

DEPARTMENT OF LABOR
DIVISION OF INDUSTRIAL AFFAIRS

Statutory Authority: 19 Delaware Code, Section 202(a) (19 **Del.C.** §202(a))
19 **DE Admin. Code** 1101

FINAL

ORDER

1101 Apprenticeship and Training Regulations

I. NATURE OF PROCEEDINGS

Pursuant to its authority under 29 **Del.C.** §10111(1), the Delaware Division of Industrial Affairs of the State of Delaware, Department of Labor ("the Department") proposed to amend its apprenticeship regulations. The Department's purpose in proposing these amendments was to bring its regulations into legal conformity with the Third Circuit decision in *Tri-M Group, LLC v. Sharp*, 638 F.3d 406 (3rd Cir. 2011). The Department's proceedings to adopt its regulations were initiated pursuant to 29 **Del.C.** §10113(6), with authority prescribed by 19 **Del.C.** §202(a)(2). **These regulations are exempt from the standard Administrative Procedures Act process and may therefore be adopted informally.**

II. ORDER

AND NOW this 1st day of September, 2015, it is hereby ordered that:

1. The proposed amendments to the Division's regulations are adopted;
2. The text of the regulations shall be in the form attached hereto;
3. The effective date of this Order is ten days from the date of its publication in the Delaware *Register of Regulations* in accordance with 29 **Del.C.** §10118(e); and
4. The Division reserves to itself the authority to issue such order and further orders in this matter as may be just and proper.

IT IS SO ORDERED.

The Honorable John McMahon

1101 Apprenticeship and Training Regulations

1.0 Purpose and Scope

- 1.1 Section 204, Chapter 2, Title 19, **Delaware Code** authorizes and directs the Department of Labor to formulate regulations to promote the furtherance of labor standards necessary to safeguard the welfare of Apprentices and to extend the applications of such standards by requiring their inclusion in apprenticeship contracts.
- 1.2 The purpose of this chapter is to set forth labor standards to safeguard the welfare of Apprentices and to extend the application of such standards by prescribing policies and procedures concerning the registration of acceptable Apprenticeship Programs with the Delaware Department of Labor.
- 1.3 These labor standards and procedures cover the Registration and Cancellation of Apprenticeship Agreements and of Apprenticeship Programs; and matters relating thereto. Any questions [and/or] to request a copy of Delaware's Prevailing Wage Regulations regarding the employment of apprentices on state-funded construction projects must be referred to:
Delaware Department of Labor
Office of Labor Law Enforcement
~~4425 North Market Street~~ 225 Corporate Blvd.
~~Wilmington, DE 19802~~ Newark, DE. 19702
~~(302) 761-8200~~ 451-3423

2.0 Declaration of Policy

- 2.1 It is declared to be the policy of this State to:
 - 2.1.1 Encourage the development of an apprenticeship and training system through the voluntary cooperation of management and workers and interested State agencies and in cooperation with other states and the federal government;

- 2.1.2 Provide for the establishment and furtherance of Standards of Apprenticeship and Training to safeguard the welfare of Apprentices and trainees;
- 2.1.3 Aid in providing maximum opportunities for unemployed and employed persons to improve and modernize their work skills; and
- 2.1.4 Contribute to a healthy economy by aiding in the development and maintenance of a skilled labor force sufficient in numbers and quality to meet the expanding needs of industry and to attract new industry.

3 DE Reg. 641 (11/1/99)

3.0 Definitions

3.1 As used in this part:

"Administrator" refers to the Administrator of the Office of Apprenticeship and Training for the State Department of Labor.

"Agreement" refers to a written agreement between an Apprentice and either his/her employer or an Apprenticeship Committee acting as agent for the Employer which contains the terms and conditions of the employment and training of the Apprentice.

"Apprentice" refers to a person at least sixteen years of age who is engaged in learning a recognized skilled trade through actual work experience under the supervision of a Journeyperson. This person must enter into a written Apprenticeship Indenture Agreement with a registered apprenticeship sponsor. The training must be supplemented with properly coordinated studies of related technical instruction. All hours worked by a registered apprentice, while in the employ of the apprentice's sponsor, shall be considered apprenticeship hours to be counted toward wage progression increments and completion of his/ her on-the-job training hours as set forth in the Apprenticeship Indenture Agreement.

"Apprenticeship Standards" refers to the document which embodies the procedure for the selection and the training of apprentices, setting forth the terms of the training, including wages, hours, conditions of employment, training on the job, and related instruction. The duties and responsibilities of the Sponsor, including administrative procedures, are set forth in their company's policies.

