



**NORTH CAROLINA COMMUNITY COLLEGE SYSTEM**

*James C. Williamson, Ph.D.*

*President*

26 July 2017

**IMPORTANT INFORMATION**

**MEMORANDUM**

- TO:** Members of the State Board of Community Colleges  
Community College Presidents  
Boards of Trustees Chairs  
Community College Chief Academic Officers, Chief Admissions Officers, Business Officers, Continuing Education Officers, CTE Directors, Customized Training Directors, Chief Financial Officers, Financial Aid Officers, Planners, Public Information Officers, Registrars, Student Development Administrators, & Other Interested Parties
- FROM:** Q. Shanté Martin, *NCCCS General Counsel*
- RE:** **Ratification of Title 4, Chapter 22 of the North Carolina Administrative Code – “Apprenticeship and Training Division”**

Section 15.13.(a) of Session Law 2017-57 transfers the State Apprenticeship Program and Apprenticeship Council to the North Carolina Community College System Office. Currently, the rules governing the State Apprenticeship Program and Apprenticeship Council are located in Title 4, Chapter 22 of the North Carolina Administrative Code. Pursuant to Session Law 2017-57, the State Board of Community Colleges (SBCC) is now responsible for rules governing the Apprenticeship Program. To provide continuity during this time of transition and to ensure that the current rules applicable to the State Apprenticeship Program and Apprenticeship Council remain in place pending the SBCC’s adoption of rules regarding the State Apprenticeship Program and Apprenticeship Council, the SBCC on 21 July 2017 ratified the rules that are currently in Title 4, Chapter 22 of the North Carolina Administrative Code until such time as the SBCC can adopt rules consistent with Title 3 of the State Board of Community Colleges Code except for the following administrative replacement language:

- (1) In place of the address listed in 04 NCAC 22.0101(a), the physical address for the division and for the director of apprenticeship is as follows:

North Carolina Community College System Office  
Apprenticeship and Training Bureau  
200 W. Jones Street  
Raleigh, NC 27603

- (2) In place of the address listed in 04 NCAC 22.0101(b), all correspondence shall be addressed to the following mailing address:

North Carolina Community College System Office  
Apprenticeship and Training Bureau  
5001 Mail Service Center  
Raleigh, NC 27699-5001

- (3) All references to "Chapter 94" of the North Carolina General Statutes shall be replaced with "Chapter 115D" of the North Carolina General Statutes.
- (4) All references to the "Commissioner of Labor" shall be replaced with the "President of the North Carolina Community College System."
- (5) All references to "Department" shall refer to the "North Carolina Community College System Office."
- (6) All references to "13 NCAC 1B" shall refer to the process set forth in 2B SBCCC Subchapter 200.

For your convenience, a copy of Title 4, Chapter 22 of the North Carolina Administrative Code is attached to this memorandum.

**CC17-030**  
**E-mail Copy**

Attachment



## Chapter 22 – Apprenticeship and Training Division

### SECTION .0100 - GENERAL PROVISIONS

#### 04 NCAC 22 .0101 NAME: ADDRESS

(a) The Apprenticeship and Training Division headquarters are located in the North Carolina Department of Labor Building, Raleigh, North Carolina. The physical address for the division and for the director of apprenticeship is as follows:

N.C. Department of Labor  
Apprenticeship and Training Bureau  
Labor Building  
4 W. Edenton Street  
Raleigh, N.C. 27601

(b) All correspondence shall be addressed to the following mailing address:

N.C. Department of Labor  
Apprenticeship and Training Bureau  
1101 Mail Service Center  
Raleigh, N.C. 27699-1101

*History Note: Authority G.S. 94-1; 94-2;*

*Eff. February 1, 1984;*

*Recodified from Rule 14A .0101 Eff. March 15, 2010;*

*Amended Eff. December 1, 2010;*

*Transferred from 13 NCAC 14B .0101 Eff. January 1, 2014.*

#### 04 NCAC 22 .0102 REGISTRATION AGENCY

(a) The department functions as the State Apprenticeship Agency with authority to determine whether apprenticeship programs operating in this State conform to the provisions of Chapter 94 of the North Carolina General Statutes and the standards published by the U.S. Secretary of Labor, 29 C.F.R. Part 29 (December 29, 2008).

(b) As the State Apprenticeship Agency, the department has undertaken the responsibility for implementing equal opportunity standards relating to apprenticeship, which conform to the regulations published by the U.S. Secretary of Labor, 29 C.F.R. Part 30 (June 12, 1978).

*History Note: Authority G.S. 94-1; 94-2; 94-4; 94-8;*

*Eff. February 1, 1984.*

*Recodified from Rules 14A .0201 and 14A .0801 Eff. March 15, 2010;*

*Amended Eff. December 1, 2010;*

*Transferred from 13 NCAC 14B .0102 Eff. January 1, 2014.*

#### **04 NCAC 22 .0103 VETERANS TRAINING ASSISTANCE ALLOWANCES**

(a) The department has been designated, pursuant to 38 U.S.C. 3671(a), as the State Approving Agency for this state with authority to approve programs of apprenticeship and other on-the-job training, in accordance with 38 U.S.C. 3687 as suitable for the participation of people eligible to receive training assistance allowances from the U.S. Department of Veterans Affairs. As executive head of the department, the commissioner has appointed the director to administer the functions of the State Approving Agency.

(b) The director shall approve all apprenticeship and on-the-job training programs registered pursuant to Section .0200 of this Subchapter and on-the-job training programs approved pursuant to Section .0300 of this Chapter, as suitable for the participation of eligible veterans and other eligible persons to receive training assistance allowances whenever the sponsor submits to the director a written request for approval and a Designation of Certifying Official(s) form.

*History Note: Authority G.S. 94-1; 94-2; 94-4;*

*Eff. February 1, 1984;*

*Recodified from Rules 14A .0401 and 14A .0402 Eff. March 15, 2010;*

*Amended Eff. December 1, 2010;*

*Transferred from 13 NCAC 14B .0103 Eff. January 1, 2014.*

#### **04 NCAC 22 .0104 DEFINITIONS**

In addition to the definitions contained in G.S. 94-5, the following definitions apply throughout this Chapter:

- (1) "Accredited College or University" means a college or university in the state that has received its accreditation from a national or regional accrediting agency approved by the U.S. Department of Education.
- (2) "Apprenticeable Occupation" means an occupation having the characteristics set forth in Rule .0201 of this Chapter.
- (3) "Apprenticeship Association" means an association of employers who operate or participate in apprenticeship or OJT programs where the programs are operated in a manner similar to the programs operated by other members of the association, the purpose of the association being to assist the members in designing, registering, operating, and participating in an apprenticeship or OJT program.
- (4) "Approval" means the recognition by the director and the recording with the division of an apprenticeship or OJT program, signifying that the program is suitable for participation of veterans or other people eligible to receive training allowances from the U.S. Department of Veterans Affairs.
- (5) "Cancellation" means the termination of the registration of a program at the request of the sponsor, or termination of an Apprenticeship Agreement at the request of the apprentice, in accordance with Section .0400 of this Chapter.
- (6) "Certification" means written acknowledgment by the director that:
  - (a) An individual is a registered apprentice in a registered apprenticeship program or a registered trainee in a registered OJT program; and

- (b) That an employer is participating in a registered apprenticeship program or OJT program, that a sponsor is operating a registered apprenticeship program or OJT program, or that an apprenticeship program or an OJT program is registered. Certification may acknowledge any combination in this Paragraph as appropriate.
- (7) "Commissioner" means the Commissioner of Labor for the State of North Carolina. The commissioner may authorize a representative to administer the duties and responsibilities prescribed by this Chapter.
- (8) "Competency" means the attainment of manual, mechanical or technical skills and knowledge, as specified by an occupational standard and demonstrated by written and hands-on proficiency measurements.
- (9) "Completer" means an individual who has completed the normal term of elementary and secondary education but has not been awarded a diploma because of not passing the state's educational competency examination.
- (10) "Completion rate" means the percentage of an apprenticeship cohort who receives a certificate of apprenticeship completion within one year of the projected completion date. An apprenticeship cohort is the group of individual apprentices registered to a specific program during a one year time frame, except that a cohort does not include the apprentices whose apprenticeship agreement has been cancelled during the probationary period.
- (11) "Department" means the North Carolina Department of Labor.
- (12) "Director" means the director of apprenticeship for the State of North Carolina. The director or commissioner may authorize a representative to administer the duties and responsibilities prescribed for the director by this Chapter.
- (13) "Division" means the Apprenticeship and Training Division within the department.
- (14) "Electronic Media" means media that utilize electronics or electromechanical energy for the end user (audience) to access the content; and includes electronic storage media, transmission media, the Internet, extranet, lease lines, dial-up lines, private networks, and the physical movement or removable/transportable electronic media and interactive distance learning.
- (15) "Employers' Group or Association" means an organization composed of employers who employ apprentices or trainees, the purpose of such group being, at least in part, to act as the sponsor of an apprenticeship or OJT program.
- (16) "Fully Qualified Worker" means a worker has attained a level of skill, abilities and competencies recognized within an industry as having mastered the skills and competencies required for the occupation.
- (17) "Group Program" means an apprenticeship or OJT program including or designed to include more than one employer.
- (18) "Journeyman" means a fully qualified worker in an apprenticeable occupation. Use of the term may also refer to a mentor, technician, specialist or other skilled worker who has documented skills and knowledge

in an occupation through either formal apprenticeship or through practical on-the-job experience and formal training.

- (19) "OJT" means on-the-job training.
- (20) "OJT Agreement" means a written agreement between a trainee and his sponsor, which agreement satisfies the requirements of Rule .0305 of this Chapter.
- (21) "OJT Program" means a program providing for the qualification, recruitment, selection, employment, and training on the job of people other than apprentices.
- (22) "Provisional registration" means the one year initial provisional approval of newly registered apprenticeship 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 department.
- (23) "Quality Assurance Assessment" means a comprehensive review conducted by the department regarding all aspects of an apprenticeship program's performance, including determining if apprentices are receiving: on-the-job learning 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 by this Chapter.
- (24) "Registration" means the recognition by the director and the recording with the division of an apprenticeship or OJT program, apprenticeship or OJT agreement, or apprentice or trainee, signifying that the program, agreement, or individual complies with the rules, requirements, criteria, and standards of this Chapter regarding apprenticeship or OJT.
- (25) "Related Instruction" means an organized and systematic form of instruction designed to provide the apprentice or trainee with knowledge of the theoretical and technical subjects related to his trade or occupation. Such instruction may be given in a classroom, through occupational or industrial courses, by correspondence courses, through electronic media, or through other forms of self-study.
- (26) "Revision" means any substantive modification or change of the program standards of apprenticeship (including an affirmative action plan and a written description of the selection procedure), of the program standards for OJT, or of an apprenticeship or OJT agreement.
- (27) "Standards" means the program standards of apprenticeship as set forth in Rule .0202 of this Chapter or the program standards for OJT as set forth in Rule .0301 of this Chapter.
- (28) "Technical Assistance" means guidance provided by the division 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 program sponsor to further compliance with this Chapter or guidance from the department on how to remedy nonconformity with this Chapter.

- (29) "Trainee" means a worker, other than an apprentice, who is employed to learn an occupation in an OJT program.
- (30) "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 apprenticeship committees or program sponsors.

*History Note: Authority G.S. 94-1; 94-2;  
Eff. February 1, 1984;  
Recodified from Rule 14A .0102 Eff. March 15, 2010;  
Amended Eff. December 1, 2010;  
Transferred from 13 NCAC 14B .0104 Eff. January 1, 2014.*

#### **04 NCAC 22 .0105 DISCRETIONARY POWERS OF DIRECTOR**

Notwithstanding any other provision of this Chapter, the director, under the supervision of the commissioner, retains the power to vary, at his discretion, the requirements for an apprenticeship or OJT program or agreement in order to respond to unique or unusual circumstances, including but not limited to the operation of apprenticeship or OJT programs in penal institutions, so long as and only to the extent that the variations are not contrary to federal or state law, that they serve to further apprenticeship and on-the-job training in general and a certain apprenticeship or OJT program or agreement in particular, and that the director does not act arbitrarily or capriciously.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984;  
Recodified from Rule 14A .0104 Eff. March 15, 2010;  
Transferred from 13 NCAC 14B .0105 Eff. January 1, 2014.*

#### **04 NCAC 22 .0106 PARTICIPATION IS VOLUNTARY; GROUP PROGRAMS**

(a) The terms and provisions of this Chapter shall apply to any person or organization only if and so long as the person or organization voluntarily elects that the terms and provisions apply, provided that any person or organization participating in an apprenticeship or OJT program notifies the director of the termination of the program or an apprenticeship or OJT agreement.

(b) Each participating employer in a group program shall agree in writing to comply with the program standards of apprenticeship or for OJT. The sponsor shall submit to the director the participating employer's agreement either with the program standards or promptly after the employer becomes a participating employer.

