

Chapter DWD 296

FEDERAL EQUAL EMPLOYMENT OPPORTUNITY STANDARDS FOR APPRENTICESHIP PROGRAMS

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Note: Chapter Ind 96 was renumbered chapter ILHR 296 under s. 13.93 (2m) (b) 1., Stats., Register, February, 1996, No. 482. Chapter ILHR 296 was renumbered Chapter DWD 296 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, September, 1997, No. 501.

Note: Chapter DWD 296 as it existed on September 30, 2019, was repealed and a new Chapter DWD 296 was created, Register September 2019 No. 765, effective October 1, 2019.

DWD 296.01 Applicability. This chapter applies to all sponsors of registered apprenticeship programs under ch. 106, Stats.

History: CR 19-003: cr. Register September 2019 No. 765, eff. 10-1-19.

DWD 296.02 Definitions. In this chapter:

(1) “ADA” means the Americans with Disabilities Act, as amended.

(2) “Affirmative action plan” means a written tool designed to assist a sponsor in detecting, diagnosing, and correcting any barriers to equal opportunity that may exist in the sponsor’s registered apprenticeship program.

(3) “Affirmative action program” has the meaning given in 29 CFR 30.4 (a).

Note: 29 CFR 30.4 (a) reads: (1) An affirmative action program is designed to ensure equal opportunity and prevent discrimination in apprenticeship programs. An affirmative action program is more than mere passive nondiscrimination. Such a program requires the sponsor to take affirmative steps to encourage and promote equal opportunity, to create an environment free from discrimination, and to address any barriers to equal opportunity in apprenticeship. An affirmative action program is more than a paperwork exercise. It includes those policies, practices, and procedures, including self-analyses, that the sponsor implements to ensure that all qualified applicants and apprentices are receiving an equal opportunity for recruitment, selection, advancement, retention and every other term and privilege associated with apprenticeship. An affirmative action program should be a part of the way the sponsor regularly conducts its apprenticeship program.

(2) A central premise underlying affirmative action is that, absent discrimination, over time a sponsor’s apprenticeship program, generally, will reflect the sex, race, ethnicity, and disability profile of the labor pools from which the sponsor recruits and selects. Consistent with this premise, affirmative action programs contain a diagnostic component which includes quantitative analyses designed to evaluate the composition of the sponsor’s apprenticeship program and compare it to the composition of the relevant labor pools. If women, individuals with disabilities, or individuals from a particular minority group, for example, are not being admitted into apprenticeship at a rate to be expected given their availability in the relevant labor pool, the sponsor’s affirmative action program must include specific, practical steps designed to address any barriers to equal opportunity that may be contributing to this underutilization.

(3) Effective affirmative action programs include internal auditing and reporting systems as a means of measuring the sponsor’s progress toward achieving an apprenticeship program that would be expected absent discrimination.

(4) An affirmative action program also ensures equal opportunity in apprenticeship by incorporating the sponsor’s commitment to equality in every aspect of the apprenticeship program. Therefore, as part of its affirmative action program, a sponsor must monitor and examine its employment practices, policies and decisions and evaluate the impact such practices, policies and decisions have on the recruitment, selection and advancement of apprentices. It must evaluate the impact of its employment and personnel policies on minorities, women, and persons with disabilities, and revise such policies accordingly where such policies or practices are found to create a barrier to equal opportunity.

(5) The commitments contained in an affirmative action program are not intended and must not be used to discriminate against any qualified applicant or apprentice on

the basis of race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, or disability.

(4) “Apprentice” has the meaning prescribed under s. 106.001 (1), Stats.

(4m) “Apprenticeship program” has the meaning prescribed under s. 106.001 (4), Stats.

(5) “Department” means the department of workforce development.

(5m) “Deregistration” means the voluntary or involuntary cancellation of an apprenticeship program by the department.

(6) “EEO” means equal employment opportunity.

(7) “Employer” has the meaning prescribed under s. 106.001 (5), Stats.

(10) “Ethnic group” or “ethnicity” means any of the following:

(a) Hispanic or Latino - An individual of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.

(b) Not Hispanic or Latino.

(11) (a) “Genetic information” means any of the following:

1. An individual’s genetic tests.

2. The genetic tests of an individual’s family members.

3. The manifestation of disease or disorder in family members of an individual.

4. An individual’s request for, or receipt of, genetic services, or participation in clinical research that includes genetic services by an individual or a family member of an individual.

5. The genetic information of a fetus carried by an individual or by a pregnant woman who is a family member of the individual and the genetic information of any embryo legally held by the individual or family member using an assisted reproductive technology.

(b) “Genetic information” does not include information about the sex or age of an individual, the sex or age of family members, or information about the race or ethnicity of an individual or family members that is not derived from a genetic test.

(12) “Individual with a disability” means any of the following:

(a) An individual who has a physical or mental impairment that substantially limits one or more major life activities or limits the capacity to work.

(b) An individual who has a record of such impairment.

(c) An individual who is perceived as having such an impairment.

(13) “Journeyworker” means an individual who has attained a level of skill, abilities and competencies recognized within an industry as having mastered the skills and competencies required for the occupation.

(14) “Major life activities” includes caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working. “Major life activities” also includes the operation of a major bodily function, including functions of the immune system, special sense organs, and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. “The operation of a major bodily function” includes the operation of an individual organ within a body system.

(15) “Physical or mental impairment” means any of the following:

(a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine.

(b) Any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(16) “Pre-apprenticeship program” means a training model designed to assist individuals who do not possess the minimum selection criteria established in a program sponsor’s apprenticeship standards, as required under this chapter, and that maintains at least one documented partnership with an apprenticeship program. It involves a form of structured workplace education and training in which an employer, employer group, industry association, labor union, community-based organization, or educational institution collaborates to provide formal instruction that introduces participants to the competencies, skills, and materials used in one or more apprenticeable occupations.

(17) “Qualified applicant or apprentice” means an individual who, with or without reasonable accommodation, can perform the duties of the apprenticeship program for which the individual applied or is enrolled.

