

STATE OF OREGON
APPRENTICESHIP & TRAINING

Regulations on
Equal Employment Opportunity in
Apprenticeship

Section 1. Scope and Purpose

This plan sets forth policies and procedures to promote equality of opportunity in apprenticeship programs registered with the State Apprenticeship and Training Council. These policies and procedures apply to the recruitment and selection of apprentices, and to all conditions of employment and training during apprenticeship; and the procedures established provide for review of apprenticeship programs, for registering apprenticeship programs, for processing complaints and for deregistering noncomplying apprenticeship programs. The purpose of this plan is to promote equality of opportunity in apprenticeship by prohibiting discrimination based on race, color, religion, national origin, disability, age or sex in apprenticeship programs, by requiring affirmative action to provide equal opportunity in such apprenticeship programs, and by coordinating this part with other equal opportunity programs.

Section 2. Definitions

- a. "Council" means the Oregon State Apprenticeship and Training Council.
- b. "Department" means the U.S. Department of Labor.
- c. "Employer" means any person or organization employing an apprentice, whether or not the apprentice is indentured to such person or organization, or to a local joint or trade apprenticeship committee or the Council.

d. "Apprenticeship Program" means an apprenticeship program registered with the Council and operating in accordance with ORS Chapter 660.

e. "Sponsor" means any local joint apprenticeship committee or trade apprenticeship committee established pursuant to ORS Chapter 660.

f. "Apprenticeship Representative" means the State Director of Apprenticeship and Training and apprenticeship representatives authorized to act on behalf of the Oregon State Apprenticeship and Training Council.

g. "Secretary" means the Secretary of Labor, the Assistant Secretary of Labor for Manpower or any person specifically designated by either of them.

Section 3. Authority to Adopt State Plan

The authority for the implementation and adoption of these policies and procedures affecting the registration of apprenticeship programs with the Oregon State Apprenticeship and Training Council is ORS Chapter 660.

Section 4. Equal Opportunity Standards

- a. Obligation of Sponsors. Each sponsor of an apprenticeship program shall:
 1. Recruit, select, employ and train apprentices during their apprenticeship, without illegal discrimination because of race, color, religion, national origin, disability, age or sex; and
 2. Uniformly apply rules and regulations concerning apprentices including, but not limited to, equality of

wages, periodic advancement, promotion, assignment of work processes of the trade, imposition of penalties or other disciplinary action and all other aspects of the apprenticeship program administered by the sponsor; and

3. Take affirmative action to provide equal opportunity in apprenticeship, including adoption of an affirmative action plan as required by this State Plan.

b. Equal Opportunity Pledge. Each sponsor of an apprenticeship program shall include in its standards the following equal opportunity pledge: "The recruitment, selection, employment and training of apprentices, during their apprenticeship, shall be without illegal discrimination because of race, color, religion, national origin, disability, age or sex. The sponsor will take affirmative action to provide equal opportunity in apprenticeship and will operate the apprenticeship program as required under Title 29 of the Code of Federal Regulations, Part 30, and equal employment opportunity regulation of the Oregon State Apprenticeship and Training Council."

c. Programs presently registered. Each sponsor of a program registered with the Council shall take the following action:

1. Include in the standards of its apprenticeship program the equal opportunity pledge prescribed by paragraph (b) of this section; and

2. Adopt an affirmative action plan required by Section 5 of these regulations; and

3. Adopt a selection procedure required by Section 6 of these regulations. A sponsor adopting a selection method under Section 6(b)(1), (2) or (3) shall prepare and submit

copies of its standards, amended standards, affirmative action plans and selection procedure. A sponsor adopting a selection method under Section 6(b)(4) shall submit to the Council copies of its standards, affirmative action plan and selection procedure in accordance with the requirements of 6(b)(4)(i)(a).

d. Sponsors seeking new registration. A sponsor of a new program seeking new registration with the Council shall submit copies of its proposed standards, affirmative action plan, selection procedure and such other information as may be required. The program shall be registered if such standards, affirmative action plan and selection procedure meet the requirements of this plan.

e. Programs subject to approved equal employment opportunity plans. A sponsor shall not be required to adopt an affirmative action plan under Section 5 or a selection procedure under Section 6 of these regulations if it submits to the Council satisfactory evidence that it is in compliance with an equal employment opportunity program providing for the selection of apprentices and for affirmative action in apprenticeship including goals and timetables for women and minorities that has been approved as meeting the requirements of Title VII of the Civil Rights Act of 1964 (42 USC 2000e et seq.) and its implementing regulations published in Title 29 of the Code of Federal Regulations, Chapter XIV or Executive Order 11246, as amended and the implementing regulations published in Title 41 of the Code of Federal Regulations, Chapter 60; Programs approved, modified or renewed will qualify for the exception outlined in this section only if the goals

and timetables for minorities and women for the selection of apprentices provided for in such programs are equal to or greater than the goals required under this plan.

