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**Clearinghouse Rule 19-003**

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

3           The Wisconsin department of workforce development proposes the following order *to*  
4 *amend* DWD 295 and *repeal and recreate* ch. DWD 296 relating to federal equal employment  
5 opportunity standards for apprenticeship programs.

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

***Statutes Interpreted***

Statutes interpreted: ch. 106, Stats.

***Statutory Authority***

Section 106.01 (11) (a) and (b), Stats.

***Explanation of Statutory Authority***

An apprenticeship program is a program approved by the department providing for the employment and training of apprentices in a trade, craft, or business that includes a plan containing all of the terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices. The department is authorized to promulgate rules related to provisions to be included in an apprenticeship contract and procedures for approving and for rescinding approval of apprenticeship programs.

***Related Statute or Rules***

Wis. Stats. Ch. 106 – Apprenticeship, Employment and Equal Rights Programs

***Plain Language Analysis***

Chapter DWD 296 (Federal Equal Opportunity Standards for Apprenticeship Programs) is promulgated pursuant to ch. 106, Stats. and prescribes the policies and procedures to promote equality of opportunity in apprenticeship programs registered with the department. This emergency rule repeals and recreates ch. DWD 296 to align with federal regulations (29 CFR 29 and 29 CFR 30) and state statute. Wisconsin is recognized as a state apprenticeship agency

organized under 29 CFR 29.13 and is required by federal regulation to incorporate the changes made under 29 CFR 29 and 29 CFR 30.

The U.S. Department of Labor, Office of Apprenticeship, updated 29 CFR 29 and 29 CFR 30 to include regulations that prohibit discrimination in registered apprenticeship programs because of age (40 or older), genetic information, sexual orientation, and disability. These categories are in addition to the existing regulations that prohibit discrimination in registered apprenticeship programs because of race, color, religion, national origin, and sex. Federal regulations also require sponsors to provide equal opportunity in apprenticeship. State agencies with recognized apprenticeship programs are required to update administration rules to reflect federal regulations.

The rule differs from the current rule by:

- Creating the definitions "ADA," "affirmative action plan," "apprentice," "EEO," "ethnic group" or "ethnicity," "genetic information," "individual with a disability," journeyworker," "major life activities," "physical or mental impairment," "pre-apprenticeship program," "qualified applicant or apprentice," "reasonable accommodation," "registered," "UGESP," and "Wisconsin equal rights division."
- Amending the definition "affirmative action program" to align with federal regulations.
- Repealing the definitions "agency," "commission," "secretary of labor," "minority count," and "female count" because those terms are no longer used in ch. DWD 296.
- Amending the definitions "department," and "employer" to reflect proper citation.

The rule also does all the following:

- Requires sponsors to invite applicants to self-identify as an individual with a disability at various times in the application and hiring process and requires sponsors to make a one-time invitation to apprentices currently in registered apprenticeship programs.
- Improves and clarifies the affirmative steps employers and sponsors shall take to ensure equal opportunity in their registered apprenticeship program.
- Requires sponsors to analyze their workforce and take affirmative actions to employ individuals with a disability.
- Establishes a utilization goal of 7% for individuals with a disability within a sponsor's registered apprenticeship programs.
- Requires sponsors to conduct a workforce analysis by occupation and availability analysis by major occupation group.
- Clarifies certain minimum outreach and recruitment efforts that are required for all sponsors, and additional efforts that sponsors with affirmative action programs will take if they find themselves to be underutilizing members of a protected class.
- Requires a sponsor to assign an individual to oversee the sponsor's equal employment opportunity efforts.
- Allows sponsors to use any method of selecting apprentices that complies with the UGESP, rather than using one of four specified methods under the current rule.
- Requires sponsors to conduct periodic orientation and information sessions for those connected with the registered apprenticeship programs, including anti-harassment training.

- Allows the department to sanction noncompliant sponsors by suspending their right to register new apprentices while they implement corrective affirmative action plans. Under current law, the department is authorized only to deregister noncompliant sponsors.
- Specifies exactly what sponsors are required to do for outreach recruitment.
- Provides more flexibility for sponsors to use any selection method for apprentices, as long as it is not discriminatory. Current rule requires the sponsor to use one of four selection methods.
- Streamlines and simplifies sponsor's obligations while maintaining broad and effective equal employment opportunity protections for applicants or apprentices in a registered apprenticeship program.

In addition, the rule provides sponsors 180 days to create a revised EEO plan and one year to bring their registered apprenticeship program into compliance with the new requirements and the department will provide technical assistance as needed.

Updates to ch. DWD 295 are only technical in nature and update cross references to the new sections in ch. DWD 296.