*History Note: Authority G.S. 94-1; 94-2; 94-9; 94-11;  
Eff. February 1, 1984;  
Recodified from Rules 14A .0107 and .0109 Eff. March 15, 2010;  
Transferred from 13 NCAC 14B .0106 Eff. January 1, 2014.*

#### **04 NCAC 22 .0107 COMPUTATION OF WAGES: BEGINNING TRAINING**

(a) In order to determine the proportion of wages of an apprentice to a journeyman or a trainee to a fully qualified worker, the total wages of the apprentice or trainee, including specifically basic wages, overtime wages, shift premiums, commissions, and production bonuses, shall be compared with the total wages a journeyman or fully qualified worker would earn under the same circumstances – i.e., with the same amount of overtime accrued at the same rate, during the same shift, for the same amount of production. In making the determination, performance bonuses paid to an apprentice or trainee as an incentive or reward for successful completion of some aspect of the apprentice's or trainee's training or instruction and not related to the amount of production of the apprentice or trainee shall not be considered as part of the apprentice's or trainee's total wages.

(b) An apprenticeship or OJT course of training begins on the date indicated in the apprenticeship or OJT agreement, regardless of when the division receives a copy of the agreement. The apprentice's or trainee's credit toward completion of the apprenticeship or OJT course of training and his place on the progressive schedule of wages must be determined accordingly.

*History Note: Authority G.S. 94-1; 94-2; 94-5; 94-7;*

*Eff. February 1, 1984;*

*Recodified from Rule 14A .0106 Eff. March 15, 2010;*

*Transferred from 13 NCAC 14B .0107 Eff. January 1, 2014.*

#### **SECTION .0200 – APPRENTICESHIP PROGRAMS**

#### **04 NCAC 22 .0201 CRITERIA FOR APPRENTICEABLE OCCUPATIONS**

An apprenticeable occupation possesses all of the following characteristics:

- (1) It is customarily learned in a practical way through a structured, systematic program of on-the-job supervised learning;
- (2) It is identified and commonly recognized by an industry;
- (3) It involves manual, mechanical, or technical skills and knowledge which normally require not less than 2,000 hours of reasonably continuous on-the-job learning; and
- (4) It normally requires not less than 144 hours of related instruction for every 2,000 hours of on-the-job learning to supplement the on-the-job supervised learning.

*History Note: Authority G.S. 94-1; 94-2; 94-4;*

*Eff. February 1, 1984;*

*Recodified from Rule 14A .0202 Eff. March 15, 2010;*

*Amended Eff. December 1, 2010;*

*Transferred from 13 NCAC 14B .0201 Eff. January 1, 2014.*

#### **04 NCAC 22 .0202 STANDARDS OF APPRENTICESHIP**

(a) In order to be eligible for registration by the department, an apprenticeship program shall be set forth in a written document signed by the sponsor containing the terms and



conditions of employment, training, and supervision of one or more apprentices in an apprenticeable occupation. The written document shall denominate the program standards of apprenticeship and include the following provisions:

- (1) The nature of the occupation for which the apprentice is to be trained;
- (2) The term of apprenticeship consistent with training requirements commonly recognized by the industry, where the term of apprenticeship is at least 2,000 hours of reasonably continuous on-the-job learning (time-based approach), the attainment of competence (competency-based approach), or a blend of the time-based and competency based approaches (hybrid approach).
  - (A) The time-based approach measures skill acquisition through the individual apprentice's completing of at least 2,000 hours of on-the-job learning as described in a work process schedule.
  - (B) 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 shall still require apprentices to complete an on-the-job learning component. The program standards shall address how on-the-job learning will be integrated into the program, describe competencies, and identify a means of testing and evaluation for such competencies.
  - (C) 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.
  - (D) 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;
- (3) An outline of the work processes in which the apprentice will receive supervised work experience and training on the job, and the approximate allocation of time to be spent in each major process;
- (4) An outline of the related instruction to be provided the apprentice in technical subjects related to the occupation. A minimum of 144 hours for each year of apprenticeship is recommended.
- (5) A schedule of progressively increasing wages to be paid the apprentice consistent with the skill required and based upon the prevailing journeyman rate for the trade and geographic region, subject to the following minimum requirements:
  - (A) The entry wage for apprentices shall be no less than the amount prescribed by the State Minimum Wage Law (G.S. 95-25.1 et seq.), unless a higher wage is required by the Fair Labor Standards Act of 1938, as amended, by other applicable federal law, or by collective bargaining agreement; and

- (B) Unless otherwise established by collective bargaining agreement, the entry wage for apprentices shall normally be no less than 50 percent and shall reach at least 85 percent of the journeyman rate by the last period of training;
- (6) A provision requiring periodic review and evaluation of the apprentice's progress in job performance and related instruction, identifying the person(s) responsible for such review, and further requiring maintenance of progress records;
- (7) An assurance that training personnel and supervision on the job will be provided;
- (8) A provision requiring that the ratio of apprentices to journeymen will not exceed two to one at each job site, work force, department, or plant, except as follows:
  - (A) In the building and construction trades, the ratio of apprentices to journeymen shall not exceed one to one at each job site, work force, department, or plant; and
  - (B) No such specific ratios are required where expressly prohibited or otherwise provided for by an applicable collective bargaining agreement;
- (9) A provision requiring a probationary period not to exceed 25 percent of the length of the program, or one year, whichever is shorter, with full credit given for such period toward completion of apprenticeship. During the probationary period, either party may unilaterally submit a written request to the director requesting that the agreement be deregistered. Cancellation during the probationary period will not have an adverse impact on the sponsor's completion rate;
- (10) An assurance that adequate and safe equipment and facilities for training and supervision will be provided and that apprentices will be provided safety training on the job and in related instruction;
- (11) 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;
- (12) A statement that an employer who is unable to fulfill its obligation under the apprenticeship agreement may transfer the agreement to another employer under the same program who agrees to assume the obligations of the agreement, if the apprentice and both sponsors consent to the transfer and comply with the following provisions:
  - (A) The transferring apprentice shall be provided a transcript of related instruction and on-the-job learning by the program sponsor;
  - (B) The transfer shall be to the same occupation; and
  - (C) A new apprenticeship agreement shall be executed when the transfer is to occur between program sponsors;
- (13) A provision for the registration, cancellation and deregistration of the program, and for the submission of any program standard modification or amendment to the department for approval;

- (14) A provision for the registration, modification and amendment of apprenticeship agreements, and for giving notice to the department of transfers, suspensions, and cancellations of apprenticeship agreements, including a statement of the reasons therefore, and of persons who have successfully completed apprenticeship programs;
- (15) A provision that the sponsor will maintain all records of an apprenticeship program including payroll records, for a period of five years and will make them available for review to department personnel or their authorized representative at the request of the department personnel or, whenever the records pertain to a program with apprentices who have received or are receiving VA training allowances, to VA personnel upon their request; the location of the records shall be specified;
- (16) A provision that the sponsor will notify the director and the VA Regional Office in writing whenever an apprentice receiving a VA training allowance is paid wages in an amount equal to or more than the amount paid to journeymen in the trade and geographic region, as established by Subparagraph (a)(5) of this Rule;
- (17) Contact information, including name, title, address, telephone number and e-mail address, of the person(s) or organization with authority under the program to receive, process, and resolve complaints concerning the apprenticeship program or agreement pursuant to Section .0500 of this Chapter, and for complaints concerning equal employment opportunity in apprenticeship pursuant to Section .0600 of this Chapter. This shall include the person(s) or organization designated by the sponsor to resolve disputes locally in accordance with G.S. 94-5 and Rule .0501 of this Chapter, as well as the director, who shall resolve complaints that cannot be adjusted locally;
- (18) A statement of the minimum qualifications for apprentices which the sponsor may require in addition to the minimum qualifications set forth in Rule .0207 of this Chapter. This statement may be satisfied by submission of the written description of the sponsor's selection procedure, as required under Subparagraph (a)(20) of this Rule, if the written description includes all additional minimum requirements;
- (19) The following pledge: "The recruitment, selection, employment, and training of apprentices during their apprenticeship shall be without discrimination because of race, color, religion, national origin, or sex. The sponsor will take affirmative action to provide equal opportunity in apprenticeship and will operate the apprenticeship program as required by Section .0600 of this Chapter and Title 29 of the Code of Federal Regulations, Part 30."
- (20) The sponsor's affirmative action plan and written description of its selection procedure, unless exempted, as provided in Section .0600 of this Chapter;
- (21) An assurance that all apprentices in the program will be provided the same training and instruction and will in all respects be treated the same under the program;
- (22) A provision that each apprentice in the apprenticeship program will be a party to a registered apprenticeship agreement meeting the requirements

of Rule .0208 of this Chapter, and that the sponsor will provide each apprentice with a copy of the agreement.

(b) The program standards of apprenticeship shall constitute a statement of the actual program operating or to be operated and not a statement of the goals, objectives, or aspirations of the sponsor, except for the equal opportunity goals and timetables.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984;  
Amended Eff. August 1, 1990;  
Recodified from Rule 14A .0204 Eff. March 15, 2010;  
Amended Eff. December 1, 2010;  
Transferred from 13 NCAC 14B .0202 Eff. January 1, 2014.*

#### **04 NCAC 22 .0203 PROGRAM PERFORMANCE STANDARDS**

(a) Programs shall have at least one registered apprentice in order to retain registration, except for the following periods of time which may not exceed one 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) The department shall evaluate performance of registered apprenticeship programs as follows:

- (1) The tools and factors to be used shall include:
  - (A) Quality assurance assessments;
  - (B) Equal Employment Opportunity (EEO) Compliance Reviews; and
  - (C) Completion rates.
- (2) Any additional tools and factors used by the department in evaluating program performance shall adhere to the goals and policies of the department articulated in this Subchapter and in guidance issued by the U.S. Department of Labor's Office of Apprenticeship.

(c) In order to evaluate completion rates, the department shall review a program's completion rates in comparison to the national average for completion rates. Based on the review, the department shall provide technical assistance to programs with completion rates lower than the national average.

(d) Cancellation of apprenticeship agreements during the probationary period will not have an adverse impact on a sponsor's completion rate.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. December 1, 2010;  
Transferred from 13 NCAC 14B .0203 Eff. January 1, 2014.*

#### **04 NCAC 22 .0204 REGISTRATION REQUEST PROCEDURE**

(a) Upon request by a prospective sponsor to an official of the department, or upon the initiative of an official of the department, a representative of the division shall arrange a meeting or series of meetings between a representative of the division and the

prospective sponsor for the purpose of discussing the requirements for registration and the procedures necessary to register and operate an apprenticeship program.

(b) If the prospective sponsor elects to request registration of an apprenticeship program, it shall complete and submit to the director the following:

- (1) A written request, signed by the prospective sponsor, for registration of an apprenticeship program meeting the requirements of Rule .0202 of this Chapter;
- (2) An original of the program standards of apprenticeship required under Rule .0202(a)(4) of this Chapter, including an affirmative action plan according to Rule .0607 of this Chapter and a written description of the selection procedure according to Rule .0608 of this Chapter, unless exempted under Rule .0603 of this Chapter;
- (3) Any written agreement to comply with the program standards by a participating employer as provided by Rule .0106(b) of this Chapter; and
- (4) One of the following:
  - (A) A written acknowledgment of union agreement or "no objection" to the registration when the program standards, collective bargaining agreement, or other instrument provides for participation by a union in any manner in the operation of the substantive matters of the apprenticeship program and such participation is exercised;
  - (B) A written acknowledgment of a union's receipt of a copy of the completed application forms when the union represents employees in the trade which is an objective of the apprenticeship training, unless an acknowledgment under Part (A) of this Subparagraph is required; or
  - (C) A signed statement by the sponsor that no unions represent employees of the sponsor or participating employers in the trade which is an objective of the apprenticeship training.

(c) If the director has received the completed application forms and has determined that the requirements for an apprenticeship program, as set forth in Rule .0202 of this Chapter, are met, the program shall be approved and registered with the division. The sponsor shall be notified in writing of the registration.

*History Note: Authority G.S. 94-1; 94-2; 94-4;*

*Eff. February 1, 1984;*

*Recodified from Rule 14A .0301 Eff. March 15, 2010;*

*Amended Eff. December 1, 2010;*

*Transferred from 13 NCAC 14B .0204 Eff. January 1, 2014.*

#### **04 NCAC 22 .0205 ELIGIBILITY AND PROCEDURE FOR REGISTRATION OF AN APPRENTICESHIP PROGRAM**

(a) Eligibility for registration of an apprenticeship program is conditioned upon a program's conformity with the apprenticeship program standards published in this Chapter. For a program to be determined by the director as being in conformity with this Chapter, the program shall apply for registration and be registered with the department.

The determination by the director that the program meets the apprenticeship program standards is effectuated only through such registration.

(b) An apprenticeship program or agreement is eligible for registration only if it is in conformity with the requirements of Chapter 94 of the North Carolina General Statutes and the rules of this Chapter, and the training is in an apprenticeable occupation having the characteristics set forth in 04 NCAC 22 .0203.

(c) Except as provided under Paragraph (d) of this Rule, apprentices shall 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) By filing a master copy of such agreement followed by a listing of the name, and other required data, of each individual when apprenticed.

(d) 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, shall be submitted within 45 days of employment to the department for certification to establish the apprentice as eligible for such probationary employment.

(e) The department shall be notified within 45 days of persons who have successfully completed apprenticeship programs; and of transfers, suspensions, and cancellations of apprenticeship agreements and a statement of the reasons therefore.

(f) Operating apprenticeship programs, when registered by the department, are accorded registration evidenced by a Certificate of Registration. Programs registered by the department shall be accorded registration evidenced by a similar certificate or other written indicia.

(g) Applications for new programs that the department determines meet the required standards for program registration shall be given provisional registration for a period of one year. The department shall review all new programs for quality and for conformity with the requirements of Chapter 94 of the North Carolina General Statutes and the rules of this Chapter at the end of the first year after registration. At that time:

(1) a program that conforms with the requirements may either be made permanent, or may continue to be provisionally registered through the first full training cycle.