(18) “Reasonable accommodation” means any of the following:

(a) Modifications or adjustments to a job application process that enable a qualified applicant or apprentice with a disability to be considered for the position a qualified applicant or apprentice desires.

(b) Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified applicant or apprentice with a disability to perform the duties of that position.

(c) Modifications or adjustments that enable a sponsor’s apprentice with a disability to enjoy equal benefits and privileges of apprenticeship as are enjoyed by its other similarly situated apprentices without disabilities.

Note: Examples of reasonable accommodations include:

1. Making existing facilities used by apprentices readily accessible to and usable by individuals with disabilities.
2. Job restructuring; part-time or modified work schedule; reassignment to a vacant position; acquisition or modification of equipment or devices; appropriate adjustment or modifications of examinations, training materials, or policies; the provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities.

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Note: To determine the appropriate reasonable accommodation, it may be necessary for the sponsor to initiate an informal, interactive process with the qualified individual in need of the accommodation. This process should identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations.

(19) “Registered” or “registration” means the approval of an apprenticeship program by the department.

(20) “Respondent” means the individual or entity identified in a complaint in which discrimination is alleged.

(21) “Sponsor” has the meaning prescribed under s. 106.001(8), Stats.

(22) “UGESP” means the Uniform Guidelines on Employee Selection Procedures under 41 CFR 60.3.

(23) “Wisconsin equal rights division” means the division of equal rights within the department.

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DWD 296.03 Equal opportunity standards applicable to all sponsors. (1) DISCRIMINATION PROHIBITED.

A sponsor of a registered apprenticeship program shall not discriminate against an apprentice or applicant for apprenticeship on the basis of race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, or disability as it relates to any of the following:

- (a) Recruitment, outreach, and selection process.
- (b) Hiring, placement, upgrading, periodic advancement, promotion, demotion, transfer, layoff, termination, right of return from layoff, and rehiring.
- (c) Rotation among work processes.
- (d) Imposition of penalties or other disciplinary action.
- (e) Rates of pay or any other form of compensation or changes in compensation.
- (f) Conditions of work.
- (g) Hours of work and hours of training provided.
- (h) Job assignments.
- (i) Leaves of absence, sick leave, or any other leave.
- (j) Any other benefit, term, condition, or privilege associated with apprenticeship.

(2) GENERAL DUTY TO ENGAGE IN AFFIRMATIVE ACTION. A sponsor of a registered apprenticeship program shall take affirmative steps to provide equal opportunity in apprenticeship that shall include all of the following:

(a) *Assignment of responsibility.* A sponsor shall designate an individual with appropriate authority in the registered apprenticeship program, to act as an apprenticeship coordinator that is responsible for and accountable for overseeing the registered apprenticeship program’s commitment to equal opportunity, including the development and implementation of an affirmative action program under s. DWD 296.04. A sponsor shall provide resources, support, and access to leadership to ensure effective implementation. The individual designated under this section shall be responsible for all of the following:

1. Monitoring all registered apprenticeship activity to ensure compliance with the nondiscrimination and affirmative action obligations required in this chapter.
2. Maintaining records required in this section.
3. Generating and submitting reports as required by the department.

(b) *Internal dissemination of equal opportunity policy.* A sponsor shall inform all applicants for apprenticeship, apprentices, and individuals connected with the administration or operation of the registered apprenticeship program of its commitment

to equal opportunity and affirmative action obligations. In addition, a sponsor shall require that individuals connected with the administration or operation of the apprenticeship program take the necessary action to aid the sponsor in meeting its nondiscrimination and affirmative action obligations under this section. A sponsor shall do all of the following:

1. Publish the equal opportunity pledge prescribed under sub. (3) in its standards of apprenticeship required in s. [DWD 295.02](#) and in apprentice and employee handbooks, policy manuals, newsletters, or other documents circulated by the sponsor that describe the nature of the sponsorship.

2. Post the equal opportunity pledge required in sub. (3) on bulletin boards, including through electronic media, or any other location accessible to all apprentices and applicants for apprenticeship.

3. Conduct orientation and periodic information sessions for individuals connected with the administration or operation of the registered apprenticeship program, including all apprentices and journeyworkers who regularly work with apprentices, to inform and remind individuals of the sponsor's equal employment opportunity policy in the apprenticeship program and provide anti-harassment training required in par. (d) 1.

4. Maintain records necessary to demonstrate compliance with the requirements under this section and provide a copy of these records as requested by the department.

(c) *Universal outreach and recruitment.* A sponsor shall implement all of the following measures to ensure the outreach and recruitment efforts for apprentices extend to all individuals available for apprenticeship within the sponsor's relevant recruitment area without regard to race, sex, ethnicity, or disability:

1. Develop, and update on an annual basis, a list of current recruitment sources that generate referrals from all demographic groups within the relevant recruitment area.

Note: Examples of relevant recruitment sources include: local workforce investment boards and job centers, community-based organizations, community colleges, vocational, career, and technical schools, pre-apprenticeship programs, and federally funded, youth job-training programs.

2. Provide the name, mailing address, telephone number, and email address for each recruitment source.

3. Provide recruitment sources advance notice, preferably 30 days, of apprenticeship openings to allow recruitment sources the opportunity to notify and refer candidates. This notice shall include documentation of the sponsor's equal opportunity pledge prescribed under sub. (3).

(d) *Maintaining apprenticeship programs free from harassment, intimidation, and retaliation.* A sponsor shall develop and implement procedures to ensure apprentices are not harassed because of race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, or disability and ensure the registered apprenticeship program is free from intimidation and retaliation as prescribed in s. [DWD 296.17](#). A sponsor shall promote an environment in which all apprentices feel safe, welcomed, and treated fairly and ensure all of the following steps are taken:

1. Provide anti-harassment training to all individuals connected with the administration or operation of the registered apprenticeship program, including all apprentices and journeyworkers who regularly work with apprentices. Training shall include participation by trainees and may include attending a training session in person or completing an interactive training online. The training content shall include all of the following:

a. That harassing conduct shall not be tolerated.

b. The definition of harassment and the types of conduct that constitute unlawful harassment on the basis of race, color, reli-

gion, national origin, sex, sexual orientation, age (40 or older), genetic information, and disability.

c. The right to file a harassment complaint as prescribed under s. [DWD 296.14](#).