"BAT" refers to the U.S. Department of Labor, Bureau of Apprenticeship and Training.

"Cancellation" refers to the deregistration of a Program or the Termination of an Agreement.

"Committee" refers to those persons designated by the Sponsor to act on its behalf in the administration of the Apprenticeship Program. A Committee may be "joint" i.e., it is composed of an equal number of representatives of the employer(s) and of the employee(s) represented by a bona fide collective bargaining agent(s) and has been established to conduct, operate or administer a Program and enter into Agreements with Apprentices. A Committee may be "unilateral" or "non-joint" and shall mean a Program Sponsor in which a bona fide collective bargaining agent is not a participant.

"Council" refers to the Governor's Advisory Council On Apprenticeship and Training.

"Delaware Resident Contractor" includes any general contractor, prime contractor, construction manager, subcontractor or other type of construction contractor who regularly maintains a place of business in Delaware. Regularly maintaining a place of business in Delaware does not include site trailers, temporary structures associated with one contract or set of related contracts, nor the holding, nor the maintaining of a post office box within this State. The specific intention of this definition is to maintain consistency with Title 30, Delaware Code, section 2501(3) "Resident Contractor".

"Director" refers to the Director of the Division of Industrial Affairs.

"Division" refers to the Division of Industrial Affairs, Department of Labor, state of Delaware.

"Employer" refers to any person or organization employing an Apprentice, whether or not such person or organization is a party to an Apprenticeship Agreement.

"Journeyperson" refers to a worker who is fully qualified as a skilled worker in a given craft or trade.

"On-site Visit" refers to a visit from a representative of the State of Delaware, Department of Labor, Division of Industrial Affairs to the office and/or the actual field job-site of the Sponsor, for the purposes of inspecting and/or monitoring the progress and training of the Registered Apprentice. This monitoring may include but is not limited to interviewing the Apprentice and the auditing of pertinent documents relative to the maintenance and enforcement of the terms of the Apprenticeship Agreement. On-site visits to the Sponsor's office may occur at the discretion of the Department of Labor. The Sponsor will reimburse any travel-related expenses over \$500 associated with on-site visits within sixty (60) days of their completion, or will face program deregistration following a hearing held in accordance with the procedures established in these regulations.

"Program" refers to an executed apprenticeship plan which contains all terms and conditions for the qualifications, recruitment, selection, employment and training of Apprentices, including such matters as the requirements for a written Apprenticeship Agreement.

"Registrant or Sponsor" refers to any person, association, committee or organization in whose name or title the Program is (or is to be) registered or approved regardless of whether or not such entity is an Employer. To be eligible, the Registrant or Sponsor must be a "Delaware Resident Contractor" or hold and maintain a "Delaware Resident Business License" or register their business with the Delaware Secretary of State. The Registrant or Sponsor must hold and maintain a permanent place of business, not to include site trailers or other facilities serving only one contract or related set of contracts. To be eligible to be a Registrant or Sponsor, Employer/Business, association, committee or organization must have the training program and an adequate number of Journey persons to meet the ratio requirements as stated for that particular apprenticeable occupation.

"Registration" refers to the acceptance and recording of an Apprenticeship Program by the Delaware Department of Labor, Office of Apprenticeship and Training, as meeting the basic standards and requirements of the Division for approval of such Program. Approval is evidenced by a Certificate or other written indicia documentation. Registration also refers to the acceptance and recording of Apprenticeship Agreements thereof, by the Delaware Department of Labor, Office of Apprenticeship and Training, as evidence of the participation of the Apprentice in a particular Registered apprenticeship Program. In no event shall the State of Delaware subsidize the instruction of any apprentice whose employment is not associated with the payment of income taxes to the State of Delaware, which finances such educational subsidies.

"Registration Agency" means the Office of Apprenticeship or a recognized State Apprenticeship Agency that has responsibility for registering apprenticeship programs and apprentices; providing technical assistance and quality assurance assessments.

"Related Instruction" refers to a formal and systematic form of instruction designed to provide the Apprentice with knowledge of the theoretical and technical subjects related to his/her trade.

"Secretary" refers to the Secretary of Labor.

"Sponsor" means any person, association, committee, or organization operating an apprenticeship program and in whose name the program is (or is to be) registered or approved.

"State" refers to the State of Delaware

"Supervisory Inspection" shall mean the same as "ON SITE VISIT".

