

NEW YORK STATE APPRENTICESHIP TRAINING

Labor Law Article 23

12 NYCRR Part 601

Phases II and III changes

December 6, 2010

Comment Period:

1. Final version of NYS regulations published in State Register on November 24, 2010.
2. 45 day Formal comment period expires January 10, 2011.

Final version contains additional requirements for all State Agencies to Comply with Federal Regulations [29 CFR Part 29] – Significant changes and additions include:

1. Definitions –new definitions for “Apprentice Probation,” “Approach,” “Competency,” “Completion Rate,” “Reciprocal Approval,” and “Transfer” added to conform to Federal requirements.

2. Eligibility:

- ❑ Apprentice application fees may be charged but cannot exceed \$25, must include a waiver in cases of financial need, may not exceed actual costs, and must receive prior approval from the Department for each recruitment;
- ❑ Sponsors must have a permanent facility in NYS equipped to train apprentices; and
- ❑ New Sponsors must identify all signatories.

3. Application Procedures:

- ❑ All applicants subject to due diligence review;
- ❑ Incomplete applications may be re-submitted within 60 days;
- ❑ Group programs to provide copy of CBA or Membership Agreement or DOL Form AT-701 on request;
- ❑ Denial of application may be appealed to Commissioner within 30 days.

4. 30 day public comment period after posting on DOL website for:

- New applications
- Applications for reciprocal approval;
- Proposed new trades;
- Training outlines for new approaches; and
- Training outline updates.

5. Apprentice Registration:

- ❑ Sponsors of new programs must register apprentices within six months of approval;
- ❑ Two year program probation begins when first apprentice is registered.
- ❑ Note: A new AT-401 is being developed.

Program Standards:

1. Related Instruction:

- Minimum of 144 hours;
- Identify RI provider(s) for length of the program;
- Modifications to the RI provider must be submitted within 30 days for approval;
- Use of electronic media must be appropriate for that trade.

2. Advanced credit must be documented in all cases.
3. Modifications to essential elements of Program must have DOL approval; minor changes must be submitted within 30 days.
4. Apprentice registrations, cancellations, transfers and completions must be submitted to DOL within 30 days.

5. Transfer of Apprentices:
 - Intra-program – re-assigned to another signatory – Apprentice approval not required;
 - Inter-program – requires consent of Apprentice & new Sponsor, copies of OJT and RI records to apprentice, termination of old registration with DOL, and a new registration with DOL.
6. Sponsors who add or remove signatories must notify DOL within 90 days.

Approaches to Training: Time-Based; Competency and Hybrid Methods:

1. Approach proposed by Sponsor subject to DOL approval; sponsor may use only one approach for each program.
2. If approach is already recognized by USDOL within trade – DOL will recognize approach for that trade if that trade is offered in NY as a time-based.
3. If approach not recognized by USDOL, DOL will review to see if approach is appropriate for that trade.
4. DOL will develop training outline for skills and instruction necessary to attain competency in that trade.
5. Sponsor will be responsible for independently testing for competency including testing costs.

Time Based Approach:

1. Minimum of 4000 hours/2000 hours in a **New Trade** subject to DOL approval;
2. 144 hours of Related Instruction;
3. Documentation of on-the-job training, Related Instruction and Prior Credit.

Competency-Based Training:

1. Length - determined by equivalent Time-based approach;
2. May be completed in less time;
3. Sponsor submits the following with application:
 - Proposed training outline for Work Processes and Related Instruction;
 - Proof of nationally/industry recognized testing for evaluating hands-on and written proficiency;
 - Identification of qualified third-party to measure hands-on and written proficiency;
4. Successful completion of skills and Related Instruction testing will allow Apprentice to advance to the next skill.
5. Documentation of testing and the results must be thorough and complete.

Hybrid:

1. Combination of Competency –Based and Time-Based methods;
2. Use Competency model, but must first meet the minimum number of on-the-job learning hours for each skill before competency testing for that skill can take place;
3. Documentation includes: blue book, or approved equivalent, recording of on-the-job learning hours; and detailed and complete records of the hands-on skill competency testing and related instruction proficiency.

Reciprocal Approval

1. Limited only to programs only permanent or passed probation with federal Office of Apprenticeship or a state apprenticeship office registered with USDOL;
2. Allows apprentices on construction projects that are funded, at least in part, with federal money;
3. Apprentices and signatories must be identified to NYSDOL before they perform construction work in NYS;
4. Where approval is granted, sponsor must comply with NY wage rates and apprentice ratios.

Reciprocal Approval Procedure:

1. Sponsor must submit application requesting reciprocal approval;
2. Original registration agency must verify information on application that program is in good standing;
3. Must provide proof of insurance coverage for UI, Disability, and Workers' Compensation;
4. Must identify apprentices and qualified signatories;
5. Must identify method of providing related instruction;
6. Must re-certify every two years;
7. NY may withhold Reciprocal Approval for sponsors who have been found to have violated state or federal wage laws, OSHA, working unregistered apprentices or out of ratio, etc.

Voluntary and Formal Deregistration:

1. Adds:

- Sponsors not registering an apprentice within six (6) months of Program approval shall be deemed Deregistered;
- Programs showing no substantial improvement in areas requiring corrective action may be formally deregistered;
- Prior notice to Apprentices for voluntary deregistrations.

2. Effects of Deregistration:

- Sponsors formally deregistered, and their signatories, may not re-apply for registration for a 3-year period; EXCEPT signatories not involved in the issue leading to deregistration may become signatory to another program;
- Programs deemed deregistered for failing to register an apprentice and programs who voluntary deregister after having been served with a Notice of Formal Deregistration may not re-apply for a 1-year period.

Comments:

Submit comments by January 10, 2011 to:

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-or-

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