### ***Summary of, and comparison with, existing or proposed federal regulations***

The rule reflects changes under federal regulations 29 CFR 29 (Labor Standards for the Registration of Apprenticeship) and 29 CFR 30 (Equal Employment Opportunity in Apprenticeship). Prior to an update in January 2017, the federal regulations were last revised in 1978, prohibiting discrimination based on race, sex, color, religion and national origin and requiring sponsors with more than five apprentices to develop and implement a written affirmative action plan for minorities and the inclusion of female apprentices. Currently, these regulations are intended to provide for more uniform training of apprentices and promote equal opportunity in apprenticeship.

### ***Comparison with rules in adjacent states***

Minnesota operates a recognized state apprenticeship agency organized under 29 CFR 29.13 (Minn. Stat. Ch. 178). Illinois, Iowa and Michigan have not established state apprenticeship agencies and registered apprenticeship in those states operates under federal law only.

### ***Summary of factual data and analytical methodologies***

The department is recognized by the U.S. Department of Labor as a state apprenticeship agency under 29 CFR 29.13. Department staff reviewed state statute and implemented the requirements under 29 CFR 29 and 29 CFR 30 to maintain this recognition.

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

The rule will have no significant economic impact on small businesses as defined in s. 227.114 (1), Stats.

***Anticipated costs incurred by private sector***

Not Applicable.

***Effect on small business***

The rule will have no significant economic effect on small businesses as defined in s. 227.114 (1), Stats.

***Agency contact person***

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

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***Place where comments are to be submitted and deadline for submission***

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Hearing comments will be accepted until the close of the public hearing on February 20, 2019.

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1           **SECTION 1.** DWD 295.02 (2) (b) 23. is amended to read:

2           DWD 295.02 (2) (b) 23. Compliance with 29 CFR 30, including the equal opportunity  
3 pledge prescribed in 29 CFR 30.3 (b); an affirmative action plan complying with s. DWD ~~296.04~~  
4 296.05; and a method for the selection of apprentices authorized by s. DWD ~~296.05~~ 296.20, or  
5 compliance with parallel requirement contained in a state plan for equal opportunity in  
6 apprenticeship adopted under ch. DWD 296 and approved by the department. The apprenticeship  
7 standards shall also include a statement that the program shall be conducted, operated and  
8 administered in conformity with applicable provisions of ch. DWD 296, as amended, or, if  
9 applicable, an approved state plan for equal opportunity in apprenticeship.

10           **SECTION 2.** DWD 296 is repealed and recreated to read:

11   **Chapter DWD 296**

12   **Federal Equal Employment Opportunity Standards for Apprenticeship Programs**

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

15           **DWD 296.02 Definitions.** In this chapter:

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

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

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

21  
22           **Note:** 29 CFR 30.4 (a) reads: (a) (1) An affirmative action program is designed to ensure  
23 equal opportunity and prevent discrimination in apprenticeship programs. An affirmative  
24 action program is more than mere passive nondiscrimination. Such a program requires  
25 the sponsor to take affirmative steps to encourage and promote equal opportunity, to  
26 create an environment free from discrimination, and to address any barriers to equal  
27 opportunity in apprenticeship. An affirmative action program is more than a paperwork

1 exercise. It includes those policies, practices, and procedures, including self-analyses,  
2 that the sponsor implements to ensure that all qualified applicants and apprentices are  
3 receiving an equal opportunity for recruitment, selection, advancement, retention and  
4 every other term and privilege associated with apprenticeship. An affirmative action  
5 program should be a part of the way the sponsor regularly conducts its apprenticeship  
6 program.

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

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

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

29 (5) The commitments contained in an affirmative action program are not intended and  
30 must not be used to discriminate against any qualified applicant or apprentice on the basis  
31 of race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic  
32 information, or disability.

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34  
35 (4) "Apprentice" has the meaning prescribed under s. 106.001(1), Stats

36 (5) "Department" means the department of workforce development.

37 (6) "EEO" means equal employment opportunity.

38 (7) "Employer" has the meaning prescribed under s. 106.001 (5), Stats.

39 (8) "Apprenticeship program" has the meaning prescribed under s. 106.001 (4), Stats.

1           **(9)** “Deregistration” means the voluntary or involuntary cancellation of an apprenticeship  
2 program by the department.

3           **(10)** “Ethnic group” or “Ethnicity” means any of the following:

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

6           (b) Not Hispanic or Latino.

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

8           (a) An individual's genetic tests.

9           (b) The genetic tests of an individual's family members.

10          (c) The manifestation of disease or disorder in family members of an individual.

11          (d) An individual's request for, or receipt of, genetic services, or the participation in clinical  
12 research that includes genetic services, or the participation in clinical research that includes genetic  
13 services by an individual or a family member of an individual.