3 DE Reg. 641 (11/1/99)

10 DE Reg. 1021 (12/01/06)

4.0 Eligibility and Procedure for State Registration

- 4.1 No Program or Agreement shall be eligible for State Registration unless it is in conformity with the requirements of this chapter, and the training is in an apprenticeable occupation having the characteristics set forth in section 5.0 herein.
- 4.2 Apprentices must be individually registered under a Registered Program with the State of Delaware, Department of Labor, Division of Industrial Affairs. Such registration shall be effective when the completed agreement is submitted to and signed by the Administrator. Sponsors registered with states other than the State of Delaware shall not be construed as being registered for State of Delaware Apprenticeship Program Registration purposes. Reciprocal approval for Federal purposes will be accorded to apprentices, apprenticeship programs and standards that are registered in other States by the Office of Apprenticeship or a Registration Agency if such reciprocity is requested by the apprenticeship program sponsor. Program sponsors seeking reciprocal approval must meet wage and hour provisions and apprentice ratio requirements of Delaware. Programs seeking reciprocal approval must also provide notice to the Department of Labor, Division of Industrial Affairs, Office of Apprenticeship & Training of their arrival prior to commencing work in the State of Delaware, so that the Office of Apprenticeship & Training may investigate their apprenticeship program to ensure that it conforms with the standards of the State in which it is registered. Such investigations may include on-site visits at the discretion of the Office of Apprenticeship & Training. The Sponsor will reimburse any expenses over \$500 associated with on-site visits within thirty (30) days of their completion, or will lose the ability to have its apprenticeship program recognized within the State of Delaware. This sanction will occur following a deregistration hearing held in accordance with the procedures established in these regulations.
- 4.3 The State must be properly notified through the Department of Labor, Division of Industrial Affairs, Office of Apprenticeship and Training of cancellation, suspension or termination of any Agreements, (with cause for same) and of apprenticeship completions. The State will attempt, where applicable, to verify the cause of apprenticeship termination.

- 4.4 Approved Programs shall be accorded Registration, evidenced by a Certificate of Registration. The Certificate of Registration for an approved Program will be made in the name of the Program Sponsor and must be renewed every four (4) years.
- 4.5 Any modification(s) or change(s) to registered standards shall be promptly submitted to the State through the appropriate office no later than thirty (30) days and, if approved, shall be recorded and acknowledged as an amendment to such standards.
- 4.6 Under a Program proposed for Registration by an Employer or Employer's Association, where the standards, collective bargaining agreement or other instrument provides for participation by a union in any way in the operation of the Program, and such participation is exercised, written acknowledgment of a union agreement or "no objection" to the Registration is required. Where no such participation is evidenced and practiced, the Employer or Employer's Association shall simultaneously furnish to the union a copy of its Program application. In addition, upon receipt of the application for the Program, the State shall promptly send by certified mail to such local union another copy of the Program application and together with a notice that union comments will be accepted for thirty (30) days after the date of the agency transmittal.
- 4.7 Where the employees to be trained have no collective bargaining agent, a program plan may be proposed for Registration by an Employer or groups of Employers.
- 4.8 A Sponsor may register Programs in one or more occupations simultaneously or individually with the provision that the Program Sponsor shall, within sixty (60) days of Registration, be actively training Apprentices on-the-job and related study must begin within twelve (12) months for each occupation for which Registration is granted. At no time shall an individual Apprentice be employed in more than one (1) occupation, nor signed to more than one (1) Apprenticeship Agreement at any given time.
- 4.9 Each occupation for which a Program Sponsor holds Registration shall be subject to Cancellation if no active training of Apprentices on the job has occurred within a consecutive one hundred eighty (180) day period or if no Related Instruction has begun within a twelve (12) month period from the date of Registration or in any twelve (12) month period during the duration of that Agreement.
- 4.10 Each Sponsor of a Program shall submit to an on-site inspection or supervisory visit and shall make all documents pertaining to the Registered Program available to appropriate representatives of the Apprenticeship and Training Office or designated service personnel upon request.
- 4.11 Each Sponsor shall be so routinely examined, by the Office of Apprenticeship and Training, at least annually, but not more than every six (6) months, unless a specific violation is suspected or a specific document is being investigated.
- 4.12 The Sponsor shall notify the State Registration Agency of termination or lay-off from employment of a Registered Apprentice or of the completion of the terms of the Apprenticeship Agreement within thirty (30) calendar days of such occurrence.
- 4.13 The Sponsor shall notify the State of failure to obtain and register the Apprentice in an approved course of Related Instruction as stated and detailed on the Apprenticeship Agreement within (30) calendar days of such occurrence.
- 4.14 It shall be the responsibility of the Sponsor to monitor the progress and attendance of the Apprentice in all phases of training such as, but not limited to, on-the-job and/or Related Training.