2. Ensure all facilities and apprenticeship activities are available without regard to race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, or disability, except that if a sponsor provides restrooms or changing facilities, a sponsor shall provide access to separate or single user restrooms and changing facilities to assure privacy between sexes.

3. Establish and implement procedures to handle and resolve complaints about harassment and intimidation on the basis of race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, or disability, and complaints about retaliation for engaging in protected activity under s. [DWD 296.17](#).

(e) *Compliance with federal and state equal employment opportunity laws.* A sponsor shall comply with all applicable federal and state laws and regulations that require equal employment opportunity without regard to race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, or disability. Failure to comply with this chapter, if related to the equal employment opportunity of apprentices or graduates of an apprenticeship program, may result in deregistration or other enforcement actions prescribed under s. [DWD 296.15](#).

(3) **EQUAL OPPORTUNITY PLEDGE.** A sponsor of a registered apprenticeship program shall include in its standards of apprenticeship, and any apprenticeship opportunity announcements, the following equal opportunity pledge:

"[Enter name of sponsor] shall not discriminate against apprenticeship applicants or apprentices on the basis of race, color, religion, national origin, sex (including pregnancy and gender identity), sexual orientation, genetic information, or because they are an individual with a disability or a person 40 years old or older. [Enter name of sponsor] shall take affirmative action to provide equal opportunity in apprenticeship and operate the apprenticeship program as required under [29 CFR part 30](#), and the equal employment opportunity rules of the state of Wisconsin."

(4) **COMPLIANCE.** (a) A sponsor of a registered apprenticeship program shall comply with the obligations of this subsection within 180 days of January 18, 2019.

(b) A sponsor registering an apprenticeship program after January 18, 2019 shall comply with the obligations under this subsection upon registration or 180 days after January 18, 2019, whichever is later.

(5) **NOTICE ON FILING A COMPLAINT.** A sponsor shall provide written notice as prescribed under s. [DWD 296.14](#) to all applicants and apprentices on how to file a discrimination complaint.

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DWD 296.04 Affirmative action program. (1) ADOPTION OF AN AFFIRMATIVE ACTION PROGRAM. (a) A sponsor of a registered apprenticeship program shall develop and maintain an affirmative action program in a written plan, unless any of the following apply:

1. A sponsor provides satisfactory evidence of compliance with an equal opportunity program providing for affirmative action in apprenticeship as prescribed in [29 CFR 30.4 \(d\) \(2\)](#).

2. The registered apprenticeship program has fewer than five apprentices, unless such program was adopted to circumvent the requirements of this paragraph.

(b) The components of a written plan shall be developed in accordance with the respective compliance dates and made available to the department upon request.

(2) CONTENTS OF AN AFFIRMATIVE ACTION PROGRAM. An affirmative action program under sub. (1) shall include all of the following:

(a) Utilization analysis for race, sex, and ethnicity as prescribed under s. [DWD 296.05](#).

(b) Establishment of utilization goals for race, sex, and ethnicity as prescribed under s. [DWD 296.06](#).

(c) Utilization goals for individuals with disabilities as prescribed under s. [DWD 296.07](#).

(d) Targeted outreach, recruitment, and retention as prescribed under s. [DWD 296.08](#).

(e) Review of personnel processes as prescribed under s. [DWD 296.09](#).

(f) Invitations to self-identify as prescribed under s. [DWD 296.11](#).

(3) WRITTEN AFFIRMATIVE ACTION PLANS. (a) A sponsor that is required to adopt an affirmative action program under sub. (1), shall create and update a written affirmative action plan memorializing and discussing the contents of the program identified under sub. (2).

(b) The initial written affirmative action plan for registered apprenticeship programs existing as of January 18, 2018, shall be completed within 2 years of January 18, 2018. The written affirmative action plan shall be updated every time the sponsor completes workforce analysis required under ss. [DWD 296.05 \(2\)](#) and [296.07 \(2\)](#).

(c) The initial written affirmative action plan for apprenticeship programs registered after January 18, 2018 shall be completed within 2 years of registration. The written affirmative action plan shall be updated every time the sponsor completes workforce analysis required under ss. [DWD 296.05 \(2\)](#) and [296.07 \(2\)](#).

History: CR 19-003; cr. Register September 2019 No. 765, eff. 10-1-19; correction in (3) (b), (c) made under s. 35.17, Stats., Register September 2019 No. 765.

DWD 296.05 Utilization analysis for race, sex, and ethnicity. **(1) UTILIZATION ANALYSIS.** A utilization analysis provides sponsors with a method for assessing whether possible barriers to apprenticeship exist for particular groups of individuals by determining whether the race, sex, and ethnicity of apprentices in a sponsor's registered apprenticeship program is reflective of individuals available for apprenticeship by race, sex, and ethnicity in the relevant recruitment area. Where significant disparity exists between availability and representation, a sponsor shall be required to establish a utilization goal under s. [DWD 296.06](#).

(2) ANALYSIS OF APPRENTICESHIP PROGRAM. A sponsor shall analyze the race, sex, and ethnic composition of its apprentice workforce. A sponsor shall group all apprentices in their registered apprenticeship program by occupation title, then for each occupation represented, a sponsor shall identify the race, sex, and ethnicity of its apprentices within that occupation.

(3) SCHEDULE OF ANALYSIS. A sponsor shall conduct an apprenticeship program workforce analysis at each compliance review and again if three years have passed without a compliance review. The updated workforce analysis shall be compared to the utilization goal established at the sponsor's most recent compliance review to determine if the sponsor is underutilized as prescribed under sub. (6).

(4) COMPLIANCE DATE. (a) An existing sponsor of a registered apprenticeship program as of January 18, 2018 shall conduct its first workforce analysis under this section no later than 2 years after January 18, 2018.

(b) A new sponsor registered after January 18, 2018 shall conduct its initial workforce analysis under this section, no later than 2 years after the date of registration.

(5) AVAILABILITY ANALYSIS. (a) An availability analysis establishes a benchmark to compare to the demographic composition of a sponsor's apprenticeship program to determine if barriers to equal opportunity may exist in a sponsor's registered apprenticeship program.