Joint apprenticeship committees - program with fewer than five apprentices. A sponsor of a program in which fewer than five apprentices are registered shall not be required to adopt an affirmative action plan under Section 5 or a selection procedure under Section 6 provided, that such program was not adopted to circumvent the requirements of this plan.

Trade apprenticeship and training committees. Except as provided in (1) below, trade apprenticeship and training committees shall not be required to adopt an affirmative action plan under Section 5 or a selection procedure under Section 6 provided, that such program was not adopted to circumvent the requirements of this plan.

1. Whenever a trade participating in a trade apprenticeship and training committee has five or more apprentices, that particular trade shall adopt an affirmative action plan under Section 5 and a selection procedure under Section 6 of these regulations.

Section 5. Affirmative Action Plans

a. Adoption of affirmative action plans. A sponsor's commitment to equal opportunity in recruitment, selection, employment and training of apprentices shall include the adoption of a written affirmative action plan.

b. Definition of affirmative action. Affirmative action is not mere passive non-discrimination. It includes procedures, methods and program for the identification, positive recruitment, training and motivation of present and potential minority and apprentices

including the establishment of goals and timetables. It is action which will equalize opportunity in apprenticeship so as to allow full utilization of the work potential of minorities and women. The overall result to be sought is equal opportunity in apprenticeship for all individuals participating in or seeking entrance to the state's labor force.

c. Outreach and positive recruitment. An acceptable affirmative action plan must also include the adequate provision for outreach and positive recruitment that would reasonably be expected to increase minority and female participation in apprenticeship by expanding the opportunity of minorities and women to become eligible for apprenticeship selection. In order to achieve these objectives, sponsors shall undertake activities such as those listed below. It is not contemplated that each sponsor necessarily will include all of the listed activities in its affirmative action program. The scope of the affirmative action program will depend on all the circumstances including the size and type of the program and its resources. However, the sponsor will be required to undertake a significant number of appropriate activities in order to enable it to meet its obligations under this part. The affirmative action plan shall set forth the specific steps the sponsor intends to take in the areas listed below:

1. Dissemination of information concerning the nature of apprenticeship, requirements for admission to apprenticeship availability of apprenticeship opportunities, sources of apprenticeship application, and the equal opportunity policy of the sponsor. For programs accepting applications only at specified intervals, such information shall be disseminated at

least 30 days in advance of the earliest date for application at each interval. For programs customarily receiving applications throughout the year, such information shall be regularly disseminated but not less than semiannually. Such information shall be given to the Council, local schools, employment service offices, women's centers, outreach programs and community organizations which can effectively reach minorities and women, and shall be published in newspapers which are circulated in the minority community and among women, as well as the general areas in which the sponsor operates.

2. Participate in annual workshops conducted by employment service agencies for the purpose of familiarizing school, employment service and other appropriate personnel with the apprenticeship system and current opportunities therein.

3. Cooperation with local school boards and vocational education systems to develop programs for preparing students to meet the standards and criteria required to qualify for entry into apprenticeship programs.

4. Internal communication of the sponsor's equal opportunity policy in such manner as to foster understanding, acceptance and support among the sponsor's various officers, supervisors, employees and members and to encourage such persons to take the necessary action to aid the sponsor in meeting its obligations under this plan.

5. Engaging in programs such as outreach for the positive recruitment and preparation of potential applicants for apprenticeship; where appropriate and feasible, such programs shall provide for pre-testing experience and training. If no such programs are in existence, the

sponsor shall seek to initiate these programs, or when available, to obtain financial assistance from the Department. In initiating and conducting these programs, the sponsor may be required to work with other sponsors and appropriate community organizations. The sponsor shall also initiate programs to prepare women and encourage women to enter traditionally male program.