3 DE Reg. 641 (11/1/99)

9 DE Reg. 806 (11/1/05)

10 DE Reg. 1021 (12/01/06)

5.0 Criteria for Apprenticeable Occupations

- 5.1 An Apprenticeable occupation is a skilled trade which possesses all of the following characteristics:
 - 5.1.1 It is customarily learned in a practical way through training and ~~work on the job~~ a structured, systematic program of on-the-job supervised learning.
 - 5.1.2 It is clearly identified and commonly recognized throughout the industry, or recognized with a positive view towards changing technology or approved by the Delaware Department of Labor, Office of Apprenticeship and Training.
 - 5.1.3 It involves manual, technical or mechanical skills and knowledge which require a minimum of two thousand (2,000) hours of on-the-job training, not including the time spent in Related Instruction.
 - 5.1.4 It customarily requires Related Instruction to supplement the on-the-job training.
 - 5.1.5 It involves the development of skills sufficiently broad enough to be applicable in similar occupations throughout the industry, rather than a restricted application to the products or services of any one company.

6.0 Standards of Apprenticeship

- 6.1 The following standards are prescribed for a Program.
- 6.1.1 The Program must include an organized, written plan delineating the terms and conditions of employment. The training and supervision of one or more Apprentices in an apprenticeable occupation must become the responsibility of the Sponsor who has undertaken to carry out the Apprentice's training program.
- 6.2 The standards must contain provisions concerning the following:
- 6.2.1 The employment and training of the Apprentice in a skilled occupation;
- 6.2.2 an equal opportunity pledge stating the recruitment, selection, employment and training of Apprentices during their apprenticeships shall be without discrimination based on: race, color, religion, national origin or sex. When applicable, an affirmative action plan in accordance with the State's requirements for federal purposes must be instituted;
- 6.2.3 the existence of a term of apprenticeship, not less than one year or two thousand (2,000) hours consistent with training requirements as established by industry practice - the Delaware Department of Labor intends to continue to use the time based method of determining completion of an Apprenticeship Program;
- 6.2.4 an outline of the work processes in which the Apprentice will receive supervised work experience and on-the-job training, and the allocation of the approximate time to be spent in each major process;
- 6.2.5 provision for organized related and supplemental instruction in technical subjects related to the trade. A minimum of one hundred forty-four (144) hours for each year of apprenticeship is ~~required~~ recommended. Such instruction may be given in a classroom, through trade, industrial or approved correspondence courses of equivalent value or in other forms approved by the State Department of Labor, Office of Apprenticeship and Training; Every apprenticeship instructor must:
- 6.2.5.1 Meet the State Department of Education's requirements for a vocational-technical instructor in the State of registration, or be a subject matter expert, which is an individual, such as a journeyworker, who is recognized within an industry as having expertise in a specific occupation; and
- 6.2.5.2 Have training in teaching techniques and adult learning styles, which may occur before or after the apprenticeship instructor has started to provide the related technical instruction.
- 6.2.6 a progressively increasing schedule of wage rates to be paid the Apprentice, consistent with the skill acquired which shall be expressed in percentages of the established Journeyperson's hourly wage;
- 6.2.7 Minimum Wage Progression for 1 through 7 year Apprentice Program as follows:
- 6.2.7.1 1 to 7 year programs
- 6.2.7.2 starting pay must be at least minimum wage
- 6.2.7.3 final period must be at least 85%

1 YEAR [OR] 2,000 HOUR APPRENTICESHIP PROGRAM:

1st	1000 hours:	40%
2nd	1000 hours:	85%

2 YEAR [OR] 4,000 HOUR APPRENTICESHIP PROGRAM:

1st	1000 hours:	40%
2nd	1000 hours:	51%
3rd	1000 hours:	63%
4th	1000 hours:	85%

3 YEAR [OR] 6,000 HOUR APPRENTICESHIP PROGRAM:

1st	1,000 hours:	40%
2nd	1,000 hours:	48%
3rd	1,000 hours:	57%
4th	1,000 hours:	65%
5th	1,000 hours:	74%
6th	1,000 hours:	85%

4 YEAR [OR] 8,000 HOUR APPRENTICESHIP PROGRAM:

1st	1,000 hours:	40%
2nd	1,000 hours:	46%
3rd	1,000 hours:	53%
4th	1,000 hours:	59%

5th	1,000 hours:	65%
6th	1,000 hours:	71%
7th	1,000 hours:	78%
8th	1,000 hours:	85%