(2) a program not in operation or not conforming to the requirements during the provisional registration period shall be de-registered in accordance with the rules of this Chapter.

(h) The department shall review all programs for quality and for conformity with the requirements of Chapter 94 of the North Carolina General Statutes and the rules of this Chapter at the end of the first full training cycle. A satisfactory review of a provisionally registered program will result in conversion of provisional registration to permanent registration. Subsequent reviews shall be conducted no less frequently than every five years. Programs not in operation or not conforming to the regulations shall be de-registered in accordance with the rules of this Chapter.

(i) Any sponsor proposals or applications for modification(s) or change(s) to registered programs or standards shall be submitted to the department in accordance with Rule .0211 of this Chapter.

(j) 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 manner 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 is evidenced and practiced, the employer or employers' association shall simultaneously furnish to an existing union, 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 45 days before final action on the application for registration.

(k) 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.

*History Note: Authority G.S. 94-1; 94-2; 94-4;*

*Eff. February 1, 1984;*

*Recodified from Rules 14A .0302 and .0305 Eff. March 15, 2010;*

*Amended Eff. December 1, 2010;*

*Transferred from 13 NCAC 14B .0205 Eff. January 1, 2014.*

#### **04 NCAC 22 .0206 SPONSOR'S REPORTING REQUIREMENTS**

In general the sponsor of an apprenticeship program must promptly report to the director any substantive changes in the program. In particular, but without limitation, the sponsor must promptly report the following:

- (1) Proposed revisions, proposed extensions of an apprenticeship agreement, or proposed adjustments to equal employment opportunity goals and timetables;
- (2) Termination or suspension of an apprenticeship agreement and the reason(s) for such;
- (3) Beginning and completion of an apprenticeship;
- (4) Completion by an apprentice of a course of study in the related instruction curriculum;
- (5) Change in the person or organization designated to act for the sponsor in any capacity;
- (6) Change in the location of records of the program;
- (7) Membership or termination of membership in an apprenticeship association or in an employers' group or association; and
- (8) Payment of journeyman wages to an apprentice who is receiving a VA training allowance for the apprenticeship, and in such event, the sponsor must also notify the VA Regional Office.

*History Note: Authority G.S. 94-1; 94-2; 94-4;*

*Eff. February 1, 1984;*

*Recodified from Rule 14A .0307 Eff. March 15, 2010;*

*Transferred from 13 NCAC 14B .0206 Eff. January 1, 2014.*

#### **04 NCAC 22 .0207 MINIMUM QUALIFICATIONS OF APPRENTICES**

(a) An apprentice must have the following qualifications:

- (1) He must be at least 16 years old, except where a higher minimum age is otherwise fixed by law;
  - (2) He must not be fully trained or qualified in the trade or occupation offered in the apprenticeship program in the trade or occupation offered in the apprenticeship program in which he is to be trained; and
  - (3) He must be a high school "completer," high school graduate, must have passed an equivalency examination, or, with the approval of the director, he may be a high school student enrolled in a course of study leading toward graduation. A sponsor may apply to the director for waiver of this Rule for an individual apprenticeship applicant, or an individual craft or trade.
- (b) Additional minimum qualifications for apprentices may be established by the sponsor so long as the additional qualifications comply with Section .0600 of this Chapter concerning equal employment opportunity.

*History Note: Authority G.S. 94-1; 94-2; 94-6;  
Eff. February 1, 1984;  
Recodified from Rule 14A .0203 Eff. March 15, 2010;  
Transferred from 13 NCAC 14B .0207 Eff. January 1, 2014.*

#### **04 NCAC 22 .0208 APPRENTICESHIP AGREEMENT**

In addition to the requirements of G.S. 94-7 and G.S. 94-8, an apprenticeship agreement shall contain the following in order to be registered:

- (1) The contact information, including names, addresses, telephone numbers, and e-mail addresses of the program sponsor or employer, and their signatures;
- (2) 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 competence-based program, including the on-the-job learning component; or 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 instruction in technical subjects related to the occupation, which is recommended to be not less than 144 hours per year;
- (3) Statements providing that the apprenticeship agreement may be de-registered in accordance with Rule .0407 of this Chapter;
- (4) A statement that a complaint procedure is provided, and that details of the procedure are set out in the program standards of apprenticeship in accordance with Rule .0202 of this Chapter, including the contact information for the person(s) or organization designated under the program to receive, process and resolve controversies;
- (5) A statement that the apprentice will be afforded equal opportunity in employment and training without discrimination because of race, color, religion, national origin, or sex;



- (6) A reference incorporating as part of the agreement the program standards of apprenticeship as they exist on the date the agreement is executed and as they may be revised or amended during the period of the agreement; and
- (7) Such other terms of agreement between the parties as are consistent with the rules in this Chapter and the purposes of apprenticeship in general.

*History Note: Authority G.S. 94-2; 94-4; 94-7; 94-8;  
Eff. February 1, 1984;  
Recodified from Rule 14A .0205 Eff. March 15, 2010;  
Amended Eff. December 1, 2010;  
Transferred from 13 NCAC 14B .0208 Eff. January 1, 2014.*

#### **04 NCAC 22 .0209 REGISTRATION OF APPRENTICE AND AGREEMENT**

- (a) A sponsor or an individual, or a person or organization on behalf of the individual, shall request that an apprenticeship agreement between the individual and his sponsor be registered by submitting to the director a copy of the apprenticeship agreement.
- (b) If the following requirements are met, then the director shall approve the apprenticeship agreement and cause it to be recorded by the division, which constitutes registration of the agreement:
  - (1) The agreement is complete and applies to a registered apprenticeship program;
  - (2) The agreement meets the requirements of Rule .0208 of this Chapter; and
  - (3) The individual meets the minimum qualifications for an apprentice.
- (c) If the director approves the apprenticeship agreement, he shall also and simultaneously cause the name of the individual who is to be trained under the agreement to be recorded by the division, which constitutes registration of the individual.
- (d) All apprenticeship registrations are subject to a registration fee and an annual fee in accordance with G.S. 94-12.

*History Note: Authority G.S. 94-1; 94-2; 94-4; 94-8; 94-12;  
Eff. February 1, 1984;  
Emergency Amendment Eff. August 27, 2009;  
Temporary Amendment Eff. October 29, 2009;  
Recodified from Rule 14A .0303 Eff. March 15, 2010;  
Temporary Amendment Expired August 13, 2010;  
Amended Eff. December 1, 2010;  
Transferred from 13 NCAC 14B .0209 Eff. January 1, 2014.*

#### **04 NCAC 22 .0210 DENIAL OF REQUEST FOR REGISTRATION**

- (a) If the director does not approve a request for registration of an apprenticeship program, apprenticeship agreement, or individual, he shall deny the request in writing to the requesting party, expressly stating the reason(s) for denial. The director shall promptly notify the person whose individual registration has been denied, when the person is not notified as the requesting party.

(b) The requesting party may resubmit the request for registration if the proposed apprenticeship program or apprenticeship agreement is revised to cure the problem(s) resulting in denial.

(c) The requesting party may appeal the denial in accordance with Chapter 150B of the North Carolina General Statutes and 13 NCAC 1B within 30 days of the requesting party's receipt of the denial. If the requesting party has resubmitted the request, the 30 days shall run from the receipt of the denial of the resubmitted request.

*History Note: Authority G.S. 94-1; 94-2; 94-4;*

*Eff. February 1, 1984;*

*Recodified from Rule 14A .0304 Eff. March 15, 2010;*

*Transferred from 13 NCAC 14B .0210 Eff. January 1, 2014.*

#### **04 NCAC 22 .0211 REVISION OF APPRENTICESHIP STANDARDS OR AGREEMENT**

(a) Any proposed revision of program standards of apprenticeship or an apprenticeship agreement shall be submitted in writing by the sponsor to the director for his approval.

(b) The revision becomes effective 90 days after the director's receipt of the sponsor's proposed revision unless the director, in writing, disallows the revision within that time. The director may disallow part of the proposed revision and allow part, but in such event the sponsor may withdraw the entire proposed revision. If the revision is not approved, the director shall notify the sponsor of the reasons for the disapproval, and provide the sponsor with technical assistance.

(c) The sponsor may appeal the director's decision to disallow a proposed revision or part of a proposed revision in accordance with Chapter 150B of the North Carolina General Statutes within 60 days of the sponsor's receipt of the director's decision.

(d) When a revision becomes effective, the division shall record the revision so that it amends the program standards or agreement recorded by the division.

*History Note: Authority G.S. 94-1; 94-2; 94-4;*

*Eff. February 1, 1984;*

*Recodified from Rule 14A .0306 Eff. March 15, 2010;*

*Amended Eff. December 1, 2010;*

*Transferred from 13 NCAC 14B .0211 Eff. January 1, 2014.*

#### **04 NCAC 22 .0212 TERMINATION AND EXTENSION OF AGREEMENTS**

(a) An apprenticeship agreement terminates when the period of the apprenticeship identified by the terms of the agreement expires.

(b) The agreement may be extended for a specified period by agreement of the apprentice and sponsor with the approval of the director. The sponsor shall obtain the director's approval of an extension in the manner provided in Rule .0211 of this Chapter for revision of program standards of apprenticeship or an apprenticeship agreement, except that an extension becomes effective within 30 days of the director's receipt of the proposed extension unless the director, in writing, disallows the revision within that time, stating the reason(s) for disallowance.

Note: The director's approval of an extension does not indicate whether the extension will affect the apprentice's eligibility for a VA training allowance; in some cases an extension, although approved, may disqualify an apprentice for VA purposes.

(c) Nothing in this Rule shall be construed to prevent a sponsor and an individual meeting the minimum qualifications of an apprentice, as set forth in Rule .0207 of this Chapter from executing an apprenticeship agreement.

*History Note: Authority G.S. 94-1; 94-2; 94-4; 94-6;*

*Eff. February 1, 1984;*

*Recodified from Rule 14A .0308 Eff. March 15, 2010;*

*Amended Eff. December 1, 2010;*

*Transferred from 13 NCAC 14B .0212 Eff. January 1, 2014.*

#### **04 NCAC 22 .0213 CERTIFICATION OR CERTIFICATE OF COMPLETION**

(a) Upon notification from a sponsor that an individual has completed his apprenticeship in the sponsor's registered apprenticeship program, the director shall issue to the individual, or to the sponsor for the individual, a certificate of completion or other written indicia signifying that the individual has completed his training and instruction in a registered apprenticeship program in a certain, identified trade and the date the training was completed.

(b) Notwithstanding Paragraph (a) of this Rule, the director shall not issue the certificate of completion if he decides upon satisfactory evidence that the apprentice is not fully trained because he did not complete the apprenticeship or because the apprenticeship program did not comply with the rules of this Subchapter. In addition, the director shall not issue the certificate of completion if he determines that the fees authorized by G.S. 94-12 have not been paid. The director shall give written notification to the sponsor and individual of his decision not to issue the certificate of completion and the reason(s) for the decision.

(c) The sponsor or individual may appeal the director's decision within 60 days of receipt of notification in accordance with Article 3 of Chapter 150B of the North Carolina General Statutes.

(d) Upon request of a sponsor, the director may issue an honorary certificate of completion to recognize an individual who by training and experience was fully qualified as a journeyman prior to the registration of the sponsor's apprenticeship program.

*History Note: Authority G.S. 94-1; 94-2; 94-4; 94-12;*

*Eff. February 1, 1984;*

*Emergency Amendment Eff. August 27, 2009;*

*Temporary Amendment Eff. October 29, 2009;*

*Temporary Amendment Expired August 13, 2010;*

*Amended Eff. December 1, 2010;*

*Transferred from 13 NCAC 14B .0213 Eff. January 1, 2014.*

#### **04 NCAC 22 .0214 SUSPENSION DURING UNION ACTIVITY**

(a) Whenever the director is on notice that a notice of election has been filed with the appropriate governmental agency or that a union has called a strike or is subject to a lockout, he shall order that the division shall suspend communications with any representative of the employer or the union on the subject of registration or revision of an apprenticeship program or agreement, except that the division may provide information regarding apprenticeship programs in general to the representative, until such time as the results of the election are certified by the appropriate authority or the strike or lockout is ended.

(b) The director is on notice that a notice of election has been filed whenever a copy of the notice of election has been received by the director at the address of the division. The director is on notice of a strike or lockout whenever he is provided actual notice of the strike or lockout.

(c) Notwithstanding Paragraph (a) of this Rule, the procedure for the appeal of a denial of a request for registration, as provided in Rule .0210(c) of this Section, is not suspended by the order of the director pursuant to Paragraph (a) of this Rule.