14          (e) The genetic information of a fetus carried by an individual or by a pregnant woman  
15 who is a family member of the individual or family member using an assisted reproductive  
16 technology.

17          (f) Genetic information does not include information about the sex or age of an individual,  
18 the sex or age of family members or information about the race or ethnicity of an individual or  
19 family members, or information about the race or ethnicity of an individual or family members that  
20 is not derived from a genetic test.

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

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

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

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

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

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

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

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

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

21 **(16)** “Pre-apprenticeship program” means a training model designed to assist individuals  
22 who do not possess the minimum selection criteria established in a program sponsor's  
23 apprenticeship standards required under this chapter and maintains at least one documented



1 partnership with an apprenticeship program. It involves a form of structured workplace education  
2 and training in which an employer, employer group, industry association, labor union, community-  
3 based organization, or educational institution collaborates to provide formal instruction that will  
4 introduce participants to the competencies, skills, and materials used in one or more apprenticeable  
5 occupations.

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

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

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

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

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

19 **Note:** Examples of reasonable accommodations include:

- 20
- 21 1. Making existing facilities used by apprentices readily accessible to and usable by  
22 individuals with disabilities.
  - 23
  - 24 2. Job restructuring; part-time or modified work schedule; reassignment to a vacant  
25 position; acquisition or modification of equipment or devices; appropriate adjustment or  
26 modifications of examinations, training materials, or policies; the provision of qualified  
27 readers or interpreters; and other similar accommodations for individuals with  
28 disabilities.

1  
2 3. To determine the appropriate reasonable accommodation, it may be necessary for the  
3 sponsor to initiate an informal, interactive process with the qualified individual in need  
4 of the accommodation. This process should identify the precise limitations resulting  
5 from the disability and potential reasonable accommodations that could overcome those  
6 limitations.

7  
8 (19) “Registered” or “Registration” means the approval of an apprenticeship program by  
9 the department.

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

12 (21) “Sponsor” has the meaning prescribed under s. 106.01 (8) Stats.

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

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

17 **DWD 296.04 Equal opportunity standards applicable to all sponsors. (1)**

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

22 (a) Recruitment, outreach, and selection process.

23 (b) Hiring, placement, upgrading, periodic advancement, promotion, demotion, transfer,  
24 layoff, termination, right or return from layoff, and rehiring.

25 (c) Rotation among work processes.

26 (d) Imposition of penalties or other disciplinary action.

27 (e) Rates of pay or any other form of compensation or changes in compensation.

- 1 (f) Conditions of work.
- 2 (g) Hours of work and hours of training provided.
- 3 (h) Job assignments.
- 4 (i) Leaves of absence, sick leave, or any other leave.
- 5 (j) Any other benefit, term, condition, or privilege associated with apprenticeship.

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

9 (a) *Assignment of responsibility.* A sponsor shall designate an individual with appropriate  
10 authority in the registered apprenticeship program, to act as an apprenticeship coordinator that is  
11 responsible for and accountable for overseeing the registered apprenticeship program's  
12 commitment to equal opportunity, including the development and implementation of an  
13 affirmative action program under s. DWD 296.05. A sponsor shall provide resources, support and  
14 access to leadership to ensure effective implementation. The individual designated under this  
15 section shall be responsible for all of the following:

- 16 1. Monitoring all registered apprenticeship activity to ensure compliance with the  
17 nondiscrimination and affirmative action obligation required in this section.
- 18 2. Maintaining records required in this section.
- 19 3. Generating and submitting reports as required by the department.

20 (b) *Internal dissemination of equal opportunity policy.* A sponsor shall inform all  
21 applicants for apprenticeship, apprentices, and individuals connected with the administration or  
22 operation of the registered apprenticeship program, of its commitment to equal opportunity and  
23 affirmative action obligations. A sponsor shall do all of the following:

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

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

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

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

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

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

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

25

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

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

6           (d) *Maintaining apprenticeship programs free from harassment, intimidation and*  
7 *retaliation.* A sponsor shall develop and implement procedures to ensure apprentices are not  
8 harassed because of race, color, religion, national origin, sex, sexual orientation, age (40 or older),  
9 genetic information, or disability and ensure the registered apprenticeship program is free from  
10 intimidation and retaliation as prescribed in s. DWD 296.34. A sponsor shall promote an  
11 environment in which all apprentices feel safe, welcomed, and treated fairly and ensure all of the  
12 following steps are taken:

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

- 18           a. That harassing conduct will not be tolerated.
- 19           b. The definition of harassment and the type of conduct that constitute unlawful  
20 harassment because of race, color, religion, national origin, sex, sexual orientation, age (40 or  
21 older), genetic information and disability.
- 22           c. The right to file a harassment complaint as prescribed under s. DWD 296.28.