5 YEAR [OR] 10,000 HOUR APPRENTICESHIP PROGRAM:

1st	1,000 hours:	40%
2nd	1,000 hours:	45%
3rd	1,000 hours:	50%
4th	1,000 hours:	55%
5th	1,000 hours:	60%
6th	1,000 hours:	65%
7th	1,000 hours:	70%
8th	1,000 hours:	74%
9th	1,000 hours:	79%
10th	1,000 hours:	85%

6 YEAR [OR] 10,000 HOUR APPRENTICESHIP PROGRAM:

1st	1,000 hours:	40%
2nd	1,000 hours:	44%
3rd	1,000 hours:	48%
4th	1,000 hours:	52%
5th	1,000 hours:	56%
6th	1,000 hours:	60%
7th	1,000 hours:	64%
8th	1,000 hours:	68%
9th	1,000 hours:	72%
10th	1,000 hours:	76%
11th	1,000 hours:	81%
12th	1,000 hours:	85%

7 YEAR [OR] 10,000 HOUR APPRENTICESHIP PROGRAM:

1st	1,000 hours:	40%
2nd	1,000 hours:	43%
3rd	1,000 hours:	47%
4th	1,000 hours:	50%
5th	1,000 hours:	54%
6th	1,000 hours:	57%
7th	1,000 hours:	61%
8th	1,000 hours:	64%
9th	1,000 hours:	68%
10th	1,000 hours:	71%
11th	1,000 hours:	74%
12th	1,000 hours:	78%
13th	1,000 hours:	81%
14th	1,000 hours:	85%

- 6.2.8 that the entry Apprentice wage rate shall not be less than the minimum prescribed by State statute or by the Fair Labor Standards Act, where applicable;_
- 6.2.9 That the established Journeyman's hourly rate applicable among all participating Employers be stated in dollars and cents. No Apprentice shall receive an hourly rate less than the percentage for the period in which he/she is serving applied to the established Journeyman's rate unless the Sponsor has documented the reason for same in the individual Apprentice's progress report and has explained the reason for said action to the Apprentice and Registration Agency.

6.2.9.1 In no case other than sickness or injury on the part of the Apprentice, shall a Sponsor hold back an Apprentice's progression more than one period or wage increment without the written consent of the Administrator;

6.2.10 That the established Journeyperson's rate provided for by the Standards be reviewed and/or adjusted annually. Sponsors of Programs shall be required to give proof that all employees used in determining ratios of Apprentices to Journeypersons shall be receiving wages at least in the amount set for Journeypersons in their individual program standards, or are qualified to perform as Journey persons and must be paid at least the minimum journeyperson rate;

6.2.11 That the minimum hourly Apprentice wage rate paid during the last period of apprenticeship not be less than eighty-five (85) percent of the established Journeyperson wage rate. Wages covered by a collective bargaining agreement takes precedent over this section. However, wages may not be below the State's required minimum progression.

6.3 The Program must include a periodic review and evaluation of the Apprentice's progress in job performance and related instruction, and the maintenance of appropriate progress records.

6.4 The ratio of Apprentices to Journeypersons should be consistent with proper supervision, training and continuity of employment or applicable provisions in collective bargaining agreements.

6.4.1 The ratio of Apprentices to Journeypersons shall be one Apprentice up to each five (5) Journeypersons employed by the prospective Sponsor unless a different ratio based on an industry standard is contained in the signed Standards of Apprenticeship Agreement or in these regulations. When Apprentices registered in a Delaware Apprenticeship program are employed in other states, the ratio of Apprentices to Journeypersons shall be determined by the ratios established in those other states.

6.4.2 The following have been recognized to be the industry standard for the listed trades:

Ratio of Apprentice Journeypersons*

1 up to 4	Sheet Metal Worker
1 up to 3	Insulation Worker
1 up to 4	Structural Metal Worker
1 up to 3	Painters, Construction and Maintenance
1 up to 3	Asbestos Worker
1 up to 3	Industrial Maintenance Mechanic
1 up to 3	Plumbers/Pipefitters
1 up to 3	Electrician
1 up to 3	Precision Instrument Repairers
1 up to 3	Glaziers
1 up to 3	Construction Laborer
1 up to 3	Dry Wall Finisher
1 up to 3	Hard Tile Setter
1 up to 2	Roofers
1 up to 1	Sprinkler Fitters
1 up to 1	Child Care Worker
1 up to 1	Elevator Constructor

* The ratio has no effect until the second apprentice is registered. Only one Journeyperson is necessary in any trade for the first Apprentice.

6.4.3 Exceptions.

6.4.3.1 If a collective bargaining agreement stipulates a ratio of Apprentices to Journeyperson, it shall prevail provided the Bargaining Ratio is not lower than the State standard.

