

1

Report From Agency

Rules Clearinghouse No. 14-032

**ORDER OF THE WISCONSIN
DEPARTMENT OF WORKFORCE DEVELOPMENT
CREATING AND ADOPTING RULES**

2 The Wisconsin department of workforce development adopts the following order *to amend*
3 DWD 295.001 (4) (a) to (c) and (21), 295.02 (2) (intro.), (b) (intro.), 15. (intro.) and a. and b.,
4 295.07 (3) (e) (intro.) and 1., 295.15 (2) (intro.) and (a) to (c), 295.20 (4) (c), (5) (b) (intro.) and
5 1. to 4., and (c) (intro.) and 1. to 4., 295.21 (2) (intro.) and (a), (5) (intro.), (a) and (b), and (7)
6 (intro.), (a) to (c), and 295.23 (1) (intro.), (a) and (b); and *to create* DWD 295.25 *relating to*
7 apprenticeship completion awards.

**Analysis Prepared by the Department of
Workforce Development**

Statutes Interpreted

Statutes Interpreted: Ch. 106, Stats.

Statutory Authority

Statutory Authority: s. 106.05, Stats.

Explanation of Statutory Authority

The Department of Workforce Development (DWD) has responsibilities imposed by 2013 Wisconsin Act 57 for implementing the state's apprenticeship completion reimbursement program. DWD has specific authority to establish rules interpreting and clarifying provisions under ch. 106, Stats., relating to apprentice, employment and equal rights programs. Act 57 created s. 106.05, Stats., which provides that DWD administer an apprenticeship completion award program to partially reimburse the tuition costs paid by apprentices who have successfully completed part or all of the apprenticeship requirements, or paid by the sponsors of those apprentices, and promulgate rules to implement the program.

Related Statutes or Rules

Chapter 106, Stats., governs the state's apprenticeship program. DWD rules for the apprenticeship completion award program will be incorporated into ch. DWD 295, which governs the procedures of the federal and state apprenticeship programs.

The National Apprenticeship Act (also known as the Fitzgerald Act), 29 U.S. Code 50, provides for the U.S. Department of Labor to establish national standards for state apprenticeship programs. The federal regulations which provide the details of the standards are found at 29 CFR Part 29. The Wisconsin state apprenticeship program has been approved by the U.S. Department of Labor under the federal standards.

Plain Language Analysis

This rule will administer an apprenticeship completion award program to partially reimburse the tuition costs paid for apprentices who have successfully completed part or all of their apprenticeship requirements, and who are employed in the trade, craft or business in which the apprentice was trained.

This rule will do all of the following:

- Establish requirements that allow DWD to distribute tuition reimbursement completion awards to an apprentice or to the sponsor of the apprentice, in an amount of up to 25% of the tuition costs, but no more than \$1000.
- Allow DWD to distribute awards in two parts. The first payment may be made upon the successful completion of the first year of the apprentice's contract, but the payment may not exceed \$250. The remainder of the award may be distributed upon the final completion of all requirements under the apprentice's contract.
- Deny applications for reimbursement that would otherwise qualify, if the amount of total reimbursement requests applied for exceeds the amount appropriated, based on the dates on which apprentices and sponsors of the apprentice become eligible for the apprenticeship completion awards.
- Identify requirements that an applicant seeking reimbursement under this program must meet when the applicant is delinquent in child support or maintenance payments, or owes past support, medical expenses or birth expenses.

Summary of, and comparison with, existing or proposed federal statutes and regulations

The Code of Federal Regulation Chapter 29, Part 29, governs the U.S. Department of Labor Standards for the Registration of Apprentice Programs. There are no federal statutes or regulations equivalent to this apprenticeship completion award program.

Comparison with rules in adjacent states

Minnesota has implemented laws relating to voluntary apprentice program administration, but does not have any comparable rules or programs similar to the apprenticeship completion award program.

Illinois, Iowa and Michigan do not have their own state apprenticeship laws and rely on federal standards.

Summary of factual data and analytical methodologies

This rule does not depend on any complex analysis of data. Act 57 authorized and required the department to create this rule. The department has adequate revenue to administer this program during the current biennium under the general purpose revenue provided for fiscal years 2013-14 and 2014-15.