*History Note: Authority G.S. 94-1; 94-2; 94-4; 94-11;*

*Eff. February 1, 1984;*

*Recodified from Rule 14A .0310 Eff. March 15, 2010;*

*Transferred from 13 NCAC 14B .0214 Eff. January 1, 2014.*

#### **SECTION .0300 – ON-THE-JOB TRAINING (OJT) PROGRAMS**

##### **04 NCAC 22 .0301 STANDARDS FOR OJT PROGRAMS**

(a) In order to be eligible for registration by the department, an OJT program shall be set forth in a written document signed by the sponsor containing the terms and conditions of employment, training, and supervision of one or more trainees in the trainable occupation, which includes the following provisions and is denominated the program standards for OJT:

- (1) The nature of the occupation which is the objective of the training;
- (2) The term of the course of training consistent with the criteria for OJT programs where the term of training is for a period of not less than six months (1,000 hours) and not more than two years (4,000 hours) of reasonably continuous work experience. The length of the program shall not be longer than the time customarily required by training establishments in the community, or if there are no other training establishments in the community, then not longer than is reasonably necessary to provide a trainee with the skills, knowledge, technical information, and other facts which the trainee needs to learn in order to become competent in the occupation which is the objective of the training;
- (3) An outline of the work processes in which the trainees are to receive supervised work experience and training on the job, the approximate allocation of time to be spent in each major process, and the specific location of the training site(s);

- (4) An outline of related instruction to be provided the trainees, if any is required;
- (5) A schedule of progressively increasing wages to be paid the trainees, established by the sponsor with the approval of the director as follows:
  - (A) The prevailing rate in the geographic area for fully qualified workers in the occupation which is the objective of the training will be determined;
  - (B) A rate for fully qualified workers applicable to the OJT program will be established based upon the determination made in Part (a)(5)(A) of this Rule;
  - (C) The trainees' wages will be no less than 50 percent of the applicable rate for fully qualified workers established in Part (a)(5)(B) of this Rule and will increase in regular periodic increments until, not later than the last full month of the training period, they are at least 85 percent of the applicable rate; provided that in any event the wages are no less than the applicable state or federal minimum wage;
- (6) An assurance that all trainees in the program, regardless of whether they receive VA training allowances, will be provided the same training and instruction and will in all respects be treated the same under the program, in accordance with the criteria for OJT programs;
- (7) A provision requiring periodic review and evaluation of the trainees' progress in job performance and related instruction, if any, identifying the person(s) responsible for such review, and further requiring maintenance of progress records;
- (8) A provision requiring that the ratio of trainees to fully qualified workers will not exceed two to one at each job site, work force, department, or plant except as follows:
  - (A) In the building and construction trades, the ratio of trainees to fully qualified workers shall not exceed one to one at each job site, work force, department, or plant; and
  - (B) No such specific ratios are required where prohibited or otherwise provided for by an applicable collective bargaining agreement;
- (9) A provision requiring a probationary period not to exceed 25 percent of the length of the program, with full credit given for such period toward completion of OJT. During the probationary period, either party may unilaterally submit a written request to the director requesting that the agreement be de-registered;
- (10) An assurance that adequate and safe equipment and facilities for training and supervision will be provided and that trainees will be provided safe training on the job and in any related instruction;
- (11) The granting of advanced standing or credit for demonstrated competence, acquired experience, training, or skills for all applicants equally, with commensurate wages for any progression step so granted;
- (12) A statement that an employer who is unable to fulfill its obligation under the OJT agreement may, with the written approval of the director, transfer the agreement to another employer under the same program who agrees to

assume the obligations of the agreement, if both the trainee and the sponsor consent to the transfer and comply with the following provisions:

- (A) The transferring trainee will be provided a transcript of related instruction, if applicable, and on-the-job training by the program sponsor;
  - (B) The transfer shall be to the same occupation; and
  - (C) A new OJT agreement shall be executed when the transfer is to occur between program sponsors;
- (13) A provision for the registration and cancellation of the program, and for the submission of any program standard modification or amendment to the department for approval;
  - (14) A provision for the registration, modification and amendment of OJT agreements, and for giving notice to the department of transfers, suspensions and cancellations of OJT agreements, including a statement of the reasons therefore, and of persons who have successfully completed OJT programs;
  - (15) A provision that the sponsor will maintain all records of the OJT program, including payroll records, for a period of five years and shall make them available for review to department personnel or their authorized representative upon the request of the department personnel or, whenever the records pertain to a program with trainees who have received or are receiving VA training allowances, to VA personnel upon their request; the location of the records shall be specified;
  - (16) A provision that the sponsor will notify the director and the VA Regional Office in writing whenever a trainee receiving a VA training allowance is paid wages in an amount equal to or more than the applicable rate for fully qualified workers as established in Subparagraph (a)(5) of this Rule;
  - (17) Contact information, including name, title, address, telephone number and e-mail address, of the appropriate person(s) with authority under the program to receive, process, and resolve complaints;
  - (18) A statement of the minimum qualifications for trainees which the sponsor may require;
  - (19) An assurance that the OJT program complies with the criteria set forth in Rule .0403 of this Chapter;
  - (20) The following pledge: "The recruitment, selection, employment, and training of trainees during OJT shall be without discrimination because of race, color, religion, national origin, or sex;" and
  - (22) A provision that each trainee in the OJT program will be a party to an OJT agreement meeting the requirements of Rule .0305 of this Chapter, and that the sponsor will provide each trainee with a copy of the agreement.
- (b) The program standards for OJT shall constitute a statement of the actual program operating or to be operated and not a statement of the goals, objectives, or aspirations of the sponsor.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984;*

*Amended Eff. August 1, 1990;*  
*Recodified from Rule 14A .0404 Eff. March 15, 2010;*  
*Amended Eff. December 1, 2010;*  
*Transferred from 13 NCAC 14B .0301 Eff. January 1, 2014.*

#### **04 NCAC 22 .0302 REGISTRATION REQUEST PROCEDURE FOR OJT PROGRAMS**

(a) Upon request by a prospective sponsor to an official of the department, or upon the initiative of an official of the department, a representative of the division shall arrange a meeting or series of meetings between a representative of the division and the prospective sponsor for the purpose of discussing the relevant criteria and standards and the procedures necessary to register and to operate an approved OJT program.

(b) If the prospective sponsor elects to request that a training program be registered, it shall complete and submit to the director the following:

- (1) A written request, signed by the prospective sponsor, for registration of a training program meeting the requirements of Rule .0301 of this Chapter;
- (2) An original copy of the program standards for OJT;
- (3) Any written agreement to comply with the program standards by a participating employer as provided by Rule .0106(b) of this Chapter; and
- (4) A Designation of Certifying Official(s) form.

(c) If the director has received the completed application forms and has determined that the requirements for an OJT program, as set forth in Rule .0303 of this Chapter, are met, the program shall be registered with the division. The director shall notify the sponsor in writing of the registration.

*History Note: Authority G.S. 94-1; 94-2; 94-4;*  
*Eff. February 1, 1984;*  
*Recodified from Rule 14A .0406 Eff. March 15, 2010;*  
*Amended Eff. December 1, 2010;*  
*Transferred from 13 NCAC 14B .0302 Eff. January 1, 2014.*

#### **04 NCAC 22 .0303 ELIGIBILITY AND PROCEDURE FOR REGISTRATION OF OJT PROGRAMS**

The director may register an OJT program only when:

- (1) The sponsor offering the training has submitted to the director the forms required in Rule .0302(b) of this Chapter; and
- (2) The director finds upon investigation that the following criteria are met:
  - (a) The nature of the occupation which is the objective of the training is one in which progression and appointment to the next higher classification are based upon skills learned through organized and supervised training on the job and not upon such factors as length of service and normal turnover;
  - (b) The training content of the program is adequate to qualify the trainee for a job in the occupation which is the objective of the training;
  - (c) The sponsor provides adequate space, equipment, instructional material, and instructor personnel for safe and satisfactory on-the-job training;

- (d) The OJT program does not provide training for people already qualified by training and experience for the occupation which is the objective of the training;
- (e) Each trainee's wages are paid according to the schedule set out in the program standards for OJT but in no event are less than the applicable state or federal minimum wage; and
- (f) There is a reasonable certainty that a job in the occupation which is the objective of the training will be available to the trainee at the end of the OJT course of training.

*History Note: Authority G.S. 94-1; 94-2; 94-4;*

*Eff. February 1, 1984;*

*Recodified from Rule 14A .0403 Eff. March 15, 2010;*

*Amended Eff. December 1, 2010;*

*Transferred from 13 NCAC 14B .0303 Eff. January 1, 2014.*

#### **04 NCAC 22 .0304 SPONSOR'S REPORTING REQUIREMENTS**

In general, the sponsor of an approved OJT program must promptly report to the director any substantive changes in the program. In particular, but without limitation, the sponsor must promptly report the following:

- (1) Proposed revisions and proposed extensions of an OJT agreement;
- (2) Termination or suspension of an OJT agreement and the reason(s) for such;
- (3) Beginning and completion of the OJT course of training by a trainee;
- (4) Change in the person or organization designated to act for the sponsor in any capacity;
- (5) Change in the location of training sites or records;
- (6) Payment to a trainee who is receiving a VA training allowance of wages in an amount equal to or greater than the applicable rate for fully qualified workers as established in the program standards for OJT, and in such a case, the sponsor must also notify the VA regional office.

*History Note: Authority G.S. 94-1; 94-2; 94-4;*

*Eff. February 1, 1984;*

*Recodified from Rule 14A .0411 Eff. March 15, 2010;*

*Transferred from 13 NCAC 14B .0304 Eff. January 1, 2014.*

#### **04 NCAC 22 .0305 OJT AGREEMENT**

An OJT agreement shall contain the following in order to be registered:

- (1) The contact information, including names, addresses, telephone numbers, and e-mail addresses of the program sponsor or employer, and their signatures;
- (2) The date of birth of the trainee;
- (3) The name and signature of the trainee, and if the trainee is a minor, the signature of the trainee's parent or guardian;
- (4) The nature of the occupation which is the objective of the trainee's training;



- (5) The schedule of wages for the trainee, either expressly or by specific reference to the trainee's place on the schedule set forth in the program standards for OJT;
- (6) The number of hours to be spent by the trainee in work on the job and the number of hours to be spent in related instruction;
- (7) Statements providing that the OJT agreement may be cancelled in accordance with Rule .0407 of this Chapter;
- (8) A statement that a complaint procedure is provided, and that details of the procedure are set out in the program standards for OJT in accordance with Rule .0301 of this Chapter, including the contact information for the person(s) designated under the program to receive, process and resolve controversies;
- (9) A statement that the trainee will be afforded equal opportunity in employment and training without discrimination because of race, color, religion, national origin, or sex;
- (10) A reference incorporating as a part of the agreement the program standards for OJT as they exist on the date the agreement is executed and as they may be revised or amended during the period of the agreement; and
- (11) Such other terms of agreement between the parties as are consistent with the rules in this Section and the purposes of OJT training in general.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984;  
Recodified from Rule 14A .0405 Eff. March 15, 2010;  
Amended Eff. December 1, 2010;  
Transferred from 13 NCAC 14B .0305 Eff. January 1, 2014.*

#### **04 NCAC 22 .0306 REGISTRATION OF OJT AGREEMENTS**

- (a) The sponsor shall request that an OJT agreement between the individual and sponsor be registered by submitting to the director a copy of the OJT agreement.
- (b) If the following requirements are met, then the director shall approve the OJT agreement and cause it to be recorded by the division, which constitutes registration of the agreement:
  - (1) The agreement is complete and applies to an approved OJT program; and
  - (2) The agreement meets the requirements of Rule .0305 of this Chapter.
- (c) If the director approves the OJT agreement, he shall also and simultaneously cause the name of the individual who is to be trained under the agreement to be recorded by the division, which constitutes registration of the individual.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984;  
Recodified from Rule 14A .0407 Eff. March 15, 2010;  
Amended Eff. December 1, 2010;  
Transferred from 13 NCAC 14B .0306 Eff. January 1, 2014.*

#### **04 NCAC 22 .0307 DENIAL OF REQUEST FOR APPROVAL**

(a) If the director does not approve a request for approval of an OJT program, he shall deny the request in writing to the requesting party, expressly stating the reason(s) for denial.

(b) The requesting party may resubmit the request for approval if the proposed OJT program is revised to cure the problem(s) resulting in denial.

(c) The requesting party may appeal a denial in accordance with Chapter 150B of the North Carolina General Statutes and 13 NCAC 01B within 30 days of the requesting party's receipt of the denial. If the requesting party has resubmitted the request, the 30 days shall run from the receipt of the denial of the resubmitted request.

*History Note: Authority G.S. 94-1; 94-2; 94-4;*

*Eff. February 1, 1984;*

*Recodified from Rule 14A .0408 Eff. March 15, 2010;*

*Transferred from 13 NCAC 14B .0307 Eff. January 1, 2014.*

#### **04 NCAC 22 .0308 REVISION OF OJT STANDARDS OR AGREEMENT**

(a) Any proposed revision of program standards for OJT or an OJT agreement shall be submitted in writing by the sponsor to the director for his approval.

(b) The revision becomes effective 90 days after the director's receipt of the sponsor's proposed revision unless the director, in writing, disallows the revision within that time, stating the reason(s) for disallowance. The director may disallow part of the proposed revision and allow part, but in such event the sponsor may withdraw the entire proposed revision.

(c) The sponsor may appeal the director's decision to disallow a proposed revision or part of a proposed revision in accordance with Chapter 150B of the North Carolina General Statutes within 60 days of the sponsor's receipt of the director's decision.

(d) When a revision becomes effective, the division shall record the revision so that it amends the program standards or agreement recorded by the division.

*History Note: Authority G.S. 94-1; 94-2; 94-4;*

*Eff. February 1, 1984;*

*Recodified from Rule 14A .0409 Eff. March 15, 2010;*

*Amended Eff. December 1, 2010;*

*Transferred from 13 NCAC 14B .0308 Eff. January 1, 2014.*

#### **04 NCAC 22 .0309 TERMINATION AND EXTENSION OF AGREEMENTS**

(a) An OJT agreement terminates when the period of the course of training identified by the terms of the agreement expires.