6.4.3.2 A deviation from the established standard may be granted by the Administrator upon written request after considering the needs of the plant and/or trade with consideration for growth, the availability of relevant training, and the opportunity for employment of skilled workers following the completion of their training. Such exception shall last no more than one year but may be renewed upon written request.

5 DE Reg. 204 (7/1/2001)

8 DE Reg. 468 (9/1/04)

6.5 A probationary period shall be in relation to the full apprenticeship term with full credit toward completion of apprenticeship.

- 6.6 Adequate and safe equipment facilities for training and supervision and safety training for Apprentices on the job and in Related Instruction are required. On-site visits may verify compliance with this section prior to the registration of any sponsor for a Delaware apprenticeship program.
- 6.7 The required minimum qualifications for persons entering an Apprentice Program must be met.
- 6.8 Apprentices must sign an Agreement. The Agreement shall directly, or by reference, incorporate the standards of the Program as part of the Agreement.
- 6.9 Advance standing or credit up to 25% OJT hours of the particular trade term in question for previously acquired experience, training skills, or aptitude for all applicants equally, with commensurate wages for any accorded progression step may be granted. The granting of a greater amount of credit shall be set at the discretion of the Administrator based on supportive documentation submitted by the Sponsor. In no case shall more than one half of the particular trade term in question be granted unless the time in question has been spent in any state or federally registered program.
- 6.10 When a registered apprentice is no longer employed by a Sponsor, the Sponsor shall determine the time and training earned during his or her employment and send notice of such progress to the Apprenticeship and Training Section of the Delaware Department of Labor and to the apprentice in writing.
- 6.11 Transfer of Employer's training obligation through the sponsoring Committee if one exists and as warranted, to another Employer with consent of the Apprentice and the Committee or Program Sponsors, with full credit to the Apprentice for satisfactory time and training earned, may be afforded with written notice to, and approval of, the Registration Agency and is evidenced by a new apprenticeship agreement.
- 6.12 These Standards shall contain a statement of assurance of qualified training personnel.
- 6.13 There will be recognition for successful completion of apprenticeship evidenced by an appropriate certificate.
- 6.14 These Standards shall contain proper identification of the Registration Agency, being the Department of Labor, Division of Industrial Affairs, Office of Apprenticeship and Training.
- 6.15 There will be a provision for the Registration, Cancellation and Deregistration of the Program, and a requirement for the prompt submission of any modification or amendment thereto.
- 6.16 There will be provisions for Registration of Agreements, modifications and amendments, notice to the Division of persons who have successfully completed Programs, and notice of Cancellations, suspensions and terminations of Agreements and causes therefore.
- 6.17 There will be a provision giving authority for the termination of an Agreement during the probationary period by either party without stated cause.
- 6.18 There will be provisions for not less than five (5) days notice to Apprentices of any proposed adverse action and cause therefore with stated opportunity to Apprentices during such period for corrective action.
- 6.19 There will be provisions for a grievance procedure, and the name and address of the appropriate authority under the program to receive, process and make disposition of complaints.
- 6.20 There will be provisions for recording and maintaining all records concerning apprenticeships as may be required by the State or Federal law.
- 6.21 There will be provisions for a participating Employer's Agreement.
- 6.22 There will be funding formula providing for the equitable participation of each participating Employer in funding of a group Program where applicable.
- 6.23 All Apprenticeship Standards must contain articles necessary to comply with federal laws, regulations and rules pertaining to apprenticeship.
- 6.24 ~~Programs and Standards of Employers and unions in other than the building and construction industry which jointly form a sponsoring entity on a multi-state basis and are registered pursuant to all requirements of this part by any recognized State apprenticeship agency shall be accorded Registration of approval reciprocity by the Delaware Department of Labor if such reciprocity is requested by the sponsoring entity. However, reciprocity will not be granted in the Building and Construction industry based on Title 29 CFR 29 Section 12(b) unless a "memorandum of understanding" has been signed by an individual state and the state of Delaware.~~

3 DE Reg. 641 (11/1/99)

9 DE Reg. 806 (11/1/05)

10 DE Reg. 1021 (12/01/06)

14 DE Reg. 51 (07/01/10)

7.0 Apprenticeship Agreement

- 7.1 The Apprenticeship Agreement shall contain:

- 7.1.1 The names and signatures of the contracting parties (Apprentice and the program Sponsor or Employer), and the signature of a parent or guardian if the Apprentice is a minor;

