



# APPRENTICESHIP RULES

## CHAPTER 296-05 WAC



APPRENTICESHIP SECTION

SPECIALTY COMPLIANCE SERVICES DIVISION

DEPARTMENT OF LABOR AND INDUSTRIES

Effective: January 17, 2002

Revised: January 1, 2008

(Last edited: July 25, 2008)

# CHAPTER 296-05 WAC, APPRENTICESHIP RULES

## Table of Contents

SECTION	TITLE	PAGE
WAC 296-05-001	Purpose, scope, and authority.	1
WAC 296-05-003	Definitions.	1
WAC 296-05-005	Rule development.	4
WAC 296-05-007	Rules of procedure.	5
WAC 296-05-008	Process for objections to apprenticeship program standards	5
WAC 296-05-009	Complaint review procedures.	6
WAC 296-05-011	Compliance reviews.	7
WAC 296-05-013	Sanctions for noncompliance.	8
<b>Part A -- WSATC Members -- Composition, Officers, and Duties</b>		
WAC 296-05-100	WSATC composition.	9
WAC 296-05-103	Officers.	9
WAC 296-05-105	Officer duties.	9
WAC 296-05-107	Additional duties for the supervisor-administrator of WSATC.	10
WAC 296-05-109	Merit awards.	10
<b>Part B -- WSATC Meetings -- Types, Procedures, and Conduct</b>		
WAC 296-05-200	Regular Meetings.	11
WAC 296-05-203	Special Meetings.	11
WAC 296-05-205	Petitions, requests, and correspondence submitted to the WSATC.	12
WAC 296-05-207	Other regulations that apply to council meeting conduct.	12
WAC 296-05-209	Voting.	12
WAC 296-05-211	Rules of order.	13
WAC 296-05-213	Retroactivity.	13
<b>Part C -- Apprenticeship Programs -- Committee, Agreements, Types, and Recognition</b>		
WAC 296-05-300	Apprenticeship and training programs - Approval.	14
WAC 296-05-302	Apprenticeship committee/program approval process.	15
WAC 296-05-303	Apprenticeship committees - Duties and responsibilities.	16
WAC 296-05-305	Apprenticeable occupations.	17
WAC 296-05-307	