6. To encourage the establishment and utilization of programs of pre-apprenticeship, preparatory trade training, or others designed to afford related work experience or to prepare candidates for apprenticeship, a sponsor shall make appropriate provision in its affirmative action plan to assure that those who complete such programs are afforded full and equal opportunity for admission into the apprenticeship program.

7. Utilization of journeymen to assist in the implementation of the sponsor's affirmative action plan.

8. Granting advance standing or credit on the basis of previously acquired experience, training skills or aptitude for all applicants equally.

9. Admitting to apprenticeship programs persons whose age exceeds the maximum age for admission to the program, where such action assists the sponsor in achieving its affirmative action obligations.

10. Other appropriate action to ensure that the recruitment, selection, employment, and training of apprentices during apprenticeship shall be without discrimination because of race, color, religion, national origin, or sex; such as, General publication of apprenticeship opportunities and advantages in advertisements, industry reports, articles, etc.; use of present minority and

female apprentices and journeypersons as recruiters; career counseling; periodic auditing of affirmative action programs and activities; and development of reasonable procedures between the sponsor and employers of apprentices to ensure that equal employment opportunity is being granted including reporting systems, on-site reviews, briefing sessions, etc. The affirmative action program shall set forth the specific steps the sponsor intends to take, in the above areas, under this paragraph (c).

d. Goals and timetables.

1. A sponsor adopting a selection method under Section 6 which determines on the basis of the analysis described in paragraph (e) of this section that it has deficiencies in terms of under-utilization of minorities and/or women (minority and non-minority) in the craft or crafts represented by the program shall include in its affirmative action plan percentage goals and timetables for the admission of minority and/or female (minority and non-minority) applicants into the eligibility pool.

2. "Under-utilization" as used in this paragraph refers to the situation where there are fewer minorities and/or women (minority and non-minority) in the particular craft or crafts represented by the program than would reasonably be expected in view of an analysis of the specific factors in subparagraphs (1) through (5) in paragraph (e) of the section. Where, on the basis of the analysis, the sponsor determines that it has no deficiencies, no goals and timetables need be established. However, where no goals and timetables are established, the affirmative action plan shall include a detailed explanation why no goals and

timetables have been established.

3. Where the sponsor fails to submit goals and timetables as part of its affirmation action plan or submits goals and timetables which are unacceptable, and the Council determines that the sponsor has deficiencies in terms of under-utilization of minorities or women (minority and non-minority) within the meaning of this section, the Council shall establish goals and timetables applicable to the sponsor for the admission of minority and female (minority and non-minority) applicants into the eligibility pool or selection of apprentices, as appropriate. The sponsor shall make good faith efforts to attain those goals and timetables in accordance with the requirements of this section.

e. Analysis to determine if deficiencies exists. The sponsor's determination as to whether goals and timetables shall be established, shall be based on an analysis of at least the following factors, which analysis shall be set forth in writing as part of the affirmative action plan.

1. The minority and female (minority and non-minority) population of the labor market area in which the program sponsor operates;

2. The size of the minority and female (minority and non-minority) labor force in the sponsor's labor market area;

3. The percentage of minority and female (minority and non-minority) participation as apprentices in the particular craft as compared with the percentage of minorities and women (minority and non-minority) in the labor force in the sponsor's labor market area;

4. The percentage of minorities and female (minority and non-minority) participation as journeymen employed by the employer or employees

participating in the program as compared with the percentage of minorities and women (minority and non-minority) in the sponsor's labor market area and the extent to which the sponsor should be expected to correct any deficiencies through the achievement of goals and timetables for the selection of apprentices.

5. The general availability of minorities and women (minority and non-minority) with present or potential capacity for apprenticeship in the sponsor's labor market area.

f. Establishment and attainment of goals and timetables. The goals and timetables shall be established on the basis of sponsor's analysis of its underutilization of minorities and women and its entire affirmative action program. A single goal for minorities and a separate single goal for women is acceptable unless a particular group is employed in a substantially disparate manner, in which case separate goals shall be established for such group. Such separate goals would be required, for example, if a specific minority group of women were underutilized even though the sponsor had achieved its standards for women generally. In establishing the goals, the sponsor should consider the results which could be reasonably expected from its good faith efforts to meet its goals and timetables. Its "good faith efforts" shall be judged by whether it is following its affirmative action program and attempting to make it work, including evaluation and changes in its program where necessary to obtain the maximum effectiveness toward the attainment of its goals. However, in order to deal fairly with the program sponsors, and with women who are entitled to protection under the goals and timetables requirements, during the

first twelve months after the effective date of this rule, the program sponsor would generally be expected to set a goal for women for the entering year class at a rate which is not less than fifty percent of the proportion women are of the work force in the program sponsor's labor market area, and set a percentage goal for women in each class beyond the entering class which is not less than the participation rate of women currently in the preceding class. At the end of the first twelve months after the effective date of this rule, sponsors are expected to make appropriate adjustments in goal levels.