- 7.1.2 The date of birth of the Apprentice;
- 7.1.3 The name and address of the program Sponsor and the Registrant;
- 7.1.4 The Apprentice's social security number;
- 7.1.5 A statement of the trade or craft which the Apprentice is to be taught, and the beginning date and term (duration) of apprenticeship;
- 7.1.6 The number of hours to be spent by the Apprentice in work on the job;
- 7.1.7 The number of hours to be spent in Related and Supplemental Instruction is recommended to be not less than one hundred forty-four (144) hours per year;
- 7.1.8 Provisions relating to a specific period of probation during which the Apprenticeship Agreement may be terminated by either party to the Agreement upon written notice to the Registrant;
- 7.1.9 provisions that, after the probationary period, the Agreement may be suspended, canceled or terminated for cause, with due notice to the Apprentice and a reasonable opportunity for corrective action, and with written notice to the Apprentice and the Registrant of the final action taken;
- 7.1.10 a reference incorporating, as part of the Agreement, the standards of the Apprenticeship Program as it exists on the date of the Agreement or as it may be amended during the period of the Agreement;
- 7.1.11 a statement that the Apprentice will be accorded equal opportunity in all phases of apprenticeship employment and training without discrimination based on race, color, religion, national origin, marital status, or sex, or disability;
- 7.1.12 a statement that, if an Employer is unable to fulfill his obligation under his Agreement, the Agreement may, with consent of the Apprentice and Committee, if one exists, be transferred to another Employer under a Registered Program with written notice of the transfer to the Registrant, and with full credit to the Apprentice for satisfactory time and training earned;
- 7.1.13 the name and address of the appropriate authority, if any, designated under the program to receive, process and make disposition of controversies or differences which cannot be adjusted locally or resolved in accordance with the established trade procedure or applicable collective bargaining provisions;
- 7.1.14 a statement setting forth a schedule of work processes in the trade or industry in which the Apprentice is to be trained and the approximate time to be spent at each process;
- 7.1.15 a statement of the graduated scale of wages to be paid the Apprentice and whether or not the required school time shall be compensated;
- 7.1.16 a statement that in the event the Registration of the Program has been Canceled or revoked, the Apprentice will be notified within fifteen (15) days of the event.

3 DE Reg. 641 (11/1/99)

8.0 Complaints

- 8.1 Any controversy or difference arising under an Agreement which cannot be resolved locally, or which is not covered by a collective bargaining agreement, may be submitted by an Apprentice or his/her authorized representative to the State Registration Agency for review. Matters covered by a collective bargaining agreement, however, shall be submitted and processed in accordance with the procedures therein provided.
- 8.2 The complaint shall be in writing, signed by the complainant, and submitted by the Apprentice or his/her authorized representative within sixty (60) days of receipt of local decision. The complaint shall set forth the specific problem, including all relevant facts and circumstances. Copies of all pertinent documents and correspondence shall accompany the complaint.

3 DE Reg. 641 (11/1/99)

9.0 Related Instruction Requirement

- 9.1 Regulations concerning Apprentices "attendance and tardiness" policy for related instruction.
 - 9.1.1 A registered Apprentice who misses six (6) classes while enrolled in a related studies program at any of the vocational schools in the three (3) counties of the State of Delaware will be dropped from school. This will result in their Apprenticeship Agreement being terminated by their Sponsor and/or State Registration Agency.
 - 9.1.2 An absence will result when an Apprentice either arrives late or leaves early three (3) times. However, School District Officials may bring to the Administrator's attention, individual cases that may have experienced extenuating circumstances. With the Administrator's approval, such individuals may be granted exemption from this attendance policy.
 - 9.1.3 Courses of fewer sessions will be prorated. Instructors will inform Apprentices of allowable absences.

- 9.1.4 If you are a Registered Apprentice who is enrolled through a trade union, trade society or any other organization that stipulates attendance rules more stringent than the above, then you are required to follow those regulations.
- 9.1.5 Related Instruction that is delivered through a state approved "in-house program", correspondence courses or other systems of equivalent value will require the Apprentice to produce a document detailing satisfactory participation and completion.