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

5           3. Establish and implement procedures to handle and resolve complaints about harassment  
6 and intimidation because of race, color, religion, national origin, sex, sexual orientation, age (40 or  
7 older), genetic information, or disability, and complaints about retaliation for engaging in  
8 protected activity under s. DWD 296.34.

9           (e) *Compliance with federal and state equal employment opportunity laws.* A sponsor shall  
10 comply with all applicable federal and state laws and regulations that require equal employment  
11 opportunity without regard to race, color, religion, national origin, sex, sexual orientation, age (40  
12 or older), genetic information, or disability. Failure to comply with this chapter, if related to the  
13 equal employment opportunity of apprentices, or graduates of an apprenticeship program may  
14 result in deregistration or other enforcement actions prescribed under s. DWD 296.28.

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

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

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

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

5 (5) PROGRAMS SUBJECT TO APPROVED EQUAL EMPLOYMENT OPPORTUNITY PLANS. A  
6 sponsor of a registered apprenticeship program is required to adopt an affirmative action program  
7 under s. DWD 296.05, or the selection of apprentice's procedure under s. DWD 296.20, unless any  
8 of the following apply:

9 (a) A sponsor provides proof of compliance as prescribed in 29 CFR 30.4 (d) (2).

10 (b) The registered apprenticeship program has fewer than five apprentices.

11 (6) NOTICE ON FILING A COMPLAINT. A sponsor shall provide written notice as prescribed  
12 under s. DWD 296.28 to all applicants and apprentices on how to file a discrimination complaint.

13 **DWD 296.05 Affirmative action program. (1) ADOPTION OF AN AFFIRMATIVE ACTION**  
14 **PROGRAM.** (a) A sponsor of a registered apprenticeship program shall develop and maintain an  
15 affirmative action program in a written plan, unless any of the following apply:

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

18 2. The registered apprenticeship program has fewer than five apprentices.

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

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

23 (a) Utilization analysis for race, sex, and ethnicity as prescribed under s. DWD 296.10.

1 (b) Establishment of utilization goals for race, sex, and ethnicity as prescribed under s.  
2 DWD 296.12.

3 (c) Utilization goals for individuals with disabilities as prescribed under s. DWD 296.14.

4 (d) Targeted outreach, recruitment, and retention as prescribed under s. DWD 296.16.

5 (e) Review of personnel processes as prescribed under s. DWD 296.18.

6 (f) Invitations to self-identify as prescribed under s. DWD 296.22.

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

10 (b) The initial written affirmative action plan for registered apprenticeship programs  
11 existing as of January 18, 2018, shall be completed within 2 years of January 18, 2018. The written  
12 affirmative action plan shall be updated every time the sponsor completes workforce analysis  
13 required under ss. DWD 296.10 (2) and DWD 296.14 (2).

14 (c) The initial written affirmative action plan for apprenticeship programs registered after  
15 January 18, 2018 shall be completed within 2 years of registration. The written affirmative action  
16 plan shall be updated every time the sponsor completes workforce analysis required under ss.  
17 DWD 296.10 (2) and DWD 296.14 (2).

18 **DWD 296.10 Utilization analysis for race, sex, and ethnicity.** (1) UTILIZATION  
19 ANALYSIS. A utilization analysis provides sponsors with a method for assessing whether possible  
20 barriers to apprenticeship exist for particular groups of individuals by determining whether the  
21 race, sex, and ethnicity of apprentices in a sponsor's reinterested apprenticeship program is  
22 reflective of individuals available for apprenticeship by race, sex, and ethnicity in the relevant



1 recruitment area. Where significant disparity exists between availability and representation, a  
2 sponsor will be required to establish a utilization goal under s. DWD 296.12.

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

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

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

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

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

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

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

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

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

8 (d) In determining availability, the relevant recruitment area is defined as the geographical  
9 area from which the sponsor usually seeks or reasonably could seek apprentices. A sponsor shall  
10 identify the relevant recruitment area in its written affirmative action plan under s. DWD 296.05  
11 (3). A sponsor may not draw its relevant recruitment area if it would have the effect of excluding  
12 individuals based on race, sex, or ethnicity from consideration, and shall develop a brief rationale  
13 for selection of that recruitment area.

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

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

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

20 (6) RATE OF UTILIZATION. To determine the rate of utilization, a sponsor, in working with  
21 the department, shall group each occupation title in the registered apprenticeship program by major  
22 occupation and compare the racial, sex and ethnic representation available in the relevant  
23 requirement area, as determined in sub. (5). When a sponsor's utilization of women, Hispanics or  
24 Latinos, or a particular racial minority group is significantly less than would be reasonable  
25

1 expected given the availability of women, Hispanics or Latinos, for apprenticeship, a sponsor shall  
2 establish a utilization goal for the affected group as prescribed under sub. (5). Sponsors are not  
3 required or expected to establish goals where no significant disparity in utilization rates have been  
4 found.