(b) The agreement may be extended for a specified period by agreement of the trainee and sponsor with the approval of the director. The sponsor shall obtain the director's approval of an extension in the manner provided in Rule .0211 of this Chapter for revision of program standards of apprenticeship or an apprenticeship agreement, except that an extension becomes effective within 30 days of the director's receipt of the proposed extension unless the director, in writing, disallows the revision within that time, stating the reason(s) for disallowance.

Note: The director's approval of an extension does not indicate whether the extension will affect the trainee's eligibility for a VA training allowance; in some cases an extension, although approved, may disqualify the trainee for VA purposes.

(c) Nothing in this Rule shall be construed to prevent a sponsor and an individual who is not fully qualified by training and experience for the occupation which is the objective of the training from executing an OJT agreement.

*History Note: Authority G.S. 94-1; 94-2; 94-4;*

*Eff. February 1, 1984;*

*Recodified from Rule 14A .0410 Eff. March 15, 2010;*

*Amended Eff. December 1, 2010;*

*Transferred from 13 NCAC 14B .0309 Eff. January 1, 2014.*

#### **04 NCAC 22 .0310 CERTIFICATE OF COMPLETION**

(a) Upon notification from a sponsor that an individual has completed the course of training and instruction in the sponsor's approved OJT program, the director shall issue to the individual, or to the sponsor for the individual, a certificate of completion or other written indicia signifying that the individual has completed his training and instruction in an approved OJT program in a certain, identified occupation and the date the training was completed.

(b) Notwithstanding Paragraph (a) of this Rule, the director shall not issue the certificate of completion if he decides upon satisfactory evidence that the trainee is not fully trained because he did not complete the course of training or because the OJT program did not comply with the rules of this Chapter. The director shall promptly give written notification to the sponsor and the individual of his decision not to issue the certificate of completion and the reason(s) therefor.

(c) The sponsor or individual may appeal the director's decision within 30 days of receipt of notification in accordance with Chapter 150B of the North Carolina General Statutes and 13 NCAC 01B.

*History Note: Authority G.S. 94-1; 94-2; 94-4;*

*Eff. February 1, 1984;*

*Recodified from Rule 14A .0412 Eff. March 15, 2010;*

*Transferred from 13 NCAC 14B .0310 Eff. January 1, 2014.*

#### **04 NCAC 22 .0311 DECLARATION OF EMERGENCY; PERFORMANCE OF DUTIES UNDER EMERGENCY**

(a) From time to time special on-the-job training procedures may be necessary for emergency and critical civilian production. When the commissioner finds that there is a critical shortage of trained, skilled workers in an occupation or trade, that existing training programs are unable to train a sufficient number of individuals to alleviate the shortage, and that the welfare of the State of North Carolina is jeopardized by the shortage, he may declare that an emergency exists.

(b) Whenever the commissioner has declared an emergency pursuant to Rule .0701 of this Section, he may order the director to take certain specified action to alleviate the

shortage, including but not limited to sponsoring on-the-job training programs, and such other action as may be appropriate.

*History Note: Authority G.S. 94-1; 94-2; 94-4;*

*Eff. February 1, 1984;*

*Recodified from Rules 14A .0701 and .0702 Eff. March 15, 2010;*

*Transferred from 13 NCAC 14B .0311 Eff. January 1, 2014.*

## **SECTION .0400 – DE-REGISTRATION AND WITHDRAWAL OF APPROVAL**

### **04 NCAC 22 .0401 QUALITY ASSURANCE ASSESSMENTS**

(a) The department may conduct quality assurance assessments of apprenticeship and OJT programs, including the records of the programs, in order to determine whether the programs are being conducted in compliance with the applicable rules, requirements, criteria, or standards under this Chapter.

Note: Compliance reviews under Section .0600 of this Chapter (equal employment opportunity in apprenticeship) are made according to that Section. A single review may be conducted for both Section .0400 and Section .0600 purposes, but a finding of lack of compliance may result in different procedures depending upon the nature of the deficiency.

(b) If the sponsor of or participating employer in an apprenticeship or OJT program, or any person under the supervision or control of the sponsor or employer, refuses to allow or materially hinders a quality assurance assessment of the program by an authorized representative of the department, the director may find that the program is not in compliance with the applicable rules, requirements, criteria, or standards.

(c) If the director determines, upon the advice of the inspector, that an apprenticeship or OJT program is not in compliance with the applicable rules, requirements, criteria, or standards, he shall notify the program sponsor in writing by registered or certified mail, return receipt requested, of the following:

- (1) The manner in which the program fails to comply with the applicable rules, requirements, criteria, or standards;
- (2) The remedial action required to achieve compliance;
- (3) The requirement that the remedial action be effected within 30 days;
- (4) The department will cooperate with the sponsor in achieving compliance; and
- (5) The possibility that the lack of compliance will result in de-registration of the program in accordance with 02 NCAC 22 .0404 if not remedied within the 30 day period allotted.

*History Note: Authority G.S. 94-1; 94-2; 94-4;*

*Eff. February 1, 1984;*

*Recodified from Rule 14A .0501 Eff. March 15, 2010;*

*Amended Eff. December 1, 2010;*

*Transferred from 13 NCAC 14B .0401 Eff. January 1, 2014.*

### **04 NCAC 22 .0402 DE-REGISTRATION OF PROGRAM**

The director may de-register an apprenticeship or OJT program only:

- (1) Upon request of the sponsor, according to Rule .0403 of this Section;
- (2) For reasonable cause, according to Rule .0404 of this Section; or
- (3) For inactivity, according to Rule .0405 of this Section.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984;  
Recodified from Rule 14A .0502 Eff. March 15, 2010;  
Amended Eff. December 1, 2010;  
Transferred from 13 NCAC 14B .0402 Eff. January 1, 2014.*

#### **04 NCAC 22 .0403 VOLUNTARY DE-REGISTRATION**

If a sponsor voluntarily requests de-registration of a program operated by the sponsor, the director may de-register the program by:

- (1) Notifying the sponsor in writing that the program is de-registered and the effective date thereof;
- (2) Requiring the sponsor, within 15 days of receipt of the notice of de-registration:
  - (a) To notify each apprentice in the program that the de-registration automatically cancels the apprentice's individual registration and removes the apprentice from coverage for federal or state purposes requiring registration of an apprenticeship program or to notify each trainee in the program that the program is no longer approved; and
  - (b) To notify each apprentice or trainee in the program who is receiving VA training allowances that the program is no longer approved for participation for people eligible to receive training allowances;
- (3) If applicable, notifying the VA Regional Office that approval for the program is withdrawn and the effective date thereof; and
- (4) Causing the de-registration to be recorded by the division, and publishing or posting public notice of the de-registration.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984;  
Recodified from Rule 14A .0503 Eff. March 15, 2010;  
Amended Eff. December 1, 2010;  
Transferred from 13 NCAC 14B .0403 Eff. January 1, 2014.*

#### **04 NCAC 22 .0404 DE-REGISTRATION**

(a) If the director has notified a sponsor of a lack of compliance in accordance with Rule .0401 of this Section and the sponsor has failed to remedy the lack of compliance within the time allotted, the director shall send a notice to the sponsor by registered or certified mail, return receipt requested, stating the following:

- (1) The notice is sent pursuant to this Rule;
- (2) The sponsor was notified of certain deficiencies (identifying them) resulting in a lack of compliance with the applicable rules, requirements, criteria, or standards and was advised of the remedial action required, with the date(s) such notice was given;

- (3) The sponsor has failed to remedy the lack of compliance within the time allotted;
  - (4) The director has therefore found reasonable cause that the sponsor's program should be de-registered; and
  - (5) The director will de-register the sponsor's program unless the sponsor requests a hearing in accordance with Paragraph (b) of this Rule.
- (b) If the sponsor desires a hearing regarding the de-registration of the sponsor's apprenticeship or OJT program, it shall file a petition for a hearing as provided in Chapter 150B of the North Carolina General Statutes and the hearing process shall be conducted as therein provided.
- (c) If the sponsor does not request a hearing, the director shall de-register the program.
- (d) Whenever the director decides to de-register a program for reasonable cause, he shall follow the procedure provided in Rule .0403 of this Section for voluntary de-registration. In addition, the director shall notify apprentices and trainees as provided in Rule .0403 of this Section if the director has reason to believe that the sponsor may not do so or if the director chooses so to do. The director shall publish or post public notice of the de-registration.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984;  
Amended Eff. August 1, 1988;  
Recodified from Rule 14A .0504 Eff. March 15, 2010;  
Amended Eff. December 1, 2010;  
Transferred from 13 NCAC 14B .0404 Eff. January 1, 2014.*

#### **04 NCAC 22 .0405 DE-REGISTRATION FOR INACTIVITY**

- (a) Whenever an apprenticeship or OJT program registered by the division has failed to enroll any apprentices or trainees for a period of at least one year, the director shall send a notice to the sponsor stating the following:
- (1) The notice is sent pursuant to this Rule;
  - (2) The sponsor's program has failed to enroll any apprentices or trainees, as applicable, for a period of at least one year; and
  - (3) The director will de-register the sponsor's program unless the sponsor protests in writing within 15 days of receipt of the notice, stating the reasons why the program should not be de-registered.
- (b) If a sponsor protests following notice from the director, the director shall consider the protest before deciding to de-register the sponsor's program.
- (c) After receiving and considering the sponsor's protest or after allowing sufficient time for the sponsor to protest, the director may notify the sponsor by registered or certified mail, return receipt requested, that the sponsor's program will be de-registered for inactivity as provided by this Rule unless the sponsor requests a hearing in accordance with Paragraph (d) of this Rule.
- (d) If the sponsor desires a hearing regarding the de-registration of the sponsor's apprenticeship or OJT program, it shall file a petition for a hearing as provided in Chapter 150B of the North Carolina General Statutes and the hearing process shall be conducted as therein provided.

(e) If the sponsor does not request a hearing, the director shall de-register the program by:

- (1) Causing the de-registration to be recorded by the division and publishing or posting public notice of the de-registration;
- (2) Notifying the sponsor of the de-registration and the effective date thereof; and
- (3) If applicable, notifying the VA Regional Office that approval for the program is withdrawn and the effective date thereof.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984;  
Amended Eff. August 1, 1988;  
Recodified from Rule 14A .0505 Eff. March 15, 2010;  
Amended Eff. December 1, 2010;  
Transferred from 13 NCAC 14B .0405 Eff. January 1, 2014.*

#### **04 NCAC 22 .0406 REINSTATEMENT OF REGISTRATION**

(a) Any apprenticeship or OJT program which has been de-registered involuntarily within the preceding year may be re-registered by the director if he finds upon investigation and presentation of evidence by the sponsor that the program is capable of operating in accordance with the applicable rules, requirements, criteria, or standards under this Chapter.

(b) Any apprenticeship or OJT program which has been de-registered voluntarily within the preceding year may be re-registered by the director upon request of the sponsor.

(c) Whenever an apprenticeship program is re-registered according to Paragraph (a) or (b) of this Rule, apprenticeship agreements and individuals must be registered in accordance with Rule .0209 of this Chapter regardless of any prior registration in the de-registered program. Whenever an OJT program is re-registered, OJT agreements must be submitted in accordance with Rule .0306 of this Chapter regardless of any prior recording.

(d) Nothing in this Rule shall be construed to prevent a sponsor who has operated a program which has been de-registered from requesting registration of a program according to the procedures provided in this Chapter.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984;  
Recodified from Rule 14A .0507 Eff. March 15, 2010;  
Amended Eff. December 1, 2010;  
Transferred from 13 NCAC 14B .0406 Eff. January 1, 2014.*

#### **04 NCAC 22 .0407 DE-REGISTRATION OF AGREEMENT**

(a) The director may de-register an apprenticeship or OJT agreement only as follows:

- (1) During a probationary period, upon request of either party to the agreement;
- (2) After the probationary period:
  - (A) Upon mutual consent of the parties;
  - (B) Upon written request of the apprentice or trainee; or

- (C) Upon a unilateral request of the sponsor as provided in Paragraphs (c) and (d) of this Rule;
  - (3) At any time when the apprenticeship or OJT program in which the apprentice or trainee is to be trained has been de-registered in accordance with the rules of this Chapter; or
  - (4) At any time for failure to pay the registration fee or annual fee in accordance with G.S. 94-12.
- (b) Whenever an apprenticeship or OJT agreement is de-registered, the director shall:
- (1) Cause the de-registration to be recorded with the division;
  - (2) In addition and simultaneously de-register the individual by causing the individual's de-registration to be recorded with the division, in the case of an apprenticeship agreement; and
  - (3) Notify the parties to the agreement that the apprenticeship or OJT agreement and apprentice or trainee have been de-registered and the effective date thereof, except when the sponsor has notified the apprentice or trainee as a result of the de-registration of the sponsor's program.
- (c) After the probationary period, prior to unilaterally requesting the de-registration of an agreement, a sponsor shall give notice to an apprentice or trainee of reasons why the apprentice's or trainee's agreement should be de-registered, and provide the apprentice or trainee a reasonable opportunity to take corrective action.
- (d) After the apprentice or trainee has been given notice and a reasonable opportunity to take corrective action, the sponsor may unilaterally request de-registration of the apprentice's or trainee's agreement pursuant to the rules of this Subchapter. The director shall de-register the agreement upon written request of the sponsor unless the apprentice or trainee initiates a complaint as provided in either Section .0500 or .0600 of this Chapter, as applicable, within the time therein allowed. The sponsor has the burden of proof in any administrative hearing to show why the agreement was de-registered and to show that a reasonable opportunity for corrective action was provided.
- (e) The effective date of de-registration shall be the date of receipt by the director of the sponsor's request.
- (f) Prior to taking any action pursuant to Subparagraph (a)(4) of this Rule, the director shall notify the sponsor and the apprentice in writing of his intent to de-register an apprenticeship agreement for failure to pay the registration fee or annual fee. If the sponsor or apprentice fails to either pay the fee or request a review of such decision within 15 days, the director shall de-register the apprenticeship agreement and notify them of the availability of an administrative hearing and of judicial review in accordance with Article 3 of Chapter 150B of the North Carolina General Statutes.