g. Data and information. The secretary or a person or agency designated by him, shall make available to sponsors data and information on minority and female (minority and non-minority) population and labor force characteristics for each Standard Metropolitan Statistical Area, and for other special areas as appropriate.

Section 6. Selection of Apprentices

a. Obligation of sponsor. In addition to the development of a written affirmative action plan to ensure that minorities and women have an equal opportunity for selection as apprentices and otherwise insure the prompt achievement of full and equal opportunity in apprenticeship, each sponsor shall further provide in its affirmative action program that the selection of apprentices shall be made under one of the methods specified in the following sub-paragraphs (1) through (4) of paragraph (b).

b. Selection methods. The sponsor shall adopt one of the following methods for selecting apprentices:

1. Selection on the basis of rank

from pool of eligible applicants.

i. Selection. A sponsor may select apprentices from a pool of eligible applicants created in accordance with the requirements of subdivision (iii) of this subparagraph on the basis of the rank order of scores of applicants on one or more qualification standards where there is a significant statistical relationship between rank order of scores and performance in the apprenticeship program. In demonstrating such relationship the sponsor shall follow the procedures set forth in Guidelines on Employee Selection Procedures published at 41 Code of Federal Regulations (CFR) Part 60-3.

ii. Requirements. The sponsor adopting this method of selecting apprentices shall meet the requirements of subdivision (iii) through (vii) of this subparagraph.

iii. Creation of pool of eligibles. A pool of eligibles shall be created from applicants who meet the qualifications of minimum legal working age and the sponsor's minimum physical requirements; or from applicants who meet qualification standards in addition to minimum legal working age and the sponsor's minimum physical requirements, provided that any additional qualification standards conform with the following requirements:

a. Qualification standards. The qualification standards and the procedures for determining such qualification standards, shall be stated in detail and shall provide criteria for the specific factors and attributes to be considered in evaluating applicants for admission to the pool. The score required under each qualification standard for admission to the pool shall also be specified. All qualification

standards, and the score required on any standard for admission to the pool shall be directly related to job performance as shown by a significant statistical and practical relationship between the score on the standards and the score required for admission to the pool, and performance in the apprenticeship program. In demonstrating such relationships, the sponsor shall follow the procedures set forth in 41 CFR Part 60-3. Qualifications shall be considered as separately required so that the failure of an applicant to attain the specified score under a single qualification standard shall disqualify the applicant from admission to the pool.

b. Aptitude Tests. Any qualification standard for admission to the pool consisting of aptitude test scores shall be directly related to job performance, as shown by significant statistical and practical relations between the score on the aptitude tests, and the score required for admission to the pool, and performance in the apprenticeship program in determining such relationship, the sponsor shall follow the procedures set forth in 41 CFR Part 60-3. The requirements of this sub-unit (b) shall also be applicable to aptitude tests utilized by a program sponsor [which] that are administered by a State Employment Service Agency, a private employment agency, or any other person, agency or organization engaged in the selection or evaluation of personnel.

c. Educational Attainments. All educational attainments or achievements as qualifications for admission to the pool shall be directly related to job performance, as shown by a significant statistical and practical relationship between the score, and the

score required for admission to the pool, and performance in the apprenticeship program. In demonstrating such relationships, the sponsor shall meet the requirements of 41 CFR Part 60-3. School records or a passing grade on the general education development tests recognized by the State or local public instruction authority shall be evidence of educational achievement. Education requirements shall be applied uniformly to all applicants.