5 **DWD 296.12 Establishment of utilization goals for race, sex, and ethnicity. (1)** A  
6 sponsor required to establish a utilization goal under s. DWD 296.10 for a particular racial, sex, or  
7 ethnic group in a major occupation in its registered apprenticeship program, in working with the  
8 department, shall establish a percentage goal at least equal to the availability figure under s. DWD  
9 296.10 (5), for that major occupation group.

10 (2) A sponsor's determination under s. DWD 296.10 that a utilization goal is required does  
11 not constitute a finding or admission of discrimination.

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

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

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

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

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

5 **DWD 296.14 Utilization goals for individuals with disabilities. (1) UTILIZATION GOAL.**  
6 The department has established a utilization goal of 7 percent for employment of qualified  
7 individuals with disabilities as apprentices for each major occupation group within each sponsor's  
8 registered apprenticeship program. The utilization goal established in this paragraph a benchmark  
9 a sponsor shall measure against the representation of individuals with disabilities in a sponsor's  
10 registered apprenticeship program by major occupation group. The goal serves as an equal  
11 opportunity objective that is attainable by complying with all of the affirmative action  
12 requirements in this chapter.

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

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

22 **(4) SCHEDULE OF EVALUATION.** A sponsor shall conduct the apprentice workforce analysis  
23 at each compliance review and again when three years have passed without a compliance review.

1 The updated workforce analysis should then be compared to the utilization goal established under  
2 sub. (1).

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

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

8 (6) IDENTIFICATION OF PROBLEM AREAS. When a sponsor, working with the department,  
9 determines the percentage of individuals under sub. (3) is less than the utilization goal established  
10 under sub. (1), the sponsor shall take steps to determine if impediments to equal opportunities exist  
11 and where impediments to equal opportunity exist. In making this determination, a sponsor shall  
12 look at the results of its assessment of personnel processes required under s. DWD 296.18 and the  
13 effectiveness of its outreach and recruitment efforts required under DWD 296.16, if applicable.

14 (7) ACTION ORIENTED PROGRAMS. A sponsor shall undertake action-oriented programs,  
15 including targeted outreach, recruitment, and retention activities identified in s. DWD 296.16,  
16 designed to correct any problem areas that a sponsor identified pursuant to the review of personnel  
17 processes and outreach and recruitment efforts.

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

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

1           **DWD 296.16 Targeted outreach, recruitment, and retention. (1) MINIMUM ACTIVITIES**

2   REQUIRED. A sponsor that has found underutilization and established a utilization goal for a  
3   specific group under s. DWD 296.12, or DWD 296.14, shall undertake targeted outreach,  
4   recruitment, and retention activities that are likely to generate an increase in applications for  
5   apprenticeship and improve retention of apprentices from the targeted group or from individuals  
6   with disabilities. A sponsor under this section shall conduct all of the following:

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

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

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

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

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

22           4. Establishing linkage agreements or partnerships enlisting the assistance and support of  
23   pre-apprenticeship program, community-based organization, advocacy organizations, or other  
24   appropriate organizations, in recruiting qualified individuals for apprenticeship.  
25

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

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

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

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

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

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

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

17 **DWD 296.18 Review of personnel processes. (1) ANNUAL REVIEW.** A sponsor shall  
18 engage in an annual review of its personnel processes to ensure that the sponsor is operating a  
19 registered apprenticeship program free from discrimination based on race, color, religion, national  
20 origin, sex, sexual orientation, age (40 or older), genetic information, and disability. A review  
21 under this section is required regardless if a sponsor is underutilized under s. DWD 296.10 and  
22 shall include a review of all aspects of the registered apprenticeship program at the program,  
23 industry, and occupational level, and include all of the following:

- 1 (a) The qualifications for apprenticeship, application, and selection procedures.
- 2 (b) Wages.
- 3 (c) Outreach and recruitment activities.
- 4 (d) Advancement opportunities.
- 5 (e) Promotions.
- 6 (f) Work assignments.
- 7 (g) Job performance.
- 8 (h) Rotations among all work processes of the occupation.
- 9 (i) Disciplinary actions.
- 10 (j) Handling of requests for reasonable accommodations.
- 11 (k) The program's accessibility to individuals with disabilities, including the use of
- 12 information and communication technology.