(b) Availability is an estimate of the number of qualified individuals available for apprenticeship by race, sex, and ethnicity expressed as a percentage of all qualified individuals available for apprenticeship in a sponsor's relevant recruitment area.

(c) In determining availability, all of the following factors shall be considered for each major occupation group represented in a sponsor's registered apprenticeship program standards:

1. The percentage of individuals who are eligible for enrollment in the registered apprenticeship program within a sponsor's relevant recruitment area broken down by race, sex, and ethnicity.

2. The percentage of the sponsor's employees who are eligible for enrollment in the registered apprenticeship program.

(d) In determining availability, the relevant recruitment area is defined as the geographical area from which the sponsor usually seeks or reasonably could seek apprentices. A sponsor shall identify the relevant recruitment area in its written affirmative action plan under s. [DWD 296.04 \(3\)](#). A sponsor may not draw its relevant recruitment area in a way that would have the effect of excluding individuals based on race, sex, or ethnicity from consideration, and shall develop a brief rationale for selection of that recruitment area.

(e) Availability shall be derived from the most current and discrete statistical information available.

Note: Examples of current and discrete statistical information may include census data, data from local job service offices, and data from colleges or other training institutions.

(f) A sponsor, working with the department, shall conduct an availability analysis at each compliance review.

(6) RATE OF UTILIZATION. To determine the rate of utilization, a sponsor, working with the department, shall group each occupation title in the registered apprenticeship program by major occupation group and compare the racial, sex, and ethnic representation within each major occupation group to the racial, sex, and ethnic representation available in the relevant recruitment area, as determined in sub. (5). When a sponsor's utilization of women, Hispanics or Latinos, or a particular racial minority group is significantly less than would be reasonably expected given the availability of women, Hispanics or Latinos, or a particular racial minority group for apprenticeship, a sponsor shall establish a utilization goal for the affected group as prescribed under sub. (5). Sponsors are not required or expected to establish goals where no significant disparity in utilization rates have been found.

History: CR 19-003; cr. Register September 2019 No. 765, eff. 10-1-19; correction in (2) made under s. 35.17, Stats., Register September 2019 No. 765.

DWD 296.06 Establishment of utilization goals for race, sex, and ethnicity. **(1)** A sponsor required to establish a utilization goal under s. [DWD 296.05](#) for a particular sex, racial group, or ethnic group in a major occupation in its registered apprenticeship program, working with the department, shall establish a percentage goal at least equal to the availability figure under s. [DWD 296.05 \(5\)](#), for that major occupation group.

(2) A sponsor's determination under s. DWD 296.05 that a utilization goal is required does not constitute a finding or admission of discrimination.

(3) Utilization goals shall serve as objectives or targets reasonably attainable by means of applying every good faith effort to make all aspects of the entire affirmative action program work. Utilization goals are used to measure the effectiveness of a sponsor's outreach, recruitment, and retention efforts. In establishing utilization goals, all of the following principles shall be applied:

(a) Utilization goals may not include rigid and inflexible quotas that must be met or be considered either a ceiling or a floor for the selection of particular groups as apprentices. Quotas are expressly forbidden.

(b) Utilization goals may not provide a sponsor with a justification to extend a preference to any individual, select an individual, or adversely affect an individual's status as an apprentice, on the basis of that individual's race, sex, or ethnicity.

(c) Utilization goals shall not create set-asides for specific groups and are not intended to achieve proportional representation or equal results.

(d) Utilization goals may not be used to supersede eligibility requirements for apprenticeship. Affirmative action programs prescribed in this chapter do not require sponsors to select an individual who lacks qualifications to participate in the registered apprenticeship program successfully or select a less-qualified person in preference to a more qualified one.

History: CR 19-003: cr. Register September 2019 No. 765, eff. 10-1-19; correction in (3) (intro.) made under s. 35.17, Stats., Register September 2019 No. 765.

DWD 296.07 Utilization goals for individuals with disabilities. (1) **UTILIZATION GOAL.** The department has established a utilization goal of 7 percent for employment of qualified individuals with disabilities as apprentices for each major occupation group within each sponsor's registered apprenticeship program. The utilization goal established in this subsection shall act as a benchmark against which a sponsor shall measure the representation of individuals with disabilities in the sponsor's registered apprenticeship program by major occupation group. The goal serves as an equal opportunity objective that is attainable by complying with all of the affirmative action requirements in this chapter.

(2) **UTILIZATION ANALYSIS.** A utilization analysis is designed to evaluate the representation of individuals with disabilities in a sponsor's registered apprenticeship program grouped by major occupation. If individuals with disabilities are represented in a sponsor's registered apprenticeship program in any given major occupation at a rate less than the utilization goal of 7 percent, the sponsor shall take specific measures prescribed under subs. (6) and (7).

(3) **PROCESS.** A sponsor shall analyze the representation of individuals within their registered apprenticeship program by occupation. A sponsor shall group all apprentices according to occupational titles represented in a sponsor's registered apprenticeship program. For each occupation represented, a sponsor shall identify the number of apprentices with disabilities.

(4) **SCHEDULE OF EVALUATION.** A sponsor shall conduct the apprentice workforce analysis at each compliance review and again when three years have passed without a compliance review. The updated workforce analysis shall be compared to the utilization goal established under sub. (1).

(5) **COMPLIANCE DATE.** (a) A sponsor with a registered apprenticeship program as of January 18, 2018 shall conduct a workforce analysis under this section no later than 2 years after January 18, 2018.

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(b) A sponsor registering an apprenticeship program after January 18, 2018 shall conduct its initial workforce analysis under this section no later than 2 years after the date of registration.

(6) **IDENTIFICATION OF PROBLEM AREAS.** When a sponsor, working with the department, determines the percentage of individuals under sub. (3) is less than the utilization goal established under sub. (1), the sponsor shall take steps to determine if impediments to equal opportunities exist and where impediments to equal opportunity exist. In making this determination, a sponsor shall look at the results of its assessment of personnel processes required under s. DWD 296.09 and the effectiveness of its outreach and recruitment efforts required under s. DWD 296.08, if applicable.

