

National Skills Coalition, New America, Advance CTE, CLASP, Jobs for the Future, National Association of State Workforce Agencies, National Association of Workforce Boards and National Fund for Workforce Solutions

Comments on Apprenticeship Programs, Labor Standards for Registration, Amendment of Regulations (RIN1205-AB85)

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The Apprenticeship Forward Collaborative is a network of national organizations committed to expanding American apprenticeship through research, public engagement, and on-the-ground innovation. The Collaborative is a forum for diverse national organizations to come together, share information on emerging trends and best practices in apprenticeship and support the expansion of apprenticeship to the benefit of more businesses and workers. On behalf of the above organizations, all of whom are members of the Apprenticeship Forward Collaborative, we submit the following comments.

Apprenticeship is a proven strategy for connecting Americans to good paying jobs. By combining paid, on-the-job training with productive contributions and classroom learning, apprenticeship is an affordable postsecondary pathway for students and workers and a key talent strategy for employers. Despite a long history in the U.S., apprenticeship remains an underutilized strategy to develop the American workforce compared to many of our international peers.

In recent years federal and state policymakers have taken steps to expand apprenticeship to more industries and employers of all sizes and to improve program access and completion for a diverse range of youth and working adults. Complementing investments at the state level, the federal government has invested \$505 million in apprenticeship since 2015, and in 2017 the President signed an Executive Order on expanding apprenticeship through Industry Recognized Apprenticeship Programs (IRAPs).

In 2017, President Trump signed an Executive Order tasking the U.S. Department of Labor (DOL or the department) with creating a new Industry-Recognized Apprenticeship Program (IRAP or industry programs). As part of this process, DOL convened a Task Force on Apprenticeship Expansion, comprised of Governors, leaders from businesses and business associations, representatives of education providers and education associations, Labor leaders, and other interested stakeholders. The Task Force's work culminated in a report to the President in May of 2018 that set forward several recommendations to expand apprenticeship, including aligning apprenticeship with educational opportunities, marketing opportunities to workers and providing business engagement assistance particularly in industries in which apprenticeship is not well utilized, and repeated a call for disinvestment in other workforce training strategies.

Following the report from the task force, DOL released the first iteration of a Training and Employment Notice (TEN) that described the role of what the agency now calls Standards Recognition Entities (SREs), third party entities like business associations who will serve in an oversight role and recognize industry-

recognized apprenticeship programs as meeting standards necessary to address business demand for skilled workers. In June of 2019, DOL released an updated version of this TEN.

In November of 2018, DOL solicited comments on the information it would collect from SREs, releasing a draft of the form a prospective SRE would need to submit to DOL in order to be recognized. On June 25, 2019, DOL published in the Federal Register a notice of proposed rulemaking (NPRM), Apprenticeship Programs, Labor Standards for Registration, Amendment of Regulations. The NPRM introduces significant changes to the apprenticeship regulations contained in 29 CFR 29, outlining a process for recognizing Standards Recognition Entities (SREs) and their approval of Industry-Recognized Apprenticeship Programs (Industry Programs) under the newly created Subpart B. In the NPRM, the Department “solicits comments regarding how the establishment of Industry Programs can best support the adoption of apprenticeship opportunities in industries lacking such opportunities.”

The undersigned organizations affirm the importance of reforming federal regulations to increase employer participation in apprenticeship, especially in nontraditional apprenticeship occupations. However, we are concerned that the creation of a parallel system of Industry Programs may further fragment our national apprenticeship system and introduce programs of widely varying quality. Below, please find a set of questions and comments pertaining to *Subpart B – Standards Recognition Entities of Industry-Recognized Apprenticeship Programs* of the apprenticeship NRPM.

Questions and Comments to the Department, based on Apprenticeship Forward Collaborative Principles of High-Quality Apprenticeship

As included above, several members of the Apprenticeship Forward Collaborative have engaged with the Department of Labor throughout their implementation of the 2017 Executive Order, through in-person meetings, public events and through submission of formal comments. In November 2018, in recognition of National Apprenticeship Week, 14 national organizations developed and signed on to principles of high-quality apprenticeship.¹

Based on these principles, the undersigned organizations offer the following questions and comments to the Department on the role of SREs in expanding industry programs.

Questions

The undersigned organizations have the following questions in response to the NPRM.