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

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

17 **(3) MODIFICATIONS REQUIRED.** Any necessary modifications identified under sub. (1) shall  
18 be implemented into the sponsor's written affirmative action plan to ensure that obligations under  
19 this section are met. A sponsor shall include a description of its review in the written affirmative  
20 action plan and identify in the written plan any modifications made, or the modifications that will  
21 be made, to the program as a result of the review.



1           **DWD 296.20 Selection of apprentices.** (1) A sponsor's procedures for the selection of  
2 apprentices shall be included in the written plan for standards of apprenticeship submitted to and  
3 approved by the department under DWD 295.02.

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

6           Note: 29 CFR 30.10 (b) reads: Sponsors may utilize any method or combination of  
7 methods for selection of apprentices, provided that the selection method(s) used meets  
8 the following requirements:

9           (1) The selection procedures comply with the Uniform Guidelines Employee  
10 Selection Procedures (UGESP) in 41 CFR 60.3, including the requirement to evaluate  
11 the impact of the selection procedures on race, sex, and ethnic groups and to  
12 demonstrate job-relatedness and business necessity for those procedures that result in  
13 adverse impact in accordance with the requirements of UGESP.

14           (2) The selection procedures are uniformly and consistently applied to all applicants  
15 within each selection procedure utilized.

16           (3) The selection procedures comply with title I of the American's Disability Act and  
17 EEOC's implementing regulations under part 1630. Procedures shall not screen out or  
18 tend to screen out an individual with a disability or a class of individuals with  
19 disabilities, because of disability, unless the standard, test or other selection criteria  
20 used by the sponsor, is shown to be job-related for the position in questions and is  
21 consistent with the business necessity.

22           (d) The selection procedure is facially neutral in terms of race, color, religion,  
23 national origin, sex, sexual orientation, age, genetic information, and disability.  
24

25           **DWD 296.22 Invitation to self-identify as an individual with a disability.** (1) PRE-  
26 OFFER INVITATION. A sponsor adopting an affirmative action program under s. DWD 296.05, shall  
27 invite applicants for apprenticeship to inform the sponsor whether the applicant believes they are  
28 an individual with a disability as defined in s. DWD 296.01(12). This invitation shall be provided  
29 to each applicant when the applicant applies or is considered for apprenticeship. The invitation  
30 may be included with the application materials for apprenticeship but shall be separate from the  
31 application.

32           (2) POST-OFFER INVITATION. Any time after acceptance into the registered apprenticeship  
33 program, but before the applicant begins their apprenticeship, a sponsor shall invite the applicant

1 to inform the sponsor whether the applicant believes they are an individual with a disability as  
2 defined under DWD 296.01(12).

3 (3) APPRENTICES. Within the time frame identified under sub. (7) a sponsor shall provide a  
4 one-time invitation to each current apprentice, the opportunity to inform that sponsor if the  
5 apprentice is an individual with a disability as defined under s. DWD 296.01(12). A sponsor shall  
6 make this invitation using the language and manner prescribed by the U.S. Department of Labor,  
7 Employment and Training Administration. A sponsor shall remind apprentices on a yearly basis  
8 that the apprentice may voluntarily update their disability.

9 **Note:** You can access the U.S. Department of Labor, Employment Training  
10 Administration online at [https://www.doleta.gov/oa/eo/tools/disability-self-](https://www.doleta.gov/oa/eo/tools/disability-self-identification.cfm)  
11 [identification.cfm](https://www.doleta.gov/oa/eo/tools/disability-self-identification.cfm) or call (866) 487-2365.  
12

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

15 (5) CONFIDENTIALITY. A sponsor shall keep all information on self-identification  
16 confidential and shall maintain the information in a data analysis file and not the medical files of  
17 individual apprentices as prescribed under s. DWD 296.10 (5). A sponsor shall provide self-  
18 identification information to the department as requested and only used in accordance with this  
19 chapter.

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

24 (7) COMPLIANCE DATES. (a) A sponsor with a registered apprenticeship program shall  
25 begin inviting applicants and apprentices to identify as individuals with a disability under this

1 section, no later than 2 years after January 18, 2018. A sponsor shall invite each of its current  
2 apprentices to voluntarily inform the sponsor whether the apprentice believes that they are an  
3 individual with a disability, as defined under s. DWD 296.01 (12) no later than 2 years after  
4 January 18, 2018.

5 (b) A sponsor registering with the department after the January 18, 2018, shall begin  
6 inviting applicants and apprentices to identify as individuals with disabilities, as prescribed in this  
7 section, no later than 2 years after the date of registration. A sponsor under this section shall also  
8 invite each of its current apprentices to voluntarily inform the sponsor whether the apprentice  
9 believes that they are an individual with a disability as defined under s. DWD 296.01 (12), no later  
10 than 2 years after the date of registration.