(7) **ACTION-ORIENTED PROGRAMS.** A sponsor shall undertake action-oriented programs, including targeted outreach, recruitment, and retention activities identified in s. DWD 296.08, designed to correct any problem areas that a sponsor identified pursuant to the review of personnel processes and outreach and recruitment efforts.

(8) **UTILIZATION GOAL RELATION TO DISCRIMINATION.** A determination that a sponsor has not attained the utilization goal established under sub. (1) in one or more major occupation groups does not constitute a finding or admission of discrimination in violation of this chapter.

(9) **UTILIZATION GOAL NOT A QUOTA OR CEILING.** The utilization goal established under sub. (1) shall not be used as a quota or ceiling that limits or restricts the employment of individuals with disabilities as apprentices.

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DWD 296.08 Targeted outreach, recruitment, and retention. (1) **MINIMUM ACTIVITIES REQUIRED.** A sponsor that has found underutilization and established a utilization goal for a specific group under s. DWD 296.06 or 296.07 shall undertake targeted outreach, recruitment, and retention activities that are likely to generate an increase in applications for apprenticeship and improve retention of apprentices from the targeted group or from individuals with disabilities. A sponsor under this section shall conduct all of the following:

(a) In the written affirmative action plan, identify the specific targeted outreach, recruitment, and retention activities planned for the upcoming program year. These activities shall include all of the following:

1. Distribution of information to organizations serving the underutilized group regarding the nature of apprenticeship, requirements for selection for apprenticeship, availability of apprenticeship opportunities, and the equal opportunity pledge of the sponsor.

Note: Examples of these organizations include community-based organizations, local high schools, local community colleges, local vocational, career, and technical schools, and local workforce system partners including job centers.

2. Advertising openings for apprenticeship opportunities by publishing advertisements in appropriate media which have wide circulation in the relevant recruitment areas.

3. Cooperating with local school boards and the vocational education system to develop or establish relationships with pre-apprenticeship programs targeting students from the underutilized group to prepare them to meet the standards and criteria required to qualify for entry into apprenticeship programs.

4. Establishing linkage agreements or partnerships enlisting the assistance and support of pre-apprenticeship programs, community-based organizations, advocacy organizations, or other appropriate organizations, in recruiting qualified individuals for apprenticeship.

(b) Evaluate and document, after every selection cycle for registering apprentices, the overall effectiveness of the activities.

(c) Refine targeted outreach, recruitment, and retention activities as needed.

(d) Maintain records of the targeted outreach, recruitment, and retention activities and records related to the evaluation of these activities.

(2) OTHER ACTIVITIES. In addition to the activities in sub. (1), sponsors are encouraged to consider other outreach, recruitment, and retention activities that may assist sponsors in addressing any barriers to equal employment opportunity in its registered apprenticeship program. These activities may include any of the following:

(a) Enlisting the use of journeyworkers from the underutilized group to assist in the implementation of a sponsor's affirmative action program.

(b) Enlisting the use of journeyworkers from the underutilized group to mentor apprentices and to assist a sponsor's targeted outreach and recruitment activities.

(c) Conducting exit interviews of each apprentice who leaves the sponsor's registered apprenticeship program prior to receiving a certificate of completion to understand better why the apprentice is leaving the program and to help shape the sponsor's retention activities.

History: CR 19-003: cr. Register September 2019 No. 765, eff. 10-1-19.

DWD 296.09 Review of personnel processes. (1) ANNUAL REVIEW. A sponsor shall engage in an annual review of its personnel processes to ensure that the sponsor is operating a registered apprenticeship program free from discrimination based on race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, and disability. A review under this section is required regardless of whether a sponsor is underutilized under s. DWD 296.05 and shall include a review of all aspects of the registered apprenticeship program at the program, industry, and occupational level, and include all of the following:

(a) The qualifications for apprenticeship, application, and selection procedures.

(b) Wages.

(c) Outreach and recruitment activities.

(d) Advancement opportunities.

(e) Promotions.

(f) Work assignments.

(g) Job performance.

(h) Rotations among all work processes of the occupation.

(i) Disciplinary actions.

(j) Handling of requests for reasonable accommodations.

(k) The program's accessibility to individuals with disabilities, including the use of information and communication technology.

(2) COMPLIANCE DATE. (a) A sponsor that has a registered apprenticeship program as of January 18, 2018, shall comply with the obligations under sub. (1) within 2 years of January 18, 2018.

(b) A sponsor registered with the department after January 18, 2018, shall comply with the obligations of sub. (1) within 2 years after the date of registration.

(3) MODIFICATIONS REQUIRED. Any necessary modifications identified under sub. (1) shall be integrated into the sponsor's written affirmative action plan to ensure that obligations under this section are met. A sponsor shall include a description of its

review in the written affirmative action plan and identify in the written plan any modifications made, or the modifications to be made, to the program as a result of the review.

History: CR 19-003: cr. Register September 2019 No. 765, eff. 10-1-19; correction in (2) (a) made under s. 35.17, Stats., Register September 2019 No. 765.

DWD 296.10 Selection of apprentices. (1) A sponsor's procedures for the selection of apprentices shall be included in the written plan for standards of apprenticeship submitted to and approved by the department under s. DWD 295.02.

(2) A sponsor may utilize any method, or combination of methods, for selection of apprentices if the selection method meets the requirements under 29 CFR 30.10 (b).

Note: 29 CFR 30.10 (b) requires sponsors to utilize any method or combination of methods for selection of apprentices, provided that the selection method used meet the following requirements:

(1) The selection procedures shall comply with the Uniform Guidelines on Employee Selection Procedures (UGESP) in 41 CFR 60.3, including the requirements to evaluate the impact of the selection procedures on race, sex, and ethnic groups (Hispanic/non-Hispanic or Latino) and to demonstrate job-relatedness and business necessity for those procedures that result in adverse impact in accordance with the requirements of UGESP.

(2) The selection procedures shall be uniformly and consistently applied to all applicants and apprentices within each selection procedure utilized.

