in job performance and ~~in~~ related instruction, and the maintenance of appropriate progress records;
- q. A provision of recognition for successful completion of apprenticeship, evidenced by an appropriate certificate;
- r. Identification of the Department;
- s. A statement that the regular work day or work week for apprentices shall not be greater than those of the ~~J~~ourneymen;
- t. Provision for the registration, cancellation, and deregistration of the program, and requirement for the prompt submission of any modification or revision thereto;
- u. Provision for registration of apprenticeship ~~A~~agreements and ~~R~~evisions, notice to the Department of persons who have successfully completed apprenticeship programs, and notice of transfers, terminations and suspensions of ~~A~~apprenticeship ~~A~~agreements and causes therefore;
- v. A statement of how the ~~C~~ommittee is to be organized and a statement of the functions of the committee are required if the ~~S~~program sponsor is a joint ~~A~~apprenticeship ~~C~~ommittee;
- w. Compliance with materials incorporated above at § 5.2(F) of this Part~~29 CFR 30~~, including the equal opportunity pledge prescribed in materials incorporated above at § 5.2(G) of this Part~~29 CFR 30.3(b)~~; an affirmative action plan complying with materials incorporated above at § 5.2(H) of this Part~~29 CFR 30.4~~; and a

method for the selection of apprentices authorized by materials incorporated above at § 5.2(I) of this Part 29 CFR 30.5, or compliance with parallel requirements contained in a State plan for equal opportunity in apprenticeship adopted under materials incorporated above at § 5.2(F) of this Part 29 CFR 30 and approved by the Department. The apprenticeship standards must also include a statement that the program will be conducted, operated, and administered in conformity with applicable provisions of materials incorporated above at § 5.2(F) of this Part 29 CFR 30, as amended, or, if applicable, an approved State plan for equal opportunity in apprenticeship;

- x. Name, address, telephone number, and email address, if applicable, of the appropriate authority under the program to receive, process, and make disposition of complaints;
- y. Provision for a participating employer's agreement;
- z. All apprenticeship standards must contain articles to comply with Federal laws, regulations and rules pertaining to apprenticeship;
- aa. Assurance of qualified training personnel and adequate supervision on the job by a minimum number of journeypersons;
- bb. Program standards that utilize the competency-based or hybrid approach for progression through an apprenticeship and that choose to issue interim credentials must:
 - (1) clearly identify the interim credentials,
 - (2) demonstrate how these credentials link to the components of the apprenticeable occupation, and
 - (3) establish the process for assessing an individual apprentice's demonstration of competency associated with the particular interim credential.
 - (4) Further, interim credentials must only be issued for recognized components of an apprenticeable occupation, thereby linking interim credentials specifically to the knowledge, skills, and abilities associated with those components of the apprenticeable occupation.
- cc. Recording and maintenance of all records concerning apprenticeship as may be required by the Office of Apprenticeship or the Department and other applicable law.

5.7 Program Performance Standards

- A. Every registered ~~A~~apprenticeship ~~P~~program must have at least one registered apprentice, except for the following specified periods of time, which may not exceed one (1)-year:
1. Between the date when a program is registered and the date of registration for its first apprentice(s); or
 2. Between the date that a program graduates an apprentice and the date of registration for the next apprentice(s) in the program.
- B. ~~T~~In order to evaluate completion rates, the Registration Agency must review a program's completion rates in comparison to the national average for completion rates. Based on the review, the Registration Agency must provide ~~T~~technical ~~A~~assistance to programs with completion rates lower than the national average.
- C. Cancellation of ~~A~~apprenticeship ~~A~~agreements during the probationary period will not have an adverse impact on a sponsor's completion rate.

5.8 Apprenticeship Agreement

- A. The ~~A~~apprenticeship ~~A~~agreement shall contain explicitly or by reference:
1. Name and signature of the contracting parties (apprentice, and the program sponsor or employer, and the signature of a parent or guardian if the apprentice is a minor);
 2. The date of birth of the apprentice and, on a voluntary basis, the social security number;
 3. Name and address of the ~~program S~~sponsor and ~~R~~registration ~~A~~agency;
 4. A statement of the occupation, trade, or craft in which the apprentice is to be trained and the beginning date and term of apprenticeship;
 5. A statement showing:
 - a. The number of hours to be spent by the apprentice in work on the job in a time-based program or a description of the skill sets to be attained by completion of a competency-based program, including the on-the-job learning component; or, if a hybrid program, the minimum number of hours to be spent by the apprentice and a description of the skill sets to be attained by completion of a hybrid program; and