*History Note: Authority G.S. 94-1; 94-2; 94-4; 94-12;*

*Eff. February 1, 1984;*

*Emergency Amendment Eff. August 27, 2009;*

*Temporary Amendment Eff. October 29, 2009;*

*Recodified from Rule 14A .0508 Eff. March 15, 2010;*

*Temporary Amendment Expired August 13, 2010;*

*Amended Eff. December 1, 2010;*

*Transferred from 13 NCAC 14B .0407 Eff. January 1, 2014.*



#### **04 NCAC 22 .0408 EQUAL OPPORTUNITY VIOLATIONS**

Notwithstanding any other provisions of this Section, violations of equal opportunity requirements for apprenticeship shall be submitted, processed, and resolved in accordance with Section .0600 of this Chapter.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984;  
Recodified from Rule 14A .0506 Eff. March 15, 2010;  
Transferred from 13 NCAC 14B .0408 Eff. January 1, 2014.*

### **SECTION .0500 - COMPLAINTS**

#### **04 NCAC 22 .0501 DISPUTES TO BE RESOLVED LOCALLY**

It is the policy of the division that all disputes arising under an apprenticeship or OJT program or agreement should be resolved by the parties to the dispute. Therefore, the director will not make a decision on a complaint unless he is satisfied that the parties have attempted to adjust the dispute locally, and he will at all times cooperate with the parties in order to arrive at a mutually satisfactory resolution of the dispute.

*History Note: Authority G.S. 94-1; 94-2; 94-4; 94-7;  
Eff. February 1, 1984;  
Recodified from Rule 14A .0601 Eff. March 15, 2010;  
Transferred from 13 NCAC 14B .0501 Eff. January 1, 2014.*

#### **04 NCAC 22 .0502 COMPLAINANTS**

(a) Agreement Disputes. A party to an apprenticeship or OJT agreement may submit a complaint to the director for his decision regarding a dispute arising under the agreement, after the party has tried to resolve the dispute locally, except as provided in Rule .0504 of this Section.

(b) Applicant Disputes. An applicant for employment as an apprentice or trainee may submit a complaint to the director for his decision regarding a dispute arising from the application procedure, after the applicant has tried to resolve the dispute locally, except as provided in Rule .0504 of this Section.

(c) Apprenticeship Association Disputes. An apprenticeship association may submit a complaint to the director, as allowed by the constitution and by-laws of the association, for the director's decision regarding a dispute between the association and a member of the association concerning the content of the training and instruction curricula of a program participated in or operated by the member, after the association has tried to resolve the dispute locally, except as provided in Rule .0504 of this Section.

(d) Group Program Disputes. A participating employer in any group program or a union participating in the sponsorship of a joint group program may submit a complaint to the director for the director's decision regarding a dispute between the employer or union and other participating employers or unions arising from sponsorship or operation of the program, after the employer or union has tried to resolve the dispute locally, except as provided in Rule .0504 of this Section.

*History Note: Authority G.S. 94-1; 94-2; 94-4; 94-7;  
Eff. February 1, 1984;  
Recodified from Rule 14A .0602 Eff. March 15, 2010;  
Transferred from 13 NCAC 14B .0502 Eff. January 1, 2014.*

#### **04 NCAC 22 .0503 COMPLAINT PROCEDURE**

- (a) A complaint must:
- (1) be in writing;
  - (2) be signed by the complainant or its representative;
  - (3) set forth the specific matter(s) complained of and a brief statement of the facts; and
  - (4) be accompanied by copies of pertinent documents and correspondence.
- (b) Complaints must be filed within 180 days of the incident or circumstances complained of or within 60 days of a final local decision, whichever is later.
- (c) Upon receipt, the director shall:
- (1) acknowledge receipt of the complaint;
  - (2) investigate the nature of the dispute;
  - (3) make reasonable efforts to arrive at a mutually agreeable resolution of the dispute between the parties involved;
  - (4) render a decision regarding the dispute within 90 days of receiving the complaint, unless a mutually agreeable resolution has been reached prior to his decision; and
  - (5) furnish the parties and other people as may be appropriate with copies of his decision, if any, and the reason(s) therefor.
- (d) Nothing in this Rule precludes an apprentice from pursuing any other remedy authorized under another Federal, State, or local law.

*History Note: Authority G.S. 94-1; 94-2; 94-4; 94-7;  
Eff. February 1, 1984;  
Amended Eff. August 1, 1988;  
Recodified from Rule 14A .0603 Eff. March 15, 2010;  
Amended Eff. December 1, 2010;  
Transferred from 13 NCAC 14B .0503 Eff. January 1, 2014.*

#### **04 NCAC 22 .0504 CERTAIN DISPUTES EXCLUDED**

This Section does not apply to:

- (1) Any complaint concerning discrimination or other equal opportunity matters in regard to an apprenticeship program, which shall be submitted, processed, and resolved in accordance with Section .0600 of this Chapter; or
- (2) Any dispute arising under an apprenticeship or OJT agreement which is covered by a collective bargaining agreement.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984;*

*Recodified from Rule 14A .0604 Eff. March 15, 2010;  
Transferred from 13 NCAC 14B .0504 Eff. January 1, 2014.*

## **SECTION .0600 – EQUAL OPPORTUNITY**

### **04 NCAC 22 .0601 DEFINITIONS**

In addition to the definitions set forth in Rule .0104 of this Chapter, the following definitions apply to this Section:

- (1) "Affirmative Action" or "Affirmative Action Program" means the procedures, methods, and programs generally for the identification, positive recruitment, training, and motivation of present and potential minority and female apprentices for the purpose of establishing equal opportunity for all apprentices and applicants for apprenticeship so as to allow for full utilization of the work potential of minorities and women.
- (2) "Affirmative Action Plan" means the sponsor's written plan in accordance with the requirements of Rule .0607 of this Section, including a description of methods and procedures, the goals, outreach and positive recruitment methods.
- (3) "Female" means female gender, according to its customary usage, regardless of minority or majority status, unless otherwise indicated.
- (4) "Minority" means that portion of the population comprised of Blacks (not Hispanic), Asian or Pacific Islanders, Native Americans (American Indians), Native Alaskans, and Hispanics (including Latin Americans, Mexican Americans, and Puerto Ricans); "Minorities" means people belonging to the minority population.
- (5) "Labor Market Area" means the area from which the sponsor draws or expects to draw applicants and apprentices; the labor market area may be contiguous with a Standard Metropolitan Statistical Area, as defined by the U.S. Census Bureau.
- (6) "Underutilization" means the situation in which there are fewer minorities or women in the sponsor's program of training on the job than would be reasonably expected given the information provided by an analysis of the sponsor's labor market area according to Rule .0604 of this Section.
- (7) "Women" means female people, according to its customary usage, regardless of minority or majority status, unless otherwise indicated.
- (8) "Sponsor" means, in addition to the definition provided in Rule .0104(25), a prospective sponsor, when the context so requires.

*History Note: Authority G.S. 94-1; 94-2;  
Eff. February 1, 1984;  
Recodified from Rule 14A .0802 Eff. March 15, 2010;  
Transferred from 13 NCAC 14B .0601 Eff. January 1, 2014.*

### **04 NCAC 22 .0602 GENERAL EQUAL OPPORTUNITY REQUIREMENTS**

Every sponsor of an apprenticeship program, regardless of exemption, shall:

- (1) Recruit, select, employ, and train apprentices without discrimination because of race, color, religion, national origin, or sex;
- (2) Uniformly apply all rules concerning apprentices, including but not limited to equality of wages, periodic advancement, promotion, assignment of work, job performance, rotation among work processes, and imposition of disciplinary action; and
- (3) Take affirmative action to provide equal opportunity in apprenticeship.

*History Note: Authority G.S. 94-1; 94-2; 94-4;*

*Eff. February 1, 1984;*

*Recodified from Rule 14A .0803 Eff. March 15, 2010;*

*Transferred from 13 NCAC 14B .0602 Eff. January 1, 2014.*

#### **04 NCAC 22 .0603 EXEMPTIONS FROM SPECIFIC REQUIREMENTS**

(a) The following exemptions from some requirements of this Section may apply to certain apprenticeship programs:

- (1) Fewer Than Five Apprentices.
  - (A) Apprenticeship programs containing fewer than five apprentices are exempt from the requirements for an affirmative action plan, including an analysis for underutilization and goals, and for a selection procedure, so long as the size of the program is not limited for the purpose of circumventing the requirements of this Section.
  - (B) The number of apprentices in a program is determined by the number registered under the sponsor's program, regardless of the number of employers, the method of apprenticeship selection, or the manner of program operation.
  - (C) The exemption applies without submission of a request. Whenever a sponsor's program previously exempt under this Subparagraph contains five or more apprentices, the sponsor shall submit, within 90 days of the selection of the fifth apprentice, an affirmative action plan and a selection procedure conforming to the requirements of this Section.
- (2) Approved Compliance.
  - (A) Apprenticeship programs in compliance with an approved equal opportunity program providing for the selection of apprentices and for affirmative action in apprenticeship (including goals for women and minorities which are equal to or greater than such goals as would be required under this Section) in accordance with Title VII of the Civil Rights Act of 1964, as amended, may be exempted from the requirements for an affirmative action plan and for a selection procedure.
  - (B) The equal opportunity program is "approved" if the Equal Employment Opportunity Commission, the Office of Federal Compliance Programs, the U.S. Department of Justice, or a federal court has approved the program as complying with Title VII.

- (C) The director shall grant an exemption under this Subparagraph to the extent appropriate upon the sponsor's submission to the director of a written request together with satisfactory evidence (including documentation of approval) that its apprenticeship program is in compliance with an approved equal opportunity program. If the equal opportunity program has goals for either minorities or women only, the exemption shall not be granted for the group not included but may be granted for the group included.
- (3) Good Cause.
- (A) Apprenticeship programs may be exempted from some specified requirements of this Section for good cause shown.
  - (B) The director may grant an exemption under this Subparagraph if the sponsor submits a written request to the director specifying the requirement(s) from which the sponsor seeks exemption and the reason(s) for the request and if the director determines that the exemption will not hinder the goal of equal employment opportunities for minorities and women and will assist the sponsor in the operation of its program. The director shall notify the U.S. Department of Labor of any exemptions granted under this Subparagraph which affect a substantial number of employers and the reasons why the exemptions were granted.
- (b) An exemption shall apply only to the requirements specifically mentioned in the exemption; except as specifically exempted, a sponsor must comply with all requirements of this Section.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984;  
Recodified from Rule 14A .0804 Eff. March 15, 2010;  
Transferred from 13 NCAC 14B .0603 Eff. January 1, 2014.*

#### **04 NCAC 22 .0604 ANALYSIS: UNDERUTILIZATION**

- (a) Every sponsor that is not exempt shall analyze its training program and labor market area in order to determine if the sponsor's program of training on the job is underutilizing women or minorities.
- (b) The analysis shall include a consideration of the following factors and shall be set forth in writing as part of the affirmative action plan:
- (1) The size of the working age minority and female population in the sponsor's labor market area;
  - (2) The size of the minority and female labor force in the sponsor's labor market area;
  - (3) The percentage of minority and female apprentices in the particular occupation compared with the percentage of the minority and female labor force in the sponsor's labor market area;
  - (4) The percentage of minority and female journeymen employed by the employer(s) participating in the program compared with the percentage of the minority and female labor force in the sponsor's labor market area;

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

*History Note: Authority G.S. 94-1; 94-2;*

*Eff. February 1, 1984;*

*Recodified from Rule 14A .0805 Eff. March 15, 2010;*

*Amended Eff. December 1, 2010;*

*Transferred from 13 NCAC 14B .0604 Eff. January 1, 2014.*

#### **04 NCAC 22 .0605 GOALS: ESTABLISHMENT**

(a) If a sponsor's program is determined not to underutilize minorities or women, no goals and timetables need be established. However, where no goals and timetables are established, the sponsor shall include in its affirmative action plan a detailed explanation of the findings of the program's analysis.

(b) If a sponsor's program is determined to underutilize minorities or women and the program is not otherwise exempted, the sponsor shall establish goals for the inclusion of minority and female apprentices in the sponsor's apprenticeship program or pool of eligibles. Goals shall be expressed as a percentage, specifying benchmarks for partial attainment of those goals in terms of calendar periods or in terms of hiring dates or application acceptance periods.

(c) Single goals for women and minorities respectively are acceptable unless the analysis shows that a particular, identifiable subgroup is employed in a disparate manner. If so, the sponsor shall establish a separate goal for the subgroup.