(3) The selection procedures shall comply with title I of the Americans with Disabilities Act and EEOC's implementing regulations under part 1630. This procedure shall not screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, on the basis of disability, unless the standard, test or other selection criteria, as used by the program sponsor, is shown to be job-related for the position in question and is consistent with business necessity.

(4) The selection procedure shall be facially neutral in terms of race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, and disability.

History: CR 19-003: cr. Register September 2019 No. 765, eff. 10-1-19.

DWD 296.11 Invitation to self-identify as an individual with a disability. (1) PRE-OFFER INVITATION. A sponsor adopting an affirmative action program under s. DWD 296.04 shall invite applicants for apprenticeship to inform the sponsor whether the applicant believes he or she is an individual with a disability, as defined in s. DWD 296.02 (12). This invitation shall be provided to each applicant when the applicant applies or is considered for apprenticeship. The invitation may be included with the application materials for apprenticeship but shall be separate from the application.

(2) POST-OFFER INVITATION. Any time after acceptance into the registered apprenticeship program, but before the applicant begins his or her apprenticeship, a sponsor shall invite the applicant to inform the sponsor whether the applicant believes they are an individual with a disability, as defined under s. DWD 296.02 (12).

(3) APPRENTICES. Within the time frame identified under sub. (7) a sponsor shall provide a one-time invitation to each current apprentice to inform that sponsor if the apprentice is an individual with a disability, as defined under s. DWD 296.02 (12). A sponsor shall make this invitation using the language and manner prescribed by the U.S. department of labor employment and training administration. A sponsor shall remind apprentices on a yearly basis that the apprentice may voluntarily update their disability status.

Note: You can access the U.S. Department of Labor Employment Training Administration resources at <https://www.doleta.gov/oa/eo/tools/disability-self-identification.cfm> or call (866) 487-2365.

(4) VOLUNTARY SELF-IDENTIFICATION FOR APPRENTICES. A sponsor shall not compel or coerce an individual to self-identify as an individual with a disability.

(5) CONFIDENTIALITY. A sponsor shall keep all information on self-identification confidential and shall maintain the information in a data analysis file and not the medical files of individual apprentices as prescribed under s. DWD 296.12 (5). A sponsor shall provide self-identification information to the depart-

ment as requested and may not use the information except in accordance with this chapter.

(6) OBLIGATION OF SPONSOR. A sponsor under this section is not relieved of its obligation to take affirmative action with respect to applicants and apprentices who identified as an individual with a disability. In addition, a sponsor is not relieved of its liability for discrimination in violation of this section.

(7) COMPLIANCE DATES. (a) A sponsor with a registered apprenticeship program shall begin inviting applicants and apprentices to identify as individuals with a disability under this section no later than 2 years after January 18, 2018. A sponsor shall invite each of its current apprentices to voluntarily inform the sponsor whether the apprentice believes that he or she is an individual with a disability, as defined under s. [DWD 296.02 \(12\)](#), no later than 2 years after January 18, 2018.

(b) A sponsor registering with the department after January 18, 2018, shall begin inviting applicants and apprentices to identify as individuals with disabilities, as prescribed in this section, no later than 2 years after the date of registration. A sponsor under this section shall also invite each of its current apprentices to voluntarily inform the sponsor whether the apprentice believes that he or she is an individual with a disability, as defined under s. [DWD 296.02 \(12\)](#), no later than 2 years after the date of registration.

History: CR 19-003: cr. Register September 2019 No. 765, eff. 10-1-19; correction in (1) to (3), (7) made under s. 35.17, Stats., Register September 2019 No. 765.

DWD 296.12 Recordkeeping. **(1) OBLIGATIONS OF SPONSORS.** A sponsor shall collect data and maintain adequate records necessary for the department to determine if a sponsor is complying with the requirements of this chapter. At a minimum, records shall include all of the following:

(a) Selection for apprenticeship, including applications, tests and test results, interview notes, the bases for selection or rejection, and any other records required to be maintained under UGESP.

(b) The invitation to self-identify as an individual with a disability provided to applicants and apprentices under s. [DWD 296.11](#).

(c) Information relating to the operation of the registered apprenticeship program, including job assignments in all components of the occupation, promotion, demotion, transfer, layoff, termination, rates of pay or other forms or compensation, conditions of work, hours of work, hours of training provided, and any other personnel records relevant to complaints filed with the department under s. [DWD 296.14](#) or filed with other enforcement agencies.

(d) Proof of compliance with the requirements under s. [DWD 296.03](#).

(e) Requests for reasonable accommodations.

(f) Any other records pertinent to a determination of compliance with this chapter.

(2) SPONSOR IDENTIFICATION OF RECORD. For each record maintained under this chapter, a sponsor shall be able to identify the race, sex, ethnicity, and, when known, the disability status of each apprentice. Where possible, a sponsor shall be able to identify the race, sex, ethnicity, and disability status of each applicant to apprenticeship. A sponsor shall supply the information to the department upon request.

(3) AFFIRMATIVE ACTION PROGRAMS. A sponsor required under s. [DWD 296.04](#) to develop and maintain an affirmative action program shall retain both the written affirmative action plan under s. [DWD 296.04 \(3\)](#) and documentation of its component elements under ss. [DWD 296.05](#) to [296.09](#) and [296.11](#).

(4) MAINTENANCE OF RECORDS. All records required under this chapter, and any other information relevant to compliance with this chapter, shall be maintained for 5 years from the date of making the record or the date of the personnel action involved, whichever occurs later, and shall be made available as requested by the department or other authorized representative in a form determined by the department, as necessary to determine compliance. Failure to maintain records under this chapter constitutes noncompliance.

(5) CONFIDENTIALITY AND USE OF MEDICAL INFORMATION. Any information obtained under this chapter regarding the medical condition or history of an applicant or apprentice shall be collected and maintained on separate forms and in separate medical files and treated as a confidential medical record, except when any of the following apply:

(a) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the applicant or apprentice and necessary accommodations.

(b) First aid and safety personnel may be informed if the disability might require emergency treatment.

(c) Government officials engaged in enforcement of this chapter, of the laws administered by the U.S. department of labor's office of federal contract compliance programs, or of the ADA, shall be provided relevant information on request.