- **What are the characteristics of a high-quality industry recognized apprenticeship program?** The NPRM makes numerous references to “high-quality” industry recognized apprenticeship program without a clear definition of what distinguishes a high-quality program. Could the Department please clarify what constitutes a high-quality Industry-Recognized Apprenticeship Program?
- **What role will State agencies play in the industry-recognized apprenticeship system?** The National Apprenticeship Act of 1937 (29 U.S. Code § 50), under which DOL has the authority to

¹ <https://www.nationalskillscoalition.org/resources/publications/file/Definition-and-Principles-for-Expanding-Quality-Apprenticeship-in-the-U.S..pdf>

promulgate regulations related to apprenticeship, directs the Secretary of Labor to cooperate with State agencies engaged in the formulation and promotion of standards of apprenticeship. However, this NPRM does not address the role that State Apprenticeship Agencies and State Apprenticeship Councils will play in the approval and monitoring of SREs and industry recognized apprenticeship programs. Could the Department please clarify how it plans to coordinate with State agencies in the development, support, and supervision of SREs and Industry Programs?

- **How will SREs enforce federal, state, and local laws?** The National Apprenticeship Act of 1937 (29 U.S. Code § 50) tasks the Secretary of Labor with formulating and promoting “labor standards necessary to safeguard the welfare of apprentices.” Under the proposed industry-recognized apprenticeship system, DOL has delegated enforcement of Federal, State, and local worker safety laws and regulations, minimum wage requirements, and equal employment opportunity (EEO) laws to SREs (proposed §29.22(a)(4)). What authority will SREs have to enforce safety, wage, and EEO protections?
- **How will the Department oversee the anticipated number of SREs?** The Department estimates over 200 entities will become SREs. How will the Department ensure that the industry standards recognized by such a large number of entities are not duplicative and/or contradictory? What plans does the Department have to increase its staffing and resource capacity to ensure effective oversight of both the Registered Apprenticeship and industry recognized apprenticeship system?
- **How should SREs mitigate conflicts of interest?** Recognizing that conflicts of interest might impact the impartiality of SREs and their ability to serve in a quality assurance role, DOL requires that prospective SREs must not recognize their own programs or must describe how it will mitigate any potential conflicts of interest in proposed §29.22(e). Could the Department provide guidance as to how an SRE should mitigate conflicts of interest with a program it accredits and from which it might collect a fee?
- **What role will DOL play in the collection and dissemination of data on SREs and Industry-Recognized Apprenticeship Programs?** Proposed §29.22(j) requires that SREs make information about an Industry Program publicly available. To facilitate comparisons between Registered Apprenticeship and industry recognized apprenticeship programs and inform consumer choice, will the Department collect information from SREs and industry recognized apprenticeship programs? If so, how often and will this information be made available to the public?

Comments

The undersigned organizations offer, in response to the NPRM, the following principles of quality apprenticeship, to inform the department’s action in industry programs. The Department should:

1. **Ensure industry programs are created in response to strong business demand for apprentices.** The Department should support the documentation and dissemination of evidence on how apprenticeship can help meet business’ demand for skilled workers, highlight businesses that have successfully used apprenticeship to build their worker pipeline, and support the development of

apprenticeships for companies of all sizes, in all industries, and for nonprofit and government employers.

2. **Ensure industry programs advance the livelihood of U.S. workers.** The Department should require SREs to ensure programs provide valuable related instruction, wage increases, mentoring and safety training requirements. Apprenticeships should also include occupational standards that describe the competencies apprentices must achieve to gain certification and how apprentices will contribute to the production of goods or services within their on-the-job training.
3. **Support partnerships between local businesses, the workforce and education systems, human services organizations, labor and labor-management partnerships, and other community-based organizations.** The Department should ensure SREs engage with state, local and regional partnerships and stakeholders to expand industry recognized apprenticeship opportunities. These partnerships ensure industry programs will align with current workforce, education and human services programming in which federal, state and local governments and the private sector currently invest.
4. **Ensure access into industry recognized programs for new and incumbent workers that supports the success of a diverse pipeline of apprentices.** The Department should ensure SREs work with industry programs to provide underrepresented populations with access to new and existing apprenticeship opportunities, support measures to improve gender and racial/ethnic diversity in apprenticeable occupations and invest in supports that improve retention and enable success for workers with barriers to employment while providing businesses with a return on investment.
5. **Maximize alignment between industry programs and K-12 and postsecondary educational opportunities to support lifelong learning and skill attainment.** The Department should support the integration of higher education into industry recognized apprenticeships to create transferable, for-credit credentials that meet business and worker demand. Programs should also expand pathways that reach into our high schools to offer more American students high-quality dual enrollment opportunities through the apprenticeship model.
6. **Support data collection and dissemination to continuously improve outcomes for business and workers.** The Department should require and support the collection and distribution of disaggregated data on industry program enrollment, completion and outcomes, promote research on the return-on-investment of programs, and empower state integration of outcomes with state longitudinal data systems to foster equitable access to and completion of quality apprenticeships.
7. **Ensure industry programs build on innovative state and local practice.** The Department should highlight and bring best practices from across the country to scale, including those developed throughout our country's history with Registered Apprenticeship.