11 **DWD 296.24 Recordkeeping. (1) OBLIGATIONS OF SPONSORS.** A sponsor shall collect  
12 data and maintain adequate records necessary for the department to determine if a sponsor is  
13 complying with the requirements of this chapter. At a minimum, records shall include all of the  
14 following:

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

18 (b) The invitation to self-identify as an individual with a disability under s. DWD 296.22.

19 (c) Information relating to the operation of the registered apprenticeship program,  
20 including job assignments in all components of the occupation, promotion, demotion, transfer,  
21 layoff, termination, rates of pay or other forms or compensation, conditions of work, hours of  
22 work, hours of training provided and any other personnel records relevant to complaints filed with  
23 the department under s. DWD 296.28 or other enforcement agencies.

- 1 (d) Proof of compliance with the requirements under s. DWD 296.04.
- 2 (e) Requests for reasonable accommodations.
- 3 (f) Any other records pertinent to a determination of compliance with this chapter.
- 4 (2) SPONSOR IDENTIFICATION OF RECORD. For each record maintained under this chapter, a  
5 sponsor shall be able to identify the race, sex, ethnicity, and when known, the disability status of  
6 each apprentice. Where possible, a sponsor shall be able to identify the race, sex, ethnicity and  
7 disability status of each applicant to apprenticeship. A sponsor shall supply the information to the  
8 department upon request.
- 9 (3) AFFIRMATIVE ACTION PROGRAMS. A sponsor required under s. DWD 296.05 to develop  
10 and maintain an affirmative action program shall retain both the written affirmative action plan  
11 under s. DWD 296.05 (3) and documentation of its component elements under ss. DWD 296.10 to  
12 DWD 296.18 and DWD 296.22.
- 13 (4) MAINTENANCE OF RECORDS. All records required under this chapter and any other  
14 information relevant to compliance with this chapter, shall be maintained for 5 years from the date  
15 of making the record or the personnel action involved, whichever occurs later, and shall be made  
16 available as requested by the department or other authorized representative in a form determined  
17 by the department, necessary to determine compliance. Failure to maintain records under this  
18 chapter constitutes noncompliance.
- 19 (5) CONFIDENTIALITY AND USE OF MEDICAL INFORMATION. Any information obtained  
20 under this chapter regarding the medical condition or history of an applicant or apprentice shall be  
21 collected and maintained on separate forms and in separate medical files, and treated as a  
22 confidential medical record except when any of the following apply:

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

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

5 (c) Government officials engaged in enforcement of this chapter, the laws administered by  
6 the U.S. Department of Labor's Office of Federal Contract Compliance Programs, or the ADA,  
7 shall be provided relevant information on request.

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

17 **DWD 296.26 Equal employment opportunity compliance review. (1) DEPARTMENT**  
18 **REVIEW.** The department shall conduct EEO compliance reviews to determine if a sponsor is in  
19 compliance with this chapter regularly, or when circumstances warrant a review.

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

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

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

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

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

12           (a) The deficiencies identified.

13           (b) How to remedy the deficiencies.

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

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

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

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

23           1. Uphold the notice of compliance review findings.

24           2. Modify the notice of compliance review findings in whole, or in part.

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

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

6 1. A specific commitment, in writing, to correct or remediate the identified deficiencies  
7 and areas of noncompliance.

8 2. The precise actions to be taken for each deficiency identified.

9 3. The time period within which the cited deficiencies will be remedied and any corrective  
10 program changes implemented.

11 4. The name of the individual responsible for correcting each deficiency identified.

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

14 (5) ENFORCEMENT ACTIONS. A sponsor that fails to implement a compliance action plan  
15 within the specified timeframes may be subject to an enforcement action under DWD 296.30.

16 **DWD 296.28 Complaints. (1) REQUIREMENTS FOR INDIVIDUALS FILING COMPLAINTS. (a)**

17 If an applicant or apprentice of a registered apprenticeship program believes they have been  
18 discriminated against because of race, color, religion, national origin, sex, sexual orientation, age

19 (40 or older), genetic information, or disability with regard to apprenticeship, or being retaliated  
20 against as described under s. DWD 296.34, the applicant or apprentice of a registered

21 apprenticeship program, or the applicant's or apprentice's authorized representative, may file a  
22 written complaint with the department.

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

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

7 1. The applicant's or apprentice of a registered apprenticeship program's name, address and  
8 telephone number, including best method of contact.

9 2. All available information to identify the respondent including, name, address, and  
10 telephone number.