Analysis and supporting document used to determine effect on small business or in preparation of an economic impact analysis

This rule does not impose any new regulatory burdens on any business. The purpose of this rule is to reimburse eligible tuition costs to an apprentice, or to the sponsor of the apprentice, upon successful completion of the first year under the apprentice's contract or upon the full completion of the apprentice's contract.

Effect on small business

This rule does not place any requirements on small businesses but it may have a positive impact on small businesses that employ apprentices and incur tuition costs. Small businesses that incur tuition costs may be eligible for reimbursement of up to \$1,000 per apprentice.

Agency contact person

Questions and comments related to this rule may be directed to:

Karen Morgan
Department of Workforce Development
Division of Employment and Training
P.O. Box 7972
Madison, WI 53708-7972
Telephone: (608) 266-3133
E-Mail: Karen.morgan@dwd.wi.gov

Public hearing

A public hearing on the proposed rule was held on May 15, 2014. There were no appearances and no comments on the proposed rule were filed.

1 **SECTION 1.** DWD 295.001 (4) (a) to (c) and (21) are amended to read:

2 DWD 295.001 (4) (a) The department has established that an individual is eligible for
3 probationary employment as an apprentice under a registered apprenticeship program;

4 (b) The department has established that an individual is eligible for probationary
5 employment as an apprentice under a registered apprenticeship program;

6 (c) The department has determined that an apprenticeship has successfully met the
7 requirements to receive an interim credential; ~~or.~~

8 (21) "Sponsor" ~~means any person, association, committee, or organization operating an~~
9 ~~apprenticeship program and in whose name the program is or will be registered or approved~~ has
10 the meaning given in s. 106.001 (8), Stats.

11 **SECTION 2.** DWD 295.02 (2) (intro.), (b) (intro.), 15. (intro.) and a. and b. are amended
12 to read:

13 DWD 295.02 (2) (intro.) To be eligible for approval and registration by the department,
14 an apprenticeship program shall conform to all of the following standards:

15 (b) The program standards shall contain provisions that address all of the following:

16 15. (intro.) The transfer of an apprentice between apprenticeship programs and within an
17 apprenticeship program shall be based on agreement between the apprentice and the affected
18 local apprenticeship committees or program sponsors and the department, and shall comply with
19 all of the following requirements:

1 a. The transferring apprentice shall be provided a transcript of related instruction and on-
2 the-job learning by the committee or program sponsor;

3 b. Transfer shall be to the same occupation; ~~and~~.

4 **SECTION 3.** DWD 295.07 (3) (e) (intro.) and 1. are amended to read:

5 DWD 295.07 (3) (e) (intro.) A statement showing all of the following:

6 1. The number of hours to be spent by the apprentice in work on the job in a time-based
7 program; or a description of the skill sets to be attained by completion of a competency-based
8 program, including the on-the-job learning component; or the minimum number of hours to be
9 spent by the apprentice and a description of the skill sets to be attained by completion of hybrid
10 program; ~~and~~.

11 **SECTION 4.** DWD 295.15 (2) (intro.), and (a) to (c) are amended to read:

12 DWD 295.15 (2) (intro.) OCCUPATIONAL CRITERIA. In order for a new occupation to be
13 approved by the department as an apprenticeable occupation, the department shall find that the
14 occupation includes all of the following:

15 (a) Involves skills that are customarily learned in a practical way through a structured,
16 systematic program of on-the-job supervised learning;

17 (b) Is clearly identified and commonly recognized throughout an industry;

18 (c) Involves the progressive attainment of manual, mechanical, or technical skills and
19 knowledge which, in accordance with the industry standard for the occupation, would require the
20 completion of at least 2,000 hours of on-the-job learning to attain; ~~and~~.