(d) Goals shall be established by one of the following methods:

- (1) The goal for minorities shall be the same as the percentage of minorities in the labor force in the sponsor's labor market area and the goal for women shall be at least 50 percent of the percentage of women in the labor force in the sponsor's labor market area; or
- (2) The goals for minorities and women, or a subgroup thereof, shall be such as could be reasonably expected from a good faith effort to make the sponsor's affirmative action plan work, and the goals determined by this method shall include a reasoned explanation of the factors considered in arriving at the goals.

(e) The director shall establish goals for the sponsor if the director determines upon analysis as provided in Rule .0604(b) of this Section that the sponsor's goals are unacceptable or if the (non-exempt) sponsor fails to submit goals.

(f) The division shall make available to program sponsors data and information on minority and female labor force characteristics for each Standard Metropolitan Statistical Area and for other special areas as appropriate and available.

*History Note: Authority G.S. 94-1; 94-2; 94-4;*

*Eff. February 1, 1984;*

*Recodified from Rule 14A .0806 Eff. March 15, 2010;*

*Transferred from 13 NCAC 14B .0605 Eff. January 1, 2014.*

#### **04 NCAC 22 .0606 GOALS: ATTAINMENT AND ADJUSTMENT**

- (a) A sponsor who has established goals shall make a good faith effort to attain the goals within the time indicated.
- (b) In order to determine if the sponsor has made a good faith effort, the director will consider the sponsor's actions to fulfill its commitment to equal opportunity in the recruitment, selection, employment, and training of apprentices and its actions to comply with the provisions of its affirmative action plan, including evaluation and changes necessary to improve progress toward the goals established.
- (c) The sponsor shall review the established goals one year after their establishment and yearly thereafter, unless special circumstances indicate that subsequent reviews should be made more or less often. The sponsor shall adjust the goals after each review, but in the absence of unusual circumstances, including but not limited to a significant change in the labor force in the sponsor's labor market area, a goal shall not be a lesser percentage than the previous goal.
- (d) Notwithstanding Paragraph (c) of this Rule, the sponsor may adjust the goal for women to a percentage no less than the highest percentage attained for the sponsor's program, but in no event to a percentage less than half of the original goal.
- (e) The sponsor shall submit to the director any proposed adjustment to the goals, and the submission shall constitute a proposed revision subject to the procedure set forth in Rule .0206 of this Chapter.

*History Note: Authority G.S. 94-1; 94-2; 94-4;*

*Eff. February 1, 1984;*

*Recodified from Rule 14A .0807 Eff. March 15, 2010;*

*Transferred from 13 NCAC 14B .0606 Eff. January 1, 2014.*

#### **04 NCAC 22 .0607 AFFIRMATIVE ACTION PLAN: OUTREACH**

- (a) Every sponsor not exempted shall adopt a written affirmative action plan, a copy of which must be submitted with the sponsor's request for registration under Rule .0204 of this Chapter. An affirmative action plan shall include:
  - (1) Procedures and methods for the identification, positive recruitment, training, and motivation of present and potential minority and female apprentices;
  - (2) Goals as provided in Rules .0605 and .0606 of this Section; and
  - (3) Specific provisions for outreach and positive recruitment in order to increase the number of minorities and women eligible for apprenticeship.
- (b) Provisions for outreach and positive recruitment will vary according to the size and type of program and the resources of the sponsor, but the sponsor shall undertake a significant number of appropriate activities that would reasonably be expected to increase minority and female participation in apprenticeship. Examples of appropriate activities are as follows:
  - (1) Disseminating information concerning the nature of apprenticeship, requirements for admission to apprenticeship, availability of apprenticeship opportunities, sources of apprenticeship applications, and the equal opportunity policy of the sponsor: For programs accepting applications only at specified intervals, dissemination shall be at least 30 days before the earliest date for application at each interval; for programs customarily

receiving applications throughout the year, dissemination shall be at regular intervals but not less than semi-annually. The information shall be given to the division, local schools, employment service offices, women's centers, outreach programs, and community organizations which can reach minorities and women and shall be published in newspapers which are circulated in the minority community and among women in the sponsor's labor market area. This activity is required of all sponsors;

- (2) Participating in annual workshops conducted by employment service agencies for the purpose of familiarizing school, employment service, and other personnel with apprenticeship and apprenticeship opportunities;
- (3) Cooperating with local school boards and vocational education systems to develop programs for preparing students to qualify for employment in apprenticeship programs;
- (4) Communicating internally the sponsor's equal opportunity policy so as to foster understanding, acceptance, and support among all the sponsor's personnel and to encourage such people to aid the sponsor in meeting its equal opportunity obligations;
- (5) Engaging in outreach programs for the positive recruitment and preparation of potential applicants for apprenticeships; if no such programs are in existence, the sponsor shall seek to initiate an outreach program or a program to prepare and encourage women to enter occupations which traditionally employ mostly or only men;
- (6) Encouraging pre-apprenticeship, preparatory trade training, and other programs designed to afford related work experience or to prepare candidates for apprenticeship by assuring that those who complete such programs are afforded full and equal opportunity for admission into an apprenticeship program;
- (7) Using journeymen to assist in the implementation of the sponsor's affirmative action program;
- (8) Granting advance standing or credit for previously acquired experience, training, skills, or aptitude to all applicants on an equal basis. This activity is required of all sponsors;
- (9) Admitting as apprentices people whose age exceeds the maximum for admission to the program when such action helps the sponsor achieve its affirmative action obligations;
- (10) Taking such other action as will promote the recruitment, selection, employment, and training of apprentices without discrimination because of race, color, religion, national origin, or sex (e.g., publishing apprenticeship opportunities and advantages in advertisements, reports, or articles; using minority and female apprentices and journeymen as recruiters; offering career counseling; auditing affirmative action programs and activities periodically; developing procedures between the sponsor and employers to encourage and ensure equal employment opportunity, including reporting systems, on-site reviews, and briefing sessions).

*History Note: Authority G.S. 94-1; 94-2; 94-4;*



*Eff. February 1, 1984;*  
*Recodified from Rule 14A .0808 Eff. March 15, 2010;*  
*Transferred from 13 NCAC 14B .0607 Eff. January 1, 2014.*

#### **04 NCAC 22 .0608 SELECTION PROCEDURES**

(a) Every sponsor not exempted shall adopt one of the following procedures for selecting apprentices and shall submit a written description of the procedure with the sponsor's request for registration under Rule .0204 of this Chapter:

- (1) Validated Rank Order.
  - (A) The sponsor shall select apprentices from a pool of eligible applicants on the basis of the rank order of scores on one or more qualification standards.
  - (B) The pool of eligible applicants shall be created from all applicants who meet the minimum requirements for apprenticeship set forth in Rule .0207 of this Chapter and additional qualification standards which are directly related to job performance as shown by a significant statistical relationship between the score required for admission to the pool and performance in the apprenticeship program. "Additional Qualification Standards" include without limitation aptitude tests, regardless of who administers the test, and educational attainments or achievements (including school records or GED test results).
  - (C) In demonstrating the relationship between qualification standards scores and performance in the apprenticeship program, the sponsor shall follow the procedures set forth in 41 C.F.R. Part 60-3, "Uniform Guidelines on Employee Selection Procedure" (August 25, 1978). See Paragraph (d) of this Rule.
  - (D) The sponsor, in its written description of the selection procedure, shall state in detail the qualification standards and the procedures for determining the standards and shall also state the criteria for the specific factors and attributes to be considered in evaluating applicants for admission to the pool. The sponsor shall specify the score required for each standard in order to gain admission to the pool. Qualification standards shall be separately required so that an applicant's failure to attain the specified score under a single standard disqualifies the applicant from admission to the pool.
  - (E) The sponsor shall not use oral interviews as a qualification standard. The sponsor may interview an applicant after he is placed in the pool of eligibles and prior to selection for apprenticeship. The interview shall be limited to objective questions concerning the applicant's fitness to enter the apprenticeship program but shall not include questions concerning qualifications previously determined for entrance into the pool. The interviewer shall record the questions and the general nature of the applicant's answers and shall prepare a summary of any conclusions.

- (F) The sponsor shall place in the pool of eligibles each applicant who qualifies for admission to the pool and shall notify the applicant. The sponsor shall notify each applicant who is rejected for admission to the pool or rejected from selection to the program following an oral interview, stating in either event the requirements for admission or selection, the reason(s) for rejection, and the appeal rights available to the applicant.
- (2) Random Selection ("Lottery System").
  - (A) The sponsor shall select apprentices from a pool of eligible applicants on a random basis.
  - (B) The eligibility pool shall be established in the same manner as for the Validated Rank Order selection procedures, Subparagraph (1) of this Rule, including the validation of qualification standards, oral interviews, and notification of applicants, except that additional qualification standards are not required for admission to the pool.
  - (C) The sponsor shall obtain the director's approval for the method of random selection and shall select an impartial person or people, not associated with the administration of the apprenticeship program or the department, to supervise the random selection process.
  - (D) The sponsor shall announce the time and place of the random selection at least five days before the selection in a manner calculated to notify all applicants. The place of selection shall be open to the public at the time of the selection. Immediately after the selection, the sponsor shall post at its place of business the names of the apprentices selected.
- (3) Restricted Pool.
  - (A) The sponsor shall select apprentices from a pool of eligible workers already employed by an employer participating in the program.
  - (B) The eligibility pool shall be established and selection from the pool shall be made in the manner provided by a collective bargaining agreement, if applicable, or by the sponsor's established promotion policy. The sponsor shall include a copy of the relevant portion of the collective bargaining agreement in its written description.
- (4) Alternative Methods.
  - (A) The sponsor shall select apprentices according to a method approved by the director which meets the requirements set out in (B) and (C) of this Subparagraph (4). If the director does not notify the sponsor of approval within 30 days of its submission, the sponsor may implement its alternative method of selection.
  - (B) The method of selection shall provide for the selection of apprentices on the basis of objective and specific qualification standards, including but not limited to fair aptitude tests, school diplomas or the equivalent, occupationally essential health requirements, fair interviews, school grades, and previous work experience. The sponsor shall apply the standards according to the requirements of 41 C.F.R. Part 60-3, as adopted in this Rule. See Paragraph (d), in

this Rule. The sponsor shall keep records of each interview, including a brief summary and the conclusions on each specific factor (e.g., motivation, ambition, willingness to accept direction, etc.) forming the total judgment.

- (C) Before apprentices are selected from the applicants, the sponsor shall review the minority and female distribution among the apprentices who would be selected on the basis of the sponsor's method of selection. If it appears that the sponsor's goals will not be met by such selection, the sponsor shall review each factor of its qualification standards to determine which, if any, appear unfairly to screen out minority and female applicants and shall make such adjustments as the review indicates.
- (D) If the sponsor fails to meet its goals within a reasonable period of time, despite its good faith efforts, the director may require the sponsor to change its affirmative action program to the extent necessary to obtain maximum effectiveness toward attaining its goals, including changing its selection procedure or demonstrating that the qualification standards are directly related to job performance, in the manner provided under Subparagraph (1) of this Rule.

(b) Revisions of a selection procedure shall be made in the manner provided in Rule .0211 of this Chapter, except that an Alternative Method becomes effective 30 days after the director's receipt of the proposed selection procedure unless the director, in writing, either approves or disallows the proposed selection procedure within that time, stating the reason(s) for the disallowance.

(c) The provisions of 41 C.F.R. Part 60-3, "Uniform Guidelines on Employee Selection Procedures" (August 25, 1978), are hereby adopted by reference. Copies of 41 C.F.R. Part 60-3 may be obtained from the office of the division.

(d) The provisions of 41 C.F.R. Part 60-3 are complicated and may be difficult to apply to the sponsor's actual situation. The sponsor is encouraged, whenever it will be helpful to the sponsor in setting up a selection procedure, to apply to the division for assistance and instruction in complying with the provisions of 41 C.F.R. Part 60-3.

*History Note: Authority G.S. 94-1; 94-2; 94-4;*

*Eff. February 1, 1984;*

*Recodified from Rule 14A .0809 Eff. March 15, 2010;*

*Transferred from 13 NCAC 14B .0608 Eff. January 1, 2014.*

#### **04 NCAC 22 .0609 LIST OF ELIGIBLES: PUBLIC NOTICE**

(a) For apprenticeship programs accepting applications only at specified intervals, the sponsor shall provide a reasonable period of not less than two weeks for accepting applications; public notice shall be provided at least 30 days before the earliest date for accepting applications, in the manner provided in Rule .0607(b)(1) of this Section. Sponsors who have adopted a restricted pool selection procedure under Rule .0608(a)(3) of this Section shall provide such notice as is reasonably calculated to apprise the people who are eligible to apply for the apprenticeship program.

(b) When an applicant's name has been placed on a list of eligible applicants, the sponsor shall not remove the name from the list for a period of two years unless at an earlier date the applicant requests in writing to the sponsor that his name be removed or fails to respond to an apprentice job opportunity tendered by certified mail, return receipt requested. Sponsors shall give applicants who have been tendered an apprentice job opportunity a reasonable time in light of the customs and practices of the industry to report to work. Upon request from the applicant, the sponsor may restore the applicant's name to the list. If a new list of eligible applicants is established before the termination of two years, the names of applicants on the preceding list(s) shall be retained until the end of the two-year period without any further action by the applicant. The applicant is responsible for notifying the sponsor of his current address.

(c) The sponsor shall post the list of eligible applicants at its place of business.

