

**DEPARTMENT OF LABOR
COUNCIL ON APPRENTICESHIP & TRAINING
Statutory Authority: 19 Delaware Code,
Section 202(a) (19 Del.C. §202(a))**

Notice of Proposed Rule Changes:

106.5 Standards of Apprenticeship

PROPOSED

Summary:

The Council on Apprenticeship and Training proposes to recommend to the Secretary of Labor a change to Rule 106.5(D) of the Rules and Regulations Relating to Delaware Apprenticeship and Training Law. The proposal would change the standard ratio of apprentice to journeyman in the plumber/pipefitter trade. The current ratio of 1 to 5 would be a more liberal 1 to 3.

Comments:

The proposed rule is published in the Delaware Register of Regulations and two newspapers. Copies are available at the Department of Labor, Division of Employment and Training, 4425 N. Market Street, Wilmington, DE 19802. A copy can be obtained by contacting Kevin Calio, Director of Apprenticeship and Training, at (303) 761-8118. Interested persons can submit written comment to the Council on Apprenticeship and Training c/o Kevin Calio at the above address until the time set for the public hearing.

Public Hearing:

A public hearing will be held at at 10:00 a.m. on August 3, 2004 at the Department of Labor, Fox Valley Annex, 4425 N. Market Street, Wilmington, DE 19802 to receive comment. The Council will consider recommending the change to the Secretary of Labor at a meeting following the public hearing,

Proposed Recommendation

106.5 Standards of Apprenticeship

The following standards are prescribed for a Program.

(A) 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.

(B) The standards must contain provisions concerning the following:

- (1) The employment and training of the Apprentice in a skilled occupation;
- (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;
- (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;
- (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;
- (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. 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 & Training;
- (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 Journeyman's hourly wage;
- (7) Minimum Wage Progression for 1 through 7 year Apprentice Program as follows:

- 1) 1 to 7 year programs
- 2) starting pay must be at least minimum wage
- 3) final period must be at least 85%

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

1st 1,000 hours: 40%
 2nd 1,000 hours: 85%

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

1st 1,000 hours: 40%
 2nd 1,000 hours: 51%
 3rd 1,000 hours: 63%
 4th 1,000 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%

(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;

(9) That the established Journey person'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 Journey person'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.

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;

(10) That the established Journey person'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 Journey persons shall be receiving wages at least in the amount set for Journey persons in their individual program standards, or are qualified to perform as Journey persons and must be paid at least the minimum journey person rate;

(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 Journey person 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.

(C) 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.

(D) The ratio of Apprentices to Journey persons should be consistent with proper supervision, training and continuity of employment or applicable provisions in collective bargaining agreements.

(1) The ratio of Apprentices to Journey persons shall be one Apprentice up to each five (5) Journey persons employed by the prospective Sponsor unless a different ration based on an industry standard is contained in the signed Standards of Apprenticeship Agreement.

(2) The following have been recognized to be the industry standard for the listed trades:

Ratio of Apprentice Journey persons*	
1 up to 4	Sheet Metal Worker
1 up to 4	Insulation Worker
1 up to 4	Asbestos Worker
1 up to 3	Industrial Maintenance Mechanic
<u>1 up to 3</u>	<u>Plumbers/Pipefitters</u>
1 up to 3	Electrician
1 up to 3	Precision Instrument Repairers
1 up to 3	Glaziers
1 up to 2	Roofers
1 up to 1	Sprinkler Fitters

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

(3) Exceptions.

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

b. 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)

(E) At least forty (40) percent of all Apprentices registered must complete training. Apprentices who voluntarily terminate their apprenticeships or employment shall not be counted in reference to this section. Programs with fewer than five (5) Apprentices shall not be required to comply with this part.

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

(G) Adequate and safe equipment facilities for training and supervision and safety training for Apprentices on the job and in Related Instruction are required.

(H) The required minimum qualifications for persons entering an Apprentice Program as defined in Section 106.2(C) must be met.

(I) Apprentices must sign an Agreement. The Agreement shall directly, or by reference, incorporate the standards of the Program as part of the Agreement.

(J) 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.

(K) 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.

(L) These Standards shall contain a statement of assurance of qualified training personnel.

(M) There will be recognition for successful completion of apprenticeship evidenced by an appropriate certificate.

(N) These Standards shall contain proper identification of the Registration Agency, being the Department of Labor, Division of Employment & Training, Office of Apprenticeship & Training.

(O) 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.

(P) 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.

(Q) There will be a provision giving authority for the termination of an Agreement during the probationary period by either party without stated cause.

(R) 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.

(S) 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.

(T) There will be provisions for recording and maintaining all records concerning apprenticeships as may be required by the State or Federal law.

(U) There will be provisions for a participating Employer's Agreement.

(V) There will be funding formula providing for the equitable participation of each participating Employer in funding of a group Program where applicable.

(W) All Apprenticeship Standards must contain articles necessary to comply with federal laws, regulations and rules pertaining to apprenticeship.

(X) 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)

*** PLEASE NOTE: AS THE REST OF THE REGULATION WAS NOT AFFECTED, IT IS NOT BEING REPRODUCED HERE.
8 DE Reg. 65 (7/1/04)**