11 3. A short description of the events that occurred that the applicant or apprentice of a  
12 registered apprenticeship program believes are discriminatory or a failure to follow equal  
13 opportunity standards. Include the date and location the events took place, and why the applicant  
14 or apprentice believes the actions were discriminatory or a failure to follow equal opportunity  
15 standards. This may include because of the applicant's or apprentice's race, color, religion, sex,  
16 sexual orientation, national origin, age (40 or older), genetic information or disability.

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

19 **(2) REQUIREMENTS OF SPONSORS.** A sponsor of a registered apprenticeship program shall  
20 provide written notice to all applicants and apprentices of a registered apprenticeship program, of  
21 their right to file a complaint and to identify the procedures to file. The notice shall include the  
22 name, address and telephone number of the department and be provided in the application for



1 apprenticeship and displayed in a prominent, publicly available location where all apprentices will  
2 see the notice. The notice shall the following, specific wording:

3 **Your Right to Equal Opportunity.** It is against the law for a sponsor of an  
4 apprenticeship program registered for Federal purposes to discriminate against an apprenticeship  
5 applicant or apprentice based on race, color, religion, national origin, sex, sexual orientation, age  
6 (40 years or older), genetic information, or disability. The sponsor must ensure equal opportunity  
7 with regard to all terms, conditions, and privileges associated with apprenticeship. If you think that  
8 you have been subjected to discrimination, you may file a complaint within 300 days from the date  
9 of the alleged discrimination or failure to follow the equal opportunity standards with [INSERT  
10 NAME OF REGISTRATION AGENCY, ADDRESS, PHONE NUMBER, EMAIL ADDRESS,  
11 AND CONTACT NAME OF INDIVIDUAL AT THE REGISTRATION AGENCY WHO IS  
12 RESPONSIBLE FOR RECEIVING COMPLAINTS]. You may also be able to file complaints  
13 directly with the EEOC, or the Wisconsin equal rights division. If those offices have jurisdiction  
14 over the sponsor/employer, their contact information is listed below. [INSERT CONTACT  
15 INFORMATION FOR EEOC AS PROVIDED ON “EEO IS THE LAW POSTER,” AND  
16 CONTACT INFORMATION FOR THE WISCONSIN EQUAL RIGHTS DIVISION AS  
17 PROVIDED ON THE WISCONSIN EQUAL RIGHTS DIVISION POSTER, AS APPLICABLE]

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

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

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

3           3. Initiate an investigation upon receiving a complete complaint.

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

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

7           b. Interview statements.

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

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

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

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

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

18           1. The United States Equal Employment Opportunity Commission.

19           2. The United States Attorney General.

20           3. The Department of Labor's Office of Federal Contract Compliance Programs.

21           4. The Wisconsin Equal Rights Division.

22           **DWD 296.30 Enforcement actions.** (1) If the department determines that a sponsor is not  
23 operating its registered apprenticeship program as specified under this chapter because of a

1 compliance review, complaint investigation or other reason, the department shall notify the  
2 sponsor in writing and identify the specific violations.

3 (2) Enforcement action that the department may take if a violation under sub. (1) occurs,  
4 may include any of the following:

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

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

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

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

17 1. The United States Equal Employment Opportunity Commission.

18 2. Wisconsin equal rights division.

19 3. The U.S. Department of Labor's Office of Federal Contract Compliance Programs.

20 **DWD 296.32 Appeal procedure.** A sponsor that is deregistered by the department under  
21 s. DWD 296.30 (2) (b) 1., may file a written appeal with the department as prescribed under s.  
22 DWD 295.23.

1           **DWD 296.34 Intimidation and Retaliation Prohibited.** (1) An applicant or apprentice in  
2 a registered apprenticeship program shall not be intimidated, threatened, coerced, retaliated  
3 against, or discriminated against because the individual has done any of the following:

4           (a) Filed a complaint under s. DWD 296.28.

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

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

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

10          **(2)** A sponsor that permits the intimidation or retaliation against an applicant or apprentice  
11 in a registered apprenticeship program, including intimidation or retaliation by participating  
12 employers, is subject to enforcement under s. DWD 296.30 if the sponsor fails to take appropriate  
13 steps to prevent the intimidation or retaliation.

14          **DWD 296.36 Reinstatement of program registration.** An apprenticeship program that  
15 has been deregistered for failure to comply with this chapter may be reinstated if the sponsor  
16 provides evidence to the department that the apprenticeship program is operating as prescribed in  
17 this chapter.

18          **DWD 296.38 Exemptions.** A sponsor may request an exemption from any part of this  
19 chapter by providing the department with a written statement that identifies the reasons to support  
20 the request. The department may grant an exemption in writing for good cause.

21          **SECTION 3. EFFECTIVE DATE.** This rule shall take effect upon publication in the  
22 state newspaper on January 18, 2019, under s. 227.27 (1) (c), Stats.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Caleb Frostman, Secretary