(6) ACCESS TO RECORDS. A sponsor shall allow the department access, during normal business hours, to its places of business for the purpose of conducting on-site EEO compliance reviews, complaint investigations, and inspecting and copying books, accounts, and records, including electronic records, and any other material the department deems relevant to the matter under investigation and pertinent to compliance with this chapter. A sponsor shall also provide the department access to these materials, including electronic records, off-site for purposes of conducting EEO compliance reviews and complaint investigations. A sponsor shall provide the department information about all formats, including specific electronic formats, in which the records and other information are available.

History: CR 19-003: cr. Register September 2019 No. 765, eff. 10-1-19; correction in (2) to (4), (5) (intro.), (6) made under s. 35.17, Stats., Register September 2019 No. 765.

DWD 296.13 Equal employment opportunity compliance review. **(1) DEPARTMENT REVIEW.** The department shall conduct EEO compliance reviews to determine if a sponsor is in compliance with this chapter regularly, or when circumstances warrant a review.

(2) CONDUCT OF COMPLIANCE REVIEWS. An EEO compliance review may include any of the following:

(a) A comprehensive analysis and evaluation of each aspect of the registered apprenticeship program through off-site reviews.

Note: An example of an off-site review may include desk audits of records submitted to the department.

(b) On-site reviews conducted at the sponsor's establishment that may involve examination of records, inspection and copying of documents related to recordkeeping requirements, and interviews with employees, apprentices, journeyworkers, supervisors, managers, and hiring officials.

(3) NOTIFICATION OF COMPLIANCE REVIEW FINDINGS. Within 45 business days of completing an EEO compliance review, the department shall present a written notice of compliance review findings to the sponsor. If the compliance review indicates a failure to comply with this chapter, the department shall inform the sponsor in writing and include in the notice all of the following:

(a) The deficiencies identified.

(b) How to remedy the deficiencies.

(c) The timeframe within which the deficiencies must be corrected.

(d) Enforcement actions that may be taken if compliance is not achieved within the required timeframe.

(4) COMPLIANCE. (a) Within 30 days of a sponsor receiving a notice of compliance review with findings that indicate a failure to comply with this chapter, the sponsor shall implement a compliance action plan and notify the department of the plan, or submit a written rebuttal to the findings to the department. A sponsor may request a one-time, 30-day extension.

(b) If the sponsor submits a written rebuttal to the notice of compliance review findings to the department under par. (a), the department may do any of the following:

1. Uphold the notice of compliance review findings.
2. Modify the notice of compliance review findings in whole or in part.

(c) If the department upholds the notice of compliance review findings after receiving a written rebuttal from the sponsor, the sponsor shall implement a compliance action plan within 30 days of receiving the notice from the department upholding the findings.

(d) A compliance action plan required under par. (a) or (c) shall include, at a minimum, all of the following:

1. A specific commitment, in writing, to correct or remediate the identified deficiencies and areas of noncompliance.
2. The precise actions to be taken for each deficiency identified.
3. The time period within which the cited deficiencies shall be remedied and any corrective program changes implemented.
4. The name of the individual responsible for correcting each deficiency identified.

(e) Upon the department's approval of the compliance action plan, a sponsor may be considered in compliance under this chapter provided that the compliance plan is implemented.

(5) ENFORCEMENT ACTIONS. A sponsor that fails to implement a compliance action plan within the specified timeframes may be subject to an enforcement action under s. DWD 296.15.

History: CR 19-003; cr. Register September 2019 No. 765, eff. 10-1-19.

DWD 296.14 Complaints. **(1) REQUIREMENTS FOR INDIVIDUALS FILING COMPLAINTS.** (a) If an applicant or apprentice of a registered apprenticeship program believes he or she has been discriminated against on the basis of race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, or disability with regard to apprenticeship, or been retaliated against in violation of s. DWD 296.17, the applicant or apprentice of a registered apprenticeship program, or the applicant's or apprentice's authorized representative, may file a written complaint with the department.

(b) A complaint under par. (a) shall be filed within 300 days of the alleged discrimination or failure to follow the equal opportunity standards. The department may extend the filing time for good cause shown. The time period for filing is for the administrative convenience of the department and does not create a defense for the respondent.

(c) Each complaint filed under par. (a) shall be made in writing and contain all of the following information:

1. The applicant's or apprentice of a registered apprenticeship program's name, address, and telephone number, including best method of contact.
2. All available information to identify the respondent including name, address, and telephone number.

3. A short description of the events that the applicant or apprentice of a registered apprenticeship program believes are discriminatory or a failure to follow equal opportunity standards. The description shall include the date and location the events took place, and why the applicant or apprentice believes the actions were discriminatory or a failure to follow equal opportunity standards.

4. The applicant's or apprentice's signature, or the signature of the applicant's or apprentice's authorized representative.

(2) REQUIREMENTS OF SPONSORS. A sponsor of a registered apprenticeship program shall provide written notice to all applicants and apprentices of a registered apprenticeship program of their right to file a complaint and identify the procedures to file. The notice shall include the name, address, and telephone number of the department and shall be provided in the application for apprenticeship and displayed in a prominent, publicly available location where all apprentices can see the notice. The notice shall include the following specific wording:

Your Right to Equal Opportunity. It is against the law for a sponsor of an apprenticeship program registered for Federal purposes to discriminate against an apprenticeship applicant or apprentice based on race, color, religion, national origin, sex, sexual orientation, age (40 years or older), genetic information, or disability. The sponsor must ensure equal opportunity with regard to all terms, conditions, and privileges associated with apprenticeship. If you think that you have been subjected to discrimination, you may file a complaint within 300 days from the date of the alleged discrimination or failure to follow the equal opportunity standards with [INSERT NAME OF REGISTRATION AGENCY, ADDRESS, PHONE NUMBER, EMAIL ADDRESS, AND CONTACT NAME OF INDIVIDUAL AT THE REGISTRATION AGENCY WHO IS RESPONSIBLE FOR RECEIVING COMPLAINTS]. You may also be able to file complaints directly with the EEOC, or the Wisconsin equal rights division. If those offices have jurisdiction over the sponsor/employer, their contact information is listed below. [INSERT CONTACT INFORMATION FOR EEOC AS PROVIDED ON "EEO IS THE LAW POSTER," AND CONTACT INFORMATION FOR THE WISCONSIN EQUAL RIGHTS DIVISION AS PROVIDED ON THE WISCONSIN EQUAL RIGHTS DIVISION POSTER, AS APPLICABLE]