3 DE Reg. 641 (11/1/99)

10 DE Reg. 1021 (12/01/06)

10.0 Deregistration by State Registered Program

- 10.1 It is the policy of this State to discourage violations of the law or these rules and regulations by limiting or revoking the privilege to operate programs when Sponsors demonstrate an indifference to these requirements.
- 10.2 Where it appears to the Administrator that a program is not being operated in accordance with federal or state law or these rules and regulations, the Administrator shall so notify the Sponsor in writing stating the deficiency and providing a period for corrective action not to exceed 10 days. Such notice shall be sent by certified mail, return receipt requested. The Sponsor shall respond in writing to the letter within 10 days of receipt.
- 10.3 If the Sponsor fails to correct a deficiency after notice by the Administrator under 10.2, deregistration proceedings will be undertaken.
 - 10.3.1 Voluntary deregistration is available to a Sponsor upon written request to the Administrator. Within fifteen (15) working days of the effective date of deregistration demonstrated by the acknowledgment of the Administrator, the Sponsor must notify all Apprentices of such deregistration, the effective date, and that the deregistration automatically deprives the apprentice of his/her individual registration.
 - 10.3.2 Involuntary deregistration is initiated by the Administrator as follows:
 - 10.3.2.1 If the Sponsor fails to respond to the notice of deficiency, the Administrator shall advise the Sponsor by certified mail, return receipt requested, that the program will be recommended for deregistration unless within 10 days the Sponsor requests a hearing.
 - 10.3.2.2 If the response by the Sponsor to the notice is insufficient to correct the deficiency, the Administrator shall so advise the sponsor by certified mail, return receipt requested. Said letter shall advise the Sponsor that the program will be recommended for deregistration unless within 10 days the Sponsor requests a hearing.
 - 10.3.2.3 If no hearing is timely requested, the Administrator will recommend deregistration to the Secretary. The decision of the Secretary is final and no further appeal is provided. The sponsor will be notified of the effective date of deregistration. In addition, a decision of deregistration and its effective date will be mailed to all Apprentices registered in the program.
 - 10.3.2.4 All recommendations for involuntary deregistration as a result of violations of the Rules and Regulations will include a recommended period of deregistration of up to three (3) years.

3 DE Reg. 641 (11/1/99)

4 DE Reg. 1852 (5/1/01)

11.0 Hearings on Deregistration

- 11.1 A deregistration hearing will be scheduled before the Council on Apprenticeship and Training within 45 days of receipt of a timely request by the Sponsor.
- 11.2 Notice shall be in accord with the provisions of the Administrative Procedures Act.
- 11.3 Each party shall have the right to present evidence, to be represented by counsel, and to cross-examine witnesses.
- 11.4 A record from which a verbatim transcript can be prepared shall be made of the hearing. A party may request a transcript at his or her expense.
- 11.5 At the conclusion of the hearing, the Council will determine, by a majority of the quorum, its recommendation to the Secretary.
- 11.6 The Council shall submit its recommended findings of fact, conclusions of law, and decision to the Secretary. Said recommendations may be authenticated by the chairperson.
- 11.7 The decision of the Secretary is final and no further appeal is provided. The decision will be sent by certified mail to the Sponsor. In addition, a decision of deregistration and its effective date will be mailed to all Apprentices registered in the program.

3 DE Reg. 641 (11/1/99)

4 DE Reg. 1852 (5/1/01)

12.0 Reinstatement of Program Registration

- ~~12.1~~ Program deregistered pursuant to this chapter may be reinstated upon presentation of adequate evidence that the Program is operating in accordance with this chapter. Such evidence shall be presented to the Apprenticeship and Training Council, which shall make a recommendation based on said evidence, past records and any other data deemed appropriate. After such presentation, the Council shall make a recommendation to the Secretary as to whether the Program should be reinstated. The Secretary's decision shall be final and binding.

3 DE Reg. 641 (11/1/99)

13.0 Program Registration Denial

- 13.1 Grounds for denial of program registration include, but are not limited to, violations of apprenticeship standards or of federal or state labor laws in any state by the applicant; failure to comply with on-site visit requests; and failure to reimburse for the costs of on-site visits.
- 13.2 Any proposed Sponsor may, within fifteen (15) working days, request a hearing before the Apprenticeship and Training Council. If the proposed Sponsor requests a hearing, the Administrator shall advise the chairman of the Council, who shall convene the Council, for a hearing for the purpose of making a determination on the basis of the record and proposed findings of the Office of Apprenticeship and Training. This determination shall be subject to review and approval by the Secretary, whose decision shall be final and binding.
- 13.3 An applicant who has been denied registration of a program may reapply by demonstrating to the Council at a hearing that the deficiencies that led to the denial of registration have been remedied and the program will operate in accordance with all applicable laws and rules in a manner that safeguards the welfare of the apprentices. The Council will make a recommendation to the Secretary, whose decision shall be final and binding.

9 DE Reg. 806 (11/1/05)

14.0 Amendment to the Regulations in this Part

- ~~14.1~~ The Secretary may, at any time upon his/her own motion or upon written request of any interested person setting forth reasonable grounds therefore, and after opportunity has been given to interested persons to present their views, amend or revoke any of the terms of the regulations contained in this part.

3 DE Reg. 641 (11/1/99)

19 DE Reg. 194 (09/01/15) (Final)