iv. Oral Interviews. Oral interviews shall not be used as a qualification standard for admission into an eligibility pool. However, once an applicant is placed in the eligibility pool, and prior to selection for apprenticeship from the pool, he or she may be required to submit to an oral interview. Oral interviews shall be limited only to such objective questions as may be required to determine the fitness of applicants to enter the apprenticeship program, but shall not include questions relating to qualifications previously determined in gaining entrance to the eligibility pool. When an oral interview is used, each interviewer shall record the questions, the general nature of the applicant's answers and shall prepare a summary of any conclusions. Each applicant rejected from the pool of eligibles on the basis of an oral interview shall be given a written statement of such rejection, the reasons therefor, and the appeal rights available to the applicant.

v. Notification of applicants. All applicants who meet the requirements for admission shall be notified and placed in the eligibility pool. The program sponsor shall give each rejected applicant who is not selected for the pool or the program notice of his or her rejection, including the reasons for the rejection, the requirements for

admission to the pool of eligibles, and the appeal rights available to the applicant.

vi. Goals and timetables. The sponsor shall establish, where required by Section 5(d), percentage goals and timetables for the admission of minorities and women (minority and non-minority) into the pool of eligibles in accordance with the provisions of Section 5(d), (e) and (f).

vii. Compliance. A sponsor shall be deemed to be in compliance with its commitments under subdivision (vi) of this subparagraph if it meets its goals or timetables or if it makes a "good faith effort" to meet these goals and timetables. In the event of the failure of the sponsor to meet these goals and timetables, it shall be given an opportunity to demonstrate that it has made "good faith effort" to meet its commitments (see Section 5(f)). All the actions of the sponsor shall be reviewed and evaluated in determining whether such "good faith efforts" have been made.

2. Random selection from a pool of eligible applicants.

i. Selection. A sponsor may select apprentices from a pool of eligible applicants on a random basis. The method of random selection is subject to approval by the Council. Supervision of the random selection process shall be 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, shall be announced. The place of the selection shall be open to all applicants and the public. The names of apprentices drawn by this method shall be posted immediately following the selection at

the program sponsor's place of business.

ii. The sponsor adopting this method of selecting apprentices shall meet the requirements of subdivision (iii) through (v) of subparagraph (1) of this paragraph relating to the creation of pool of eligibles, oral interviews and notification of applicants.

iii. Goals and timetables. The sponsor shall establish, where required by Section 5(d), percentage goals and timetables for the admission of minorities and women (minority and non-minority) into the pool of eligibles in accordance with the provisions of Section 5(d), (e) and (f).

iv. Compliance. Determinations as to the sponsor's compliance with obligations under these regulations shall be in accordance with the provisions of subdivision (vii) of subparagraph (1) of this paragraph (b).

3. Selection from a pool of current employees.

i. Selection. A sponsor may select apprentices from an eligibility pool of the workers already employed by the program sponsor in a manner prescribed by a collective bargaining agreement where such exists, or by the sponsor's established promotion policy. The sponsor adopting this method of selecting apprentices shall establish goals and timetables for the selection of minority and female apprentices, unless the sponsor concludes, in accordance with the provisions of Section 5(d), (e) and (f) that it does not have deficiencies in terms of under utilization of minorities and/or women (minority and non-minority) in the apprenticeship of journeypersons crafts represented by the program.

ii. Compliance. Determination as to the sponsor's compliance with its

obligations under these regulations shall be in accordance with the provisions of subdivision (vii) of subparagraph (1) of this paragraph (b).

4. Alternative selection methods.

i. Selection. A sponsor may select apprentices by other methods, including its present selection method, provided the method has been approved by the Council and meets the following requirements:

a. Selection method and goals and timetables. The sponsor shall complete development of the revised selection method it proposes to use and submit it to the Council along with the rest of its written affirmative action plan including where required by Section 5(d) its percentage goals and timetables for the selection of minority and female (minority and non-minority) applicants for apprenticeship and its written analysis upon which such goals are based. The establishment of goals and timetables shall be in accordance with the provisions of Section 5(d), (e) and (f). The sponsor may not implement any such selection method until the Council has approved the selection method and has approved the remainder of its affirmative action plan including its goals and timetables. If the Council fails to act upon the selection method and the affirmative action program within 90 days of its submission, the sponsor may implement the selection method.

b. Qualification standards. Apprentices shall be selected on the basis of objective and specific qualification standards. Examples of such standards are fair aptitude tests, school diplomas or equivalent, occupationally essential physical requirements, fair interviews, school grades and previous work experience. Where interviews are used, adequate

records shall be kept including a brief summary of each interview and the conclusions on each of the specific factors, e.g., motivation, ambition and willingness to accept direction that are part of the total judgment in applying any such standards, the sponsor shall meet the requirements of 41 CFR Part 60-3.