*History Note: Authority G.S. 94-1; 94-2; 94-4;*

*Eff. February 1, 1984;*

*Recodified from Rule 14A .0810 Eff. March 15, 2010;*

*Transferred from 13 NCAC 14B .0609 Eff. January 1, 2014.*

#### **04 NCAC 22 .0610 RECORDS**

(a) The sponsor shall keep all records required by this Rule and any other information relevant to compliance with this Subchapter for a period of five years and shall make the records and information available to employees of the department or employees of the U.S. Department of Labor or its authorized representative upon their request.

(b) The sponsor's records shall include the following:

- (1) A summary of the qualifications of each applicant;
- (2) The basis for evaluation and selection or rejection of each applicant;
- (3) The records of interviews of applicants;
- (4) The original application of each applicant;
- (5) Evidence that the sponsor's qualification standards have been validated as required by 29 CFR 30.5(b);
- (6) Information relative to the operation of the apprenticeship program, including:
  - (A) Job assignment;
  - (B) Promotion;
  - (C) Demotion;
  - (D) Layoff or termination;
  - (E) Rates of pay or other forms of compensation or conditions of work;
  - (F) Hours of Work;
  - (G) Hours of training provided; and
  - (H) Any other records pertinent to a determination of compliance with the rules in this Section, or as may be required by the U.S. Department of Labor.

(c) The sponsor shall maintain records pertaining to individual applicants, whether selected or rejected, in a manner which permits identification of minority and female applicants.

(d) Each sponsor shall retain a statement of its affirmative action plan required by 29 CFR 30.4, including all data and analyses made pursuant to the requirements of 29 CFR 30.4. Sponsors shall review their affirmative action plans annually and update them where necessary, including the goals and timetables.

(e) The Apprenticeship Council shall keep records, including registration requirements, individual program standards and registration records, program compliance reviews and investigations, and any other records pertinent to a determination of compliance with 29 CFR 30, as may be required by the U.S. Department of Labor, and shall report to the U.S. Department of Labor as may be required by the U.S. Department of Labor.

*History Note: Authority G.S. 94-1; 94-2; 94-4;*

*Eff. February 1, 1984;*

*Recodified from Rule 14A .0811 Eff. March 15, 2010;*

*Amended Eff. December 1, 2010;*

*Transferred from 13 NCAC 14B .0610 Eff. January 1, 2014.*

#### **04 NCAC 22 .0611 COMPLIANCE REVIEWS**

(a) The division shall annually conduct systematic reviews of apprenticeship programs in order to determine the extent to which sponsors are complying with the rules of this Chapter and shall also conduct compliance reviews when circumstances, including receipt of complaints not referred to a private review body pursuant to 29 CFR 30.11(b)(1)(i) and 041 NCAC 22 .0614 so warrant, and take appropriate action regarding programs which are not in compliance with the requirements of this Chapter. Compliance reviews shall consist of comprehensive analyses and evaluations of each aspect of the apprenticeship program, including on-site investigations and audits. Apprenticeship programs with fewer than five apprentices may be reviewed less frequently than annually.

(b) Sponsors seeking re-registration are subject to a compliance review as described in Paragraph (a) of this Rule by the department as part of the registration process.

(c) Sponsors seeking new registration are subject to a compliance review as described in Paragraph (a) of this Rule by the department as part of the registration process. The department shall provide recommendations to the sponsor to enable it to achieve compliance for registration purposes.

(d) If the sponsor or participating employer in an apprenticeship program, or any person under the supervision or control of the sponsor or employer, refuses to allow or materially hinders an inspection and review of the program by an authorized representative of the department, the director shall find that the program is not in compliance with the rules of this Chapter.

(e) If a compliance review indicates that an apprenticeship program is not operating in compliance with the rules of this Chapter, the department shall attempt to secure voluntary compliance on the part of the program sponsor by notifying the sponsor in writing by registered or certified mail, return receipt requested, of the following:

- (1) The manner in which the program fails to comply with this Chapter;
- (2) Recommendations for achieving compliance;
- (3) The requirement that compliance shall be achieved within 30 days or sanctions shall be imposed; and
- (4) The department will cooperate with the sponsor in achieving compliance.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984;  
Recodified from Rule 14A .0812 Eff. March 15, 2010;  
Amended Eff. December 1, 2010;  
Transferred from 13 NCAC 14B .0611 Eff. January 1, 2014.*

#### **04 NCAC 22 .0612 SANCTIONS**

(a) If a sponsor who has been notified by the director of a lack of compliance fails to effect compliance within the time allotted, or if the director determines that a sponsor has established a pattern or practice of noncompliance, the director shall impose sanctions, including one or more of the following:

- (1) De-registration of the sponsor's program;
- (2) Referral to the Equal Employment Opportunity Commission or the U.S. Attorney General with recommendations for the institution of a court action under Title VII of the Civil Rights Act of 1964, as amended; or
- (3) Referral to the U.S. Attorney General for other court action as authorized by law.

(b) If the director decides to impose the sanction of de-registration, he shall send a notice to the sponsor by registered or certified mail, return receipt requested, stating the following:

- (1) The notice is sent pursuant to this Rule;
- (2) The sponsor was notified of certain deficiencies resulting in a lack of compliance with the rules of this Chapter, including the date(s) such notice was given and a detail of the identified deficiencies;
- (3) The sponsor has failed to effect compliance within the time allotted, or the director has determined that the sponsor has established a pattern or practice of noncompliance; and
- (4) The director will de-register the sponsor's program unless the sponsor requests a hearing, in accordance with Paragraph (c) of this Rule.

(c) If the sponsor desires a hearing, it shall file a petition for a hearing as provided in Chapter 150B of the North Carolina General Statutes and the hearing process shall be conducted as therein provided.

(d) If the sponsor does not request a hearing or if de-registration has been ordered following a hearing or judicial proceeding, the director shall de-register the program by:

- (1) Notifying the sponsor in writing that the registration is cancelled and that approval for VA purposes is withdrawn, if applicable, and the effective date thereof;
- (2) Requiring the sponsor, within 15 days of receipt of the notice:
  - (A) To notify each apprentice in the program that the de-registration automatically cancels the apprentice's individual registration and removes the apprentice from coverage for federal and state purposes requiring registration in an apprenticeship program; and
  - (B) To notify each apprentice in the program who is receiving a VA training allowance that the program is no longer approved for participation for people eligible to receive training allowances;

- (3) Notifying the apprentices in Subparagraph (d)(2) of this Rule, if the director has reason to believe that the sponsor may not do so or if the director chooses so to do;
  - (4) If applicable, notifying the U.S. Department of Veterans Affairs Regional Office that approval for the program is withdrawn and the effective date thereof; and
  - (5) Causing the de-registration, if any, to be recorded by the division and publishing or posting public notice of the de-registration.
- (e) Any apprenticeship program deregistered pursuant to this Chapter may be reinstated upon presentation of evidence to the director that the apprenticeship program is operating in accordance with this Chapter.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984;  
Amended Eff. August 1, 1988;  
Recodified from Rule 14A .0813 Eff. March 15, 2010;  
Amended Eff. December 1, 2010;  
Transferred from 13 NCAC 14B .0612 Eff. January 1, 2014.*

#### **04 NCAC 22 .0613 PRIVATE REVIEW BODIES**

- (a) It is the policy of the division to encourage the use of private review bodies to consider complaints of failure to follow the rules of this Section, and the division will offer assistance to sponsors who wish to establish review bodies.
- (b) A private review body shall consist of at least three people, all of whom are responsible people from the community with a commitment to equal opportunity in employment and not directly associated with the administration of an apprenticeship program. Members of the review body shall serve without compensation.
- (c) Sponsors may join together to establish a single review body serving several programs in the community.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984;  
Recodified from Rule 14A .0814 Eff. March 15, 2010;  
Transferred from 13 NCAC 14B .0613 Eff. January 1, 2014.*

#### **04 NCAC 22 .0614 COMPLAINT PROCEDURE**

- (a) Any apprentice or applicant for apprenticeship who believes that he has been discriminated against on the basis of race, color, religion, national origin, or sex with regard to apprenticeship or believes that the rules of this Section have not been followed in regard to his selection or rejection may, personally or through an authorized representative, file a complaint with the director or a private review body established for the apprenticeship program, whichever he elects. The complainant must file the complaint not later than 180 days from the time of the incident or circumstances complained of.
- (b) The complaint shall be in writing, shall be signed, and shall include the following:
  - (1) The name, address, and telephone number of the complainant;
  - (2) The name, address, and telephone number of the sponsor; and

- (3) A brief description of the circumstances giving rise to the complaint.
- (c) When the sponsor has established a private review body, the director shall refer any complaint he has received relating to this Section to the review body, unless the complainant expressly requests that the director should not or unless the director determines that the review body will not adequately enforce the rules of this Section. The director shall promptly acknowledge receipt of the complaint and, if applicable, shall inform the complainant of referral to the review body. The director shall obtain reports from the complainant and the review body within 30 days of the referral. If the complaint is not resolved within 90 days of the referral or if the director is not satisfied that the practices of the apprenticeship program comply with the rules of this Section despite resolution of the complaint by the review body, he may order a compliance review to be made. If the complaint is resolved by the review body within 90 days and if there is no other indication of failure to comply with the rules of this Section, the director shall close the file and notify the parties.
- (d) Upon receiving a complaint, the private review body shall:
- (1) Promptly acknowledge receipt of the complaint, if received directly from the complainant;
  - (2) Provide the division with a copy of the complaint, if received directly from the complainant;
  - (3) Notify the sponsor and any specific people named and complained of in the complaint and provide the sponsor and such people with copies of the complaint;
  - (4) Review and investigate the matter complained of and hold a hearing for oral testimony, if helpful;
  - (5) Attempt to obtain voluntary corrective action and agreement;
  - (6) Issue a report of its findings and conclusions within 30 days of receipt of the complaint; and
  - (7) Furnish all interested parties and the director with a copy of its report.
- (e) A complainant who wishes to challenge the final determination of the review body shall refer the complaint, together with a brief statement of the deficiencies of the review body's determination, to the director. The referral must be made within 30 days of the complainant's receipt of the review body's report or within 180 days of the incident or circumstances complained of, whichever is later.
- (f) When the sponsor has not established a review body, when the director will not refer a complaint to a review body, or when the complainant has referred a complaint following a final determination by a review body, the director shall, upon receiving a complaint or complaint referral:
- (1) Promptly acknowledge receipt of the complaint or complaint referral;
  - (2) Notify the sponsor and any specific people named and complained of in the complaint that the complaint or complaint referral was received and provide the sponsor and such people copies of the complaint or complaint referral;
  - (3) Cause a compliance review and investigation to be made, including, in the case of a complaint referral, a review of the review body's proceedings;
  - (4) Attempt to obtain voluntary corrective action and agreement;
  - (5) Render a decision regarding the issues with 60 days of receiving the complaint or complaint referral; and



- (6) Furnish all interested parties with a copy of the decision and the reasons therefor.
- (g) A party may appeal the decision of the director, or a sponsor may appeal the determination of the director that the private review body will not adequately enforce the rules of this Section, in accordance with Chapter 150B of the North Carolina General Statutes.
- (h) If the director determines that a particular situation requires either an expedited or extended procedure and that no person will be adversely affected by such procedure, he shall take steps to expedite the process or shall grant an extension of the times provided in this Rule. The director may extend the time limitations for filing or referring a complaint upon a showing of good cause.
- (i) The sponsor shall provide written notice of the complaint procedure to all applicants and apprentices.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984;  
Amended Eff. August 1, 1988;  
Recodified from Rule 14A .0815 Eff. March 15, 2010;  
Transferred from 13 NCAC 14B .0614 Eff. January 1, 2014.*

#### **04 NCAC 22 .0615 INTIMIDATION OR RETALIATION**

Any intimidation, threat, coercion, or retaliation by or with the approval of any sponsor or participating employer against any person for the purpose of interfering with any right or privilege secured by Title VII of the Civil Rights Act of 1964, as amended, or Executive Order 11246, as amended, or against any person because he has made a complaint, testified, assisted, or participated in any manner in any investigation, review, hearing, or judicial proceeding under this Section shall be considered noncompliance with the rules of this Section. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this Section, including the conduct of any investigation, review, hearing, or judicial proceeding arising under this Section.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984;  
Recodified from Rule 14A .0816 Eff. March 15, 2010;  
Transferred from 13 NCAC 14B .0615 Eff. January 1, 2014.*

#### **04 NCAC 22 .0616 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 laws or regulations requiring equal opportunity is grounds for the imposition of sanctions in accordance with 04 NCAC 22 .0612 and 29 CFR 30.13 if such noncompliance is related to the equal opportunity of apprentices or graduates of such an apprentice program under this Section. The sponsor shall take affirmative steps to assist and cooperate with employers and unions in fulfilling their equal opportunity obligations.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. December 1, 2010;  
Transferred from 13 NCAC 14B .0616 Eff. January 1, 2014.*

## **SECTION .0700 – APPRENTICESHIP FEES**

### **04 NCAC 22 .0701 APPRENTICESHIP REGISTRATION AND ANNUAL FEES**

*History Note: Authority G.S. 94-1; 94-4; 94-12;  
Emergency Adoption Eff. August 27, 2009;  
Temporary Adoption Eff. October 29, 2009;  
Recodified from Rule 14A .0901 Eff. March 15, 2010;  
Temporary Adoption Expired August 13, 2010;  
Transferred from 13 NCAC 14B .0701 Eff. January 1, 2014.*