Each complaint filed must be made in writing and include the following information:

1. Complainant's name, address and telephone number, or other means for contacting the complainant;
2. The identity of the respondent (*i.e.* the name, address, and telephone number of the individual or entity that the complainant alleges is responsible for the discrimination);
3. A short description of the events that the complainant believes were discriminatory, including but not limited to when the events took place, what occurred, and why the complainant believes the actions were discriminatory (for example, because of his/her race, color, religion, sex, sexual orientation, national origin, age (40 or older), genetic information, or disability);
4. The complainant's signature or the signature of the complainant's authorized representative.

(3) REQUIREMENTS OF THE DEPARTMENT. (a) Complaints received by the department under sub. (1) shall be processed as expeditiously as possible. When conducting complaint investigations, the department shall do all of the following:

1. Provide written notice to the applicant or apprentice of a registered apprenticeship program, acknowledging receipt of the complaint.

2. Contact the applicant or apprentice of a registered apprenticeship program to obtain additional information, if necessary to initiate an investigation.

3. Initiate an investigation upon receiving a complete complaint.

4. Conduct a thorough investigation of the allegations in the complaint and document, at a minimum, all of the following:

a. Name, address, and telephone number of each individual interviewed.

b. Interview statements.

c. Copies, transcripts, or summaries of pertinent documents.

d. A narrative report of the investigation with references to exhibits and other evidence related to the alleged violations.

5. Provide written notification of the department's findings to both the respondent and applicant or apprentice of a registered apprenticeship program.

(b) If the department finds a violation of the nondiscrimination requirements under this chapter, the department shall attempt to resolve the matter as quickly as possible at the department level. If a complaint of discrimination cannot be resolved to the satisfaction of the applicant or apprentice, the department shall refer the complaint to other federal, state, or local EEO agencies.

(c) At its own discretion, the department may refer a complaint to any of the following:

1. The U.S. equal employment opportunity commission.

2. The U.S. attorney general.

3. The department of labor's office of federal contract compliance programs.

4. The Wisconsin equal rights division.

History: CR 19-003: cr. Register September 2019 No. 765, eff. 10-1-19; correction in (1) (a) made under s. 35.17, Stats., and correction in (3) (c) 1., 2. made under s. 13.92 (4) (b) 12., Stats., Register September 2019 No. 765.

DWD 296.15 Enforcement actions. (1) If the department determines that a sponsor is not operating its registered apprenticeship program as specified under this chapter because of a compliance review, complaint investigation, or other reason, the department shall notify the sponsor in writing and identify the specific violations.

(2) The department may take enforcement action if a violation under sub. (1) occurs, including any of the following:

(a) Offering the sponsor technical assistance to promote compliance.

(b) 1. Suspending the sponsor's right to register new apprentices if the sponsor fails to implement a compliance action plan to correct the violation identified within 30 business days from the date the sponsor is notified, or if the sponsor submits a written response to the findings of noncompliance and fails to implement a compliance action plan within 30 days of receiving the department notice upholding the initial noncompliance findings.

2. If a sponsor has not implemented a compliance action plan within 30 business days of notification of suspension, the department may begin proceedings to deregister the sponsor's registered apprenticeship program as prescribed under s. DWD 295.21. If the department does not begin proceedings to deregister the sponsor's program under this paragraph within 45 days of the start of the suspension, the suspension is lifted.

(c) Taking other action authorized by law that may include referral to any of the following:

1. The U.S. equal employment opportunity commission.

2. Wisconsin equal rights division.

3. The U.S. department of labor's office of federal contract compliance programs.

History: CR 19-003: cr. Register September 2019 No. 765, eff. 10-1-19; correction in (1) made under s. 35.17, Stats., and correction in (2) (c) 1. made under s. 13.92 (4) (b) 12., Stats., Register September 2019 No. 765.

DWD 296.16 Appeal procedure. A sponsor that is deregistered by the department under s. DWD 296.15 (2) (b) 2. may request a hearing as prescribed under s. DWD 295.23.

History: CR 19-003: cr. Register September 2019 No. 765, eff. 10-1-19; correction made under s. 35.17, Stats., Register September 2019 No. 765.

DWD 296.17 Intimidation and retaliation prohibited. (1) An applicant or apprentice in a registered apprenticeship program shall not be intimidated, threatened, coerced, retaliated against, or discriminated against because the individual has done any of the following:

(a) Filed a complaint under s. DWD 296.14.

(b) Opposed a practice prohibited by this chapter or any other federal or state equal opportunity law.

(c) Furnished information to, assisted or participated in any investigation, compliance review, proceeding, or hearing under this chapter or any federal or state equal opportunity law.

(d) Exercised any rights and privileges under the provisions of this chapter.

(2) A sponsor that permits the intimidation of or retaliation against an applicant or apprentice in a registered apprenticeship program, including intimidation or retaliation by participating employers, is subject to enforcement action under s. DWD 296.15 if the sponsor fails to take appropriate steps to prevent the intimidation or retaliation.

History: CR 19-003: cr. Register September 2019 No. 765, eff. 10-1-19.

DWD 296.18 Reinstatement of program registration. An apprenticeship program that has been deregistered for failure to comply with this chapter may be reinstated if the sponsor provides evidence to the department that the apprenticeship program is operating as prescribed in this chapter.

History: CR 19-003: cr. Register September 2019 No. 765, eff. 10-1-19.

DWD 296.19 Exemptions. A sponsor may request an exemption from any part of this chapter by providing the department with a written statement that identifies the reasons to support the request. With approval from the U.S. department of labor's office of apprenticeship, the department may grant an exemption in writing for good cause.

History: CR 19-003: cr. Register September 2019 No. 765, eff. 10-1-19.