ii. Compliance. Determination as to the sponsor's compliance with its obligations under these regulations shall be in accordance with the provisions of subdivision (vii) of subparagraph (1) of this paragraph (b). Where a sponsor, despite its "good faith efforts", fails to meet its goals and timetables within a reasonable period of time, the sponsor may be required to make appropriate changes in its affirmative action plan to the extent necessary to obtain maximum effectiveness toward the attainment of its goals. The sponsor may also be required to make appropriate changes in its affirmative action plan to the extent necessary to obtain maximum effectiveness toward the attainment of its goals. The sponsor may also be required to develop and adopt an alternative selection method, including a method prescribed by the Council where it is determined that the failure of the sponsor to meet its goals is attributed in substantial part to the selection method used. Where the sponsor's failure to meet its goals is attributable in substantial part to its use of a qualification standard that has adversely affected the opportunities of minorities and/or women (minority and non-minority) for apprenticeship, the sponsor may be required to demonstrate that such qualification standards are directly related to job performance in accordance with the provision of subparagraph (1)(iii)(a) of this

paragraph.

Section 7. Existing List of Eligibles and Public Notice

A sponsor adopting a selection method under Section 6(b)(1) or (2) of these regulations, and a sponsor adopting a selection method under Section 6(b)(4) who determines that there are fewer minorities and/or women (minority and non-minority) on its existing lists of eligibles than would reasonably be expected in view of the analysis described in Section 5(e) shall discard all existing eligibility lists upon adoption of the selection methods required by this part. New eligibility pools shall be established and lists of eligibles shall be posted at the sponsor's place of business. A sponsor shall establish a reasonable period of not less than two weeks for accepting applications for admission to an apprenticeship program. There shall be at least 30 days of public notice in advance of the earliest date for application for admission to the apprenticeship program (see section 5(c) of these regulations on affirmative action with respect to dissemination of information).

Applicants who have been placed in a pool of eligibles shall be retained on lists of eligibles available for selection for a period of two years. Applicants may be removed from the list at an earlier date by their request or following their failure to respond to an apprentice job opportunity given by a registered return receipt mail notice.

Applicants who have been accepted in the program shall be afforded a reasonable period of time and a reasonable number of opportunities in light of the customs and practices of the industry for reporting to

work. All applicants shall be treated equally in determining such period of time. It shall be the responsibility of the applicant to keep the sponsor informed of his or her current mailing address and telephone number. Upon request, a sponsor may restore to the list of eligibles an applicant who has been removed from the list at his/her request or who has failed to respond to an apprenticeship job opportunity.

Section 8. Records

a. Obligations of sponsors. Each sponsor shall 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 of each applicant and information relevant to the operation of the apprenticeship program, including but not limited to job assignment, promotion, demotion, lay-off or termination, rates of pay or other forms of compensation, 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 these regulations, as may be required by the Council. The records pertaining to individual applicants whether selected or rejected, shall be maintained in such manner as to permit identification of minority and female (minority and non-minority) participants.

b. Affirmative action plans. Each sponsor shall retain a statement of its affirmative action plan required by Section 5 of these regulations for the prompt achievement of full and equal opportunity in apprenticeship, including all data and analyses made pursuant to the requirements of Section 5. Sponsors

shall review their affirmative action plans annually and update them where necessary, including goals and timetables.

c. Qualification standards. Each sponsor must maintain evidence that its qualification standards have been validated in accordance with the requirements set forth in Section 6(b).

d. Maintenance of records. The records required by this plan and any other information relevant to compliance with these regulations shall be maintained for five (5) years and made available upon request to the Council, Department or other authorized representative.

e. Records of the Council. The Council will keep adequate records, including registration requirements, approved individual program standards, registration actions, deregistration actions, program compliance reviews and investigations, individual program registrations by ethnicity, total apprenticeship ethnicity count and any other records pertinent to a determination of compliance with this plan as may be required by the Department, and shall report such to the Department, through the Office of the State Supervisor of the Bureau of Apprenticeship and Training, US Department of Labor, semi-annually.