21 **SECTION 5.** DWD 295.20 (4) (c) (intro.), (5) (b) (intro.) and 1. to 4., and (c) (intro.) and

22 1. to 4. are amended to read:

1 DWD 295.20 (4) (c) (intro.) *Timely objection*. If the department receives an objection
2 within the 20-day period provided in the notice of intent to cancel, all of the following provisions
3 apply:

4 (5) (b) (intro.) Examples of violations of the apprentice contract which may be
5 appropriate subject matter for a hearing on a complaint to the department under this chapter may
6 include any of the following:

7 1. That the employer or other party to the apprentice contract has not provided to the
8 apprentice the proper on-the-job learning as required in the apprentice contract;

9 2. That the employer or other party to the apprentice contract has failed to provide to the
10 apprentice the proper related instruction as required in the apprentice contract;

11 3. That the employer or other party to the apprentice contract has assigned the apprentice
12 to perform job duties which do not provide the proper on-the-job learning as required in the
13 apprentice contract;

14 4. That the employer or other party to the apprentice contract has failed to pay the wages
15 as required in the apprentice contract;

16 (c) (intro.) Examples of matters which are unrelated to the provisions of the apprentice
17 contract which are not appropriate subjects for a hearing by the department under this chapter
18 may include any of the following:

19 1. Employee absenteeism or tardiness at work or school;

20 2. Employee use of drugs or alcohol on the job at work or school;

21 3. Insubordination;

22 4. Refusal to perform work as assigned;

1 **SECTION 6.** DWD 295.21 (2) (intro.) and (a), (5) (intro.), (a) and (b), and (7) (intro.), (a)
2 to (c) are amended to read:

3 DWD 295.21 (2) (intro.) DEREGISTRATION AT THE REQUEST OF THE SPONSOR. The
4 department may cancel the registration of an apprenticeship program by written
5 acknowledgement of such request stating all of the following:

6 (a) The registration is cancelled at the sponsor's request, and the effective date thereof;

7 (5) (intro.) NOTICE REQUIREMENTS. The notice sent to the program sponsor's contact
8 person shall include all of the following:

9 (a) Be sent by registered or certified mail, with return receipt requested;

10 (b) State the shortcomings and the remedy required;~~and~~.

11 (7) (intro.) NOTICE OF DEREGISTRATION. If the required correction is not effected within
12 the allotted time, the department shall send a notice to the sponsor, by registered or certified
13 mail, return receipt requested, stating all of the following:

14 (a) The notice is sent under this paragraph;

15 (b) Certain deficiencies were called to the sponsor's attention, enumerating them and the
16 remedial measures requested, with the dates of such occasions and letters, and that the sponsor
17 has failed or refused to effect correction;

18 **SECTION 7.** DWD 295.23 (1) (intro.), (a) and (b) are amended to read:

19 (1) (intro.) Within 10 days of receipt of a request for a hearing, the department shall
20 designate a hearing officer to preside over the hearing. The hearing officer shall give reasonable
21 notice of such hearing by registered mail, return receipt requested, to the appropriate sponsor.

22 The notice shall include all of the following:

23 (a) A reasonable time and place of hearing;

1 (b) A statement of the provisions of this chapter pursuant to which the hearing is to be
2 held; ~~and,~~

3 **SECTION 8.** DWD 295.25 is created to read:

4 **DWD 295.25 Apprenticeship completion award program.** (1) DEFINITIONS. In this
5 section:

6 (a) "Sponsor" has the meaning given under s. 106.001 (8), Stats. "Sponsor" does not
7 include a state agency or local governmental unit.

8 (b) "Tuition costs" has the meaning given under s. 106.05 (1) (b), Stats.

9 **Note:** Examples of costs which are not "tuition costs" include student fees charged for
10 use of a health center, parking fees, or late fees.

11
12 **Note: Section 106.001 (8), Stats., defines "sponsor" as follows:**

13
14 "Sponsor" means any employer, organization of employees, association of
15 employers, committee, or other person operating an apprenticeship program and
16 in whose name the apprenticeship program is approved by the department.

17
18 **Note: Section 106.05 (1) (b), Stats., defines "tuition costs" as follows:**

19
20 "Tuition costs" means any fee that is charged for an apprentice to participate in
21 related instruction under s. 106.01 (6), Stats.

22
23 **Note: Section DWD 295.001 (20), defines "related instruction" as follows:**

24
25 "Related instruction" means an organized and systematic form of instruction
26 designed to provide the apprentice with the knowledge of the theoretical and
27 technical subjects related to the apprentice's occupation. Such instruction may
28 be given in a classroom, through occupational or industrial courses, or by
29 correspondence courses of equivalent value, electronic media, or other forms of
30 self-study approved by the department.