- b. The number of hours to be spent in related and supplemental instruction in technical subjects related to the occupation which is recommended to be not less than one hundred forty-four (144) hours per year.
6. A statement setting forth a schedule of the work processes in the trade, craft, or occupation in which the apprentice is to be trained and the approximate time to be spent at each process;
7. A statement of the graduated scale of wages to be paid the apprentice and whether ~~or not~~ the required school time related instruction shall be compensated;
8. Statements providing:
 - a. For a specific period of probation during which the Apprenticeship Agreement may be terminated by either party to the agreement upon notice to the Department; and
 - b. That, after the probationary period, the agreement may be:
 - (1) Cancelled at the request of the apprentice, or
 - (2) Suspended or cancelled by the Sponsor, for good cause, with due notice to the apprentice and a reasonable opportunity for corrective action, and with written notice to the apprentice and to the Department of the final action taken.
9. A statement that the apprentice will be accorded equal opportunity in all phases of apprenticeship employment and training, without discrimination because of race, color, religion, ancestry, sex, age, physical handicap, marital status, or court and arrest record; and
10. Name and address of the appropriate authority, if any, designated under the program to receive, process, and make disposition of controversies or differences arising out of the Apprenticeship Agreement; any such controversies and differences which cannot be amicably settled by the parties may be submitted to the Department for final decision.

5.9 Deregistration of Department Registered Program

- A. Deregistration of a program may be effected upon the ~~voluntary action of the~~ Sponsor's voluntary ~~by a~~ request for cancellation of the registration or, upon reasonable cause, by the Department, instituting formal deregistration proceedings in accordance with the provisions of this regulation.

B. ~~REQUEST BY SPONSOR. The~~ If a Sponsor requests deregistration, the Department may cancel the registration of an Apprenticeship Program by a written acknowledgement of such request stating, but not limited to, the following:

1. The registration is cancelled at Sponsor's request, and giving the effective date of such cancellation; and
2. That, within fifteen (15) work days of the date of the acknowledgement, the Sponsor must notify all apprentices, of such cancellation and the effective date; that such cancellation automatically deprives the apprentice of his/her individual registration; and that the deregistration of the program removes the apprentice from coverage for federal purposes which require the Secretary of the U.S. Department of Labor's approval of an apprenticeship program; and that all apprentices are referred to the Department for information about potential transfer to other registered Apprenticeship Programs.

C. Deregistration by Department:

1. The Department may initiate Deregistration proceedings ~~may be undertaken~~ when the apprenticeship program is not conducted, operated, or administered in accordance with the program's registered provisions or with the requirements of this Part, including not but limited to:
 - a. _____ failure to provide on-the-job learning;
 - b. _____ failure to provide related instruction;
 - c. _____ failure to pay the apprentice a progressively increasing schedule of wages consistent with the apprentices skills acquired; or
 - d. _____ persistent and significant failure to perform successfully.
 - e. _____ Deregistration proceedings for violation of equal opportunity requirements must be processed in accordance with the provisions under materials incorporated above at § 5.2(F) of this Part~~29 CFR 30.~~
2. For purposes of this section, persistent and significant failure to perorm successfully occurs when a program-Sponsor consistently fails to register at least one apprentice, shows a pattern of poor quality assessment results over a period of several years, demonstrates an ongoing pattern of very low completion rates over a period of several years, or shows no indication of improvement in the areas identified by the Department during a review process as requiring corrective action.
3. Where it appears the program is not being operated in accordance with requirements of R.I. Gen. Laws Chapter 28-45~~Title 28, Chapter 45,~~ or this

regulation, the Department shall ~~so~~ notify the program in writing of non-compliance.