Section 9. Compliance Review

a. Conduct of compliance reviews. The Council will regularly conduct a systematic review of apprenticeship programs in order to determine the extent to which sponsors are complying with these regulations and will also conduct compliance reviews when circumstances, including receipt of complaints not referred to a review body pursuant to Section

11(b)(1)(i), so warrant, and take appropriate action regarding programs [which] that are not in compliance with the requirements of this plan.

Compliance reviews will consist of comprehensive analyses and evaluations of each aspect of the apprenticeship program, including on-site investigations and audits.

b. Re-registration. Sponsors seeking re-registration shall be subject to a compliance review as described in paragraph (a) of this section by the Council as part of the re-registration process.

c. New Registrations. Sponsors seeking new registrations shall be subject to a compliance review as described in paragraph (a) of this section by the Council as part of the registration process.

d. Voluntary compliance. Where the compliance review indicates that the sponsor is not operating in accordance with this plan, the Council shall notify the sponsor in writing of the results of the review and make a reasonable effort to secure voluntary compliance on the part of the program sponsor within a reasonable time before undertaking sanctions under Section 13. In the case of sponsors seeking new registration, the Council will provide appropriate recommendations for the sponsor to achieve compliance for registration purposes.

Section 10. Noncompliance with Federal and State Equal Opportunity Requirements

A pattern or practice of noncompliance by a sponsor (or where the sponsor is a joint apprenticeship committee, by one of the parties represented on such committee) with federal or state law or regulations

requiring equal opportunity may be grounds for the imposition of sanctions in accordance with Section 13 of these regulations if such noncompliance is related to the equal employment opportunity of apprentices and/or graduates of such an apprenticeship program under this plan. The sponsor shall take affirmative steps to assist and cooperate with employers and unions in fulfilling their equal employment opportunity obligations.

Section 11. Complaint Procedure

a. Filing.

1. Any apprentice or applicant for apprenticeship who believes that he or she has been discriminated against on the basis of race, color, religion, national origin, disability, age or sex with regard to apprenticeship or that equal opportunity standards with respect to his or her selection have not been followed in the operation of the apprenticeship program, may personally or by authorized representative, file a complaint with the Apprenticeship and Training Council. The complaint shall be in writing and shall be signed by the complainant. It must include the name, address and telephone number of the person allegedly discriminated against, the sponsor involved, and a brief description of the circumstances of the complaint.

2. The complaint must be filed with the Council not later than 180 days from the date of the alleged illegal discrimination or specified failure to follow the equal opportunity requirements. If a complaint is not satisfied with the decision of a private review body, the complainant shall notify the Council, in writing, of this fact within 30 days from the final decision of such review body. The time may be extended

by the Council for good cause shown.

3. Sponsors are encouraged to establish fair, speedy and effective procedures for a review body to consider complaints of failure to follow the equal opportunity requirements. Review bodies shall attempt to resolve complaints through conference and conciliation. A review body established by the program sponsor for this purpose should number three or more responsible persons from the community serving in this capacity without compensation. Members of the review body should not be directly associated with the administration of an apprenticeship program. Sponsors may join together in establishing a review body to serve the needs of programs with the community.

b. Processing of complaints.

1. i. When the sponsor has designated a review body for reviewing complaints pursuant to subparagraph (3) of paragraph (a) of this section, unless the complainant has indicated otherwise or unless the Council has determined that such review body will not effectively enforce the equal opportunity standards, the Council upon receiving a complaint shall refer the complaint to the review body.

ii. When a complaint is referred to a review body, the Council shall within 30 days following the referral of a complaint obtain reports from the complainant and the review body as to the disposition of the complaint. If the complaint has been satisfactorily resolved, and there is no other indication of failure to apply equal opportunity standards, the case shall be closed and the parties appropriately informed.

iii. If a complaint has not been resolved by the review body within 90

days or if, despite satisfactory resolution of the particular complaint by the review body, there is evidence that the equal opportunity practices of the apprenticeship program are not in accordance with this plan, the Council may conduct such compliance review as found necessary and will take all appropriate steps to resolve the complaint including the holding of a hearing in accordance with the administrative rules of the Council.

2. When a complaint is filed with the Council and there is no approved review body, the complaint shall be processed in accordance with the administrative rules of the Council.

3. Sponsors shall provide written notice of the above complaint procedure to all applicants for apprenticeship and all apprentices.