31
32 (2) NOTICE OF ELIGIBILITY. After the first 12 months of the apprenticeship contract
33 under s. DWD 295.07, and upon successful completion of the apprenticeship contract, the
34 department will notify the apprentice and sponsor in writing or by computer-based programs, of

1 eligibility to apply for an apprenticeship completion award. This notice will include specific
2 details on applying for an apprenticeship completion award.

3 (3) ELIGIBILITY. The department shall provide an apprenticeship completion award under
4 s. 106.05, Stats., to an apprentice or sponsor who has incurred tuition costs and meets all of the
5 following requirements:

6 (a) The apprentice has a valid apprenticeship contract under s. DWD 295.07.

7 (b) The apprentice or sponsor has not been reimbursed for any tuition costs by any other
8 entity.

9 (c) The apprentice or sponsor completes and files an application under sub. (4), within
10 60 days of the date of the notice provided by the department under sub. (2), that the apprentice or
11 sponsor is eligible for an apprenticeship completion award. If an application for a completion
12 award is not received within 60 days of the date of the notice provided by the department, the
13 department does not guarantee the payment of an apprenticeship completion award.

14 (d) The apprentice has successfully completed the first year of the apprenticeship
15 contract or has fully completed the apprenticeship contract and the apprentice is employed in the
16 trade, occupation, or business in which the apprentice is being trained.

17 (e) If the applicant is delinquent in child support or maintenance payments, or owes past
18 support medical expenses or birth expenses, then the applicant must meet the requirements under
19 s. 106.05 (3) (b), Stats.

20 (4) APPLICATION FOR APPRENTICESHIP COMPLETION AWARD. The application for an
21 apprenticeship completion award shall contain all of the following:

22 (a) The name and address of the apprentice and sponsor, and identification of who is
23 applying for reimbursement.

1 (b) A copy of all invoices and documents containing tuition costs eligible for
2 apprenticeship completion awards. This information shall include all of the following:

- 3 1. The name and address of the entity to whom the tuition costs were paid.
- 4 2. The amount and description of all tuition costs.
- 5 3. The dates on which tuition costs were paid.
- 6 4. Cancelled checks or other information documenting that the apprentice or sponsor has
7 paid all costs under subd. 2.
- 8 5. Any other relevant information requested by the department.

9 (c) A statement from the sponsor that states either of the following:

- 10 1. The apprentice has successfully completed the first year under the apprenticeship
11 contract.
- 12 2. The apprentice has successfully completed the full apprenticeship contract.

13 **Note:** The application for apprenticeship completion awards can be found online at
14 <http://www.wisconsinapprenticeship.org>.

15 (4) COMPLETION AWARD RATES AND RECALCULATIONS. (a) The department shall
16 reimburse all eligible tuition costs under this section in an amount not to exceed 25%, or \$1,000,
17 whichever is less, upon successful completion of an apprenticeship contract.

18 (b) The department shall reimburse an apprentice or sponsor up to \$250 after the
19 apprentice has successfully completed the first year under the apprenticeship contract. The total
20 award granted in the first year under this paragraph, combined with any award received after the
21 first year, may not exceed the amount specified in par. (a).

22 (c) The department may calculate the amount of an apprenticeship completion award on
23 a pro rata basis when both the apprentice and sponsor incur eligible tuition costs. The total

1 amount of the apprenticeship completion award may not exceed the amounts identified under
2 pars. (a) and (b).

3 (d) If the amount of funds to be distributed under this section exceeds the amount
4 available under s. 20.445 (1) (d), Stats., the department may deny applications for apprenticeship
5 completion awards that would otherwise qualify under sub. (4).

6 **SECTION 9. EFFECTIVE DATE.** This rule takes effect on the first day of the month
7 following publication in the Wisconsin administrative register, as provided in s. 227.22 (2)
8 (intro.), Stats.

Dated this _____ day of _____, 2015.

WISCONSIN DEPARTMENT OF
WORKFORCE DEVELOPMENT

By: _____
Reginald J. Newson, Secretary