4. The notice sent to the ~~program~~ Ssponsor's contact person must:
 - a. Be sent by registered or certified mail, with return receipt requested;
 - b. State the shortcoming(s) and the remedy required; and
 - c. State that a determination of reasonable cause for deregistration will be made unless corrective action is effected within thirty (30) days.
5. Upon request by sponsor, the thirty (30) day period may be extended for up to an additional thirty (30) day period. During the period for correction the Ssponsor ~~should~~may be assisted in every reasonable way by the Department.
6. If the required action is not taken within the allotted time, the Department shall send a notice to the Ssponsor by registered or certified mail, return receipt requested, stating the following:
 - a. This notice is sent pursuant to this subsection;
 - b. Certain deficiencies were called to the Ssponsor's attention (enumerating them and the remedial measures requested, with the dates of such occasions and letters), and that the Ssponsor has failed or refused to effect correction;
 - c. Based upon the stated deficiencies and failure to remedy them, a determination has been made that there is reasonable cause to deregister the program and the program may be deregistered unless, within fifteen (15) days of the receipt of this notice, the Ssponsor requests a hearing with the Department; and
 - d. If the Ssponsor does not request a hearing, the entire matter will be submitted to the Administrator, Office of Apprenticeship, for a decision, on the record, ~~about~~ with respect to deregistration.
7. If the Ssponsor does not request a hearing, the Department will transmit to the Administrator a report containing all pertinent facts and circumstances concerning the nonconformity, including the findings and recommendation for deregistration, and copies of all relevant documents and records. Statements concerning interviews, meetings and conferences will include the time, date, place, and persons present. The Administrator will make a final order on the basis of the record presented.

8. If the ~~S~~ponsor requests a hearing, the Registration Agency will transmit to the Administrator a report containing all the data listed in ~~paragraph~~§ 5.9(B)(6) of this ~~section~~Part, and the Administrator will refer the matter to the Office of Administrative Law Judges. An Administrative Law Judge will convene a hearing in accordance with materials incorporated above at § 5.2(E) of this Part~~29 C.F.R. § 29.10~~, and issue a decision as required in ~~29 C.F.R. § 29.10(c)~~materials incorporated above at § 5.2(E) of this Part.
9. Every order of registration shall contain a provision that the sponsor shall, within one (1) work days of the effective date of the order, notify all registered apprentices of the deregistration of the program, the effective date, and that such action automatically deprives the apprentice of his/her individual registration; that the deregistration removes the apprentice from coverage for Federal ~~P~~urposes which require the Secretary~~-of Labor~~'s approval of an ~~A~~pprenticeship ~~P~~rogram, and that all apprentices are referred to the Department for information about potential transfer to other registered ~~A~~pprenticeship ~~P~~rograms.

5.10 Deregistration Hearings

- A. Within ten (10) businesswork days of receipt of a request for a hearing, ~~reasonable notice of such hearing~~, the Administrator of Apprenticeship must contact the Department of Labor's Office of Administrative Law Judges to request a designation of an Administrative Law Judge to preside over the hearing. The Judge shall give reasonable notice of such hearing by registered mail, return receipt requested, to the appropriate ~~S~~ponsor. Such notice shall include:
 1. A reasonable time and place of hearing;
 2. A statement of the provisions of this regulation pursuant to which the hearing is to be held; and
 3. A concise statement of the matters pursuant to which the action forming the basis of the hearing is proposed to be taken.
- B. The procedures contained in materials incorporated above in § 5.2(A) of this Part ~~29 CFR part 18~~ will apply to the disposition of the request for hearing except that:
 1. The Administrative Law Judge will receive, and make part of the record, documentary evidence offered by any party and accepted at the hearing. ~~Copies thereof will be made available by the party submitting the documentary evidence to any party to the hearing upon request.~~ Copies of documentary evidence may be submitted to any party to the hearing upon request.
 2. Technical rules of evidence will not apply to hearings conducted pursuant to this Part, but rules or principles designed to assure production of the most credible

evidence available and to subject testimony to test by cross-examination will be applied, where reasonably necessary, by the Administrative Law Judge conducting the hearing. The Administrative Law Judge may exclude irrelevant, immaterial, or unduly repetitious evidence.

- C. The Administrative Law Judge should issue a written decision within ninety (90) days of the closing of the hearing record. The Administrative Law Judge's decision constitutes final agency action. ~~unless, within 15 days from receipt of the decision, a party dissatisfied with the decision files a petition for review with the Administrative Review Board, specifically identifying the procedure, fact, law or policy to which exception is taken. Any exception not specifically urged is deemed to have been waived. A copy of the petition for review must be sent to the opposing party at the same time. Thereafter, the decision of the Administrative Law Judge remains final agency action unless the Administrative Review Board, within 30 days of the filing of the petition for review, notifies the parties that it has accepted the case for review. The Administrative Review Board may set a briefing schedule or decide the matter on the record. The Administrative Review Board must decide any case it accepts for review within 180 days of the close of the record. If not so decided, the Administrative Law Judge's decision constitutes final agency action.~~