4. This plan does not in any way affect the right of any person to file a complaint pursuant to ORS Chapter 659 or any other local, state or federal laws.

Section 12. Adjustments in Schedule for Compliance Review or Complaint Processing

If, in the judgment of the Council, a particular situation warrants and requires special processing and either expedited or extended determination, the Council shall take the steps necessary to permit such determination if it finds that no person or party affected by such determination will be prejudiced by such special processing.

Section 13. Sanctions

a. Where the Council, as a result of a compliance review or other reason, determines that there is reasonable cause to believe that an apprenticeship program is not operating in accordance with this plan and voluntary corrective

action has not been taken by the program sponsor, the Council shall institute sanctions or proceedings to de-register the program or it shall refer the matter to the Department for referral to the Attorney General with recommendations for the institution of a court action by the Attorney General under Title VII of the Civil Rights Act of 1964, as amended, or to the Attorney General for other court action as authorized by law.

b. Deregistration proceedings shall be conducted in accordance with the following procedures:

1. The Council shall notify the sponsor, in writing, that a determination of reasonable cause has been made under subparagraph (a) of this section and that the apprenticeship program may be de-registered unless, within 15 days of the receipt of the notice, the sponsor requests a hearing. The notification shall specify the facts on which the determination is based.

2. If within 15 days of the receipt of the notice provided for in subparagraph (10) of this paragraph the sponsor mails a request for a hearing, the Council shall convene a hearing in accordance with paragraph (c) of this section.

3. The Council shall make a final decision on the basis of the record before it, that shall consist of the compliance review file and other evidence presented and, if a hearing was conducted pursuant to paragraph (c), the proposed findings and recommended decision of the hearings officer. In its discretion, the Council may allow the sponsor a reasonable time to achieve voluntary corrective action. If the Council's decision is that the apprenticeship program is not operating in accordance with this plan, the

apprenticeship program shall be de-registered. In each case where de-registration is ordered, the Council shall make public notice of the order and shall notify the sponsor and the complainant, if any, and the Department. The Council shall inform any sponsor whose program has been de-registered that it may appeal such de-registration to the Department in accordance with the procedures of 29 CFR, Section 30.15.

c. Hearings shall be conducted in accordance with the following procedures:

1. Within 10 days of receipt of a request for a hearing, the Director shall designate a hearing officer. The hearing officer shall give reasonable notice of such hearing by registered mail, return receipt requested to the sponsor. Such notice shall include a reasonable time and place of hearing; a statement of the provisions of this plan pursuant to which the hearing is to be held; and a concise statement of the matters pursuant to which the action forming the basis of the hearing is proposed to be taken.

2. The hearing officer shall regulate the course of the hearing. Hearings shall be informally conducted. Every party shall have the right to counsel, and a fair opportunity to present his or her case including such cross - examination as may be appropriate in the circumstances. Hearing officers shall make their proposed findings and recommended decisions to the Apprenticeship Representative within 60 days upon the basis of the record before them.

Section 14. Reinstatement of Program Registration

Any apprenticeship program de-registered pursuant to this plan may be reinstated upon presentation of

adequate evidence to the Council that the apprenticeship program will be operated in accordance with this plan.

any such exemptions granted affecting a substantial number of employers and the reasons therefore.

Section 15. Intimidatory or Retaliatory Acts

Any intimidation, threat, coercion or retaliation by or with the approval of any sponsor against any person for the purpose of interfering with any right or privilege secured by ORS Chapter 659, Title VII of the Civil Rights Act of 1964, Executive Order 11346 of September 24, 1965, or because they have made a complaint, testified, assisted, or participated in any manner in an investigation proceeding, or hearing under this plan shall be considered noncompliance with the equal opportunity standards of this part.

Section 16. Confidentiality

The identity of complainants shall be kept confidential except to the extent necessary to carry out the purpose of this plan, including the conduct of any investigation, hearing or judicial proceeding arising therefrom.

Section 17. Non - Discrimination

The commitments contained in the sponsor's affirmative action plan are not intended and shall not be used to discriminate against any qualified applicant or apprentice on the basis of race, color, religion, national origin, disability, age or sex.

Section 18. Exemptions

Requests for exemption from these regulations, or any part thereof, shall be made in writing to the Council and shall contain a statement of reason supporting the request. Exemptions may be granted for good cause. The Council will immediately notify the Department of