5.10.1 Procedure for Petition for Review

- A. Within fifteen (15) days of receipt of decision from the Administrative Law Judge, a dissatisfied party may file a petition for review with the Administrative Review Board. The petition shall specifically identify the procedure, law, or policy to which exception is taken. Any exception not specifically identified is deemed waived. A copy of the petition for review shall be sent to the opposing party at the same time.
- B. The decision of the Administrative Law Judge remains final unless, within thirty (30) days of the filing of the petition for review, the Administrative Review Board notifies the parties the petition has been accepted.
- C. The Administrative Review Board may set a briefing schedule or decide the matter on the record. The Administrative Review Board must render a decision on any accepted petition within one hundred and eighty (180) days of the close of the record or the Administrative Law Judge's decision constitutes final agency action.

5.11 Reinstatement of Program Registration

Any ~~A~~apprenticeship ~~P~~program deregistered pursuant to ~~R.I. Gen. Laws Chapter 28-45~~Title 28, Chapter 45, and this regulation, may be reinstated upon presentation of adequate evidence that the ~~A~~apprenticeship ~~P~~program is operating in accordance with ~~Title 28, Chapter 45~~, R.I. Gen. Laws Chapter 28-45.

and this regulation. Such evidence shall be presented to the Department, if an order of deregistration were entered pursuant to a hearing.

5.12 Complaints

- A. This section is not applicable to any complaint concerning discrimination nor other equal opportunity matters; all such complaints shall be submitted, processed, and resolved in accordance with State or Federal Equal Opportunity laws.
- B. Any controversy or differences arising under Apprenticeship Agreement which cannot be resolved locally, or which is not covered by a Collective Bbargaining Agreement, may be submitted by an apprentice or his/her authorized representative to the Department for review. Matters covered by a collective bargaining agreement are not subject to such review.
- C. The complaint must be in writing, and signed by the complainant, or authorized representative, and shall be submitted within sixty (60) days of the final local decision. It shall set forth the specific matter(s) complained of, together with all relevant facts and circumstances. Copies of all pertinent documents and correspondence shall accompany the complaint.
- D. The Department shall render opinion within ninety (90) days after receipt of the complaint, based upon such necessary investigation of the matters submitted ~~as may be found necessary~~, and the record before it. During the ninety (90)-day period, the Department shall make reasonable efforts to affect a satisfactory resolution between the parties involved. If so resolved, the parties shall be notified that the case is closed. Where a final decision is rendered, copies of such~~the~~ decision shall be sent to all interested parties, ~~which shall be final.~~
- E. Nothing in this section precludes an apprentice from pursuing any other remedy authorized under another Federal, State, or local law.

5.13 Reciprocity

- A. The Department shall accord reciprocal approval for Federal Purposes to apprentices, Apprenticeship Programs, and standards that are registered in other States by the Office of Apprenticeship or a Registration Agency if such reciprocity is requested by the apprenticeship program sponsor. SProgram sponsors seeking reciprocal approval must meet the wage and hour provisions and apprentice ratio standards of the reciprocal State.
- B. Licensed Journeypersons from other states shall not be permitted to register as apprentices in the same occupation, trade, or craft.

5.14 Limitations

- A. Nothing in this Part or in any Apprenticeship Agreement will operate to invalidate:
1. Any apprenticeship provision in any Collective Bargaining Agreement between employers and employees establishing high apprenticeship standards; or
 2. Any special provision for veterans, minority persons, or women in the standards, apprentice qualifications or operation of the program, or in the apprenticeship agreement, which is not otherwise prohibited by law, Executive Order, or authorized regulation.

5.15 Fees

Apprenticeship programs shall comply with R.I. Gen. Laws §§ 28-45-9.1 and 28-45-13.1

5.16 EEO Plan

Apprenticeship programs shall comply with R.I. Gen. Laws § 28-45-14.

5.17 Appendix A Apprenticeship Ratios

- A. Definitions: ~~for Appendix A~~
1. “Manufacturing” means a commercial or industrial facility which makes or processes (a raw material) into a finished product by a large-scale industrial operation,
 2. “Shop” means a controlled environment within the premises owned and/or occupied by the employer.
 3. “Residential” means four (4) dwelling units and under.
 4. “Commercial” means Commercial Building or one that contains more than four (4) dwelling units.

B. Jobsite Ratio for Licensed Indentured Trades

TRADE	COMMERCIAL	RESIDENTIAL	MANUFACTURING/ SHOP (controlled environment)	EXPLANATION
Electricians	1-1 then 1-3	1-1	1-1 then 1-3	* see Definitions

Master Oil Burner Electrician	1-1	1-1	1-1	As provided in R.I. Gen. Laws § 5-6-24
Journeyman Oil Burner Electrician	1-1	1-1	1-1	As provided in R.I. Gen. Laws § 5-6-24
Master Alarm Electrician	1-1	1-1	1-1	As provided in R.I. Gen. Laws § 5-6-24
Journeyman Alarm Electrician	1-1	1-1	1-1	As provided in R.I. Gen. Laws § 5-6-24
Electric Sign Contractor	2-1	2-1	2-1	As provided in R.I. Gen. Laws § 5-6-24
Electric Sign Installer	2-1	2-1	2-1	As provided in R.I. Gen. Laws § 5-6-24
Plumbers	1-1	1-1	1-1	As provided in R.I. Gen. Laws § 5-20-35 and rules and regulations
Elevators	1-1	1-1	1-1	Elevator Safety Code § 10-1.9 of this Chapter.
Telecommunications	2-1	2-1	2-1	As provided in R.I. Gen. Laws § 5-70-5
Operating Engineers	1-5	1-5	1-5	Must have license to operate equipment
TRADE	COMMERCIAL	RESIDENTIAL	MANUFACTURING/ SHOP (controlled environment)	EXPLANATION

Master Mechanical Contractor	1-1 then 1-3	1-1	1-1	Unlimited heating, cooling, and process work (Rules and Regulations)
Refrigeration Master I	1-1 then 1-3	1-1	1-1	Unlimited as to restriction on refrigeration work (Rules and Regulations)
Refrigeration Master II	1-1	1-1	1-1	Limited to installations up to 20-ton comfort cooling systems and installations up to 3-ton product cooling or up to one (1) horsepower.
Pipefitter Master I	1-1 then 1-3	1-1	1-1	Unlimited as to restriction on pipefitting and heating work. (Rules and Regulations)
Pipefitter Master II	1-1	1-1	1-1	Commercial and residential heating installations are limited to 500,000 BTU's. (Rules and Regulations)
Sheet Metal Master I	1-1 then 1-3	1-1	1-1	Unlimited as to restriction on sheet metal work. (Rules and Regulations)
Sheet Metal Master II	1-1	1-1	1-1	Limited to installation of sheet metal on a

				residential occupancy as defined by the RI Building Code current edition. (Rules and Regulations)
TRADE	COMMERCIAL	RESIDENTIAL	MANUFACTURING/ SHOP (controlled environment)	EXPLANATION
PJF/Natural Gas Service Master II	1-1	1-1	1-1	Limited to installation of warm air heating furnaces not exceeding 500,000 BTU's. Rules and Regulations)
PJF/Propane Gas Service Master II	1-1	1-1	1-1	Limited to installation of warm air heating furnaces not exceeding 500,000 BTU's. (Rules and Regulations)
Refrigeration Journeyperson I	1-1 then 1-3	1-1	1-1	Unlimited as to restriction on refrigeration work. (Rules and Regulations)
Refrigeration Journeyperson II	1-1	1-1	1-1	Limited to installations up to 20-ton comfort cooling systems and installations up to 3-ton product cooling or one (1) horsepower freezing. (Rules and Regulations)

Pipefitter Journey person	1-1 then 1-3	1-1	1-1	Unlimited as to restriction on pipefitting and heating work. (Rules and Regulations)
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C. Jobsite Ratios for Unlicensed Trades

TRADE	COMMERCIAL	RESIDENTIAL	MANUFACTURING/SHOPS
Boiler maker	1-1 then 1-5	1-1	1-1
Bricklayers	1-1 then 1-5	1-1	1-1
Carpenters	1-1 then 1-5	1-1	1-1
Ironworkers	1-1 then 1-5	1-1	1-1
Laborers	1-1 then 1-5	1-1	1-1
Painters Glazier	1-1 then 1-3	1-1	1-1
Glazier	1-1 then 1-3	1-1	1-1
Plasterers & Cement Masons	1-1 then 1-4	1-1	1-1
Roofers	1-1 then 1-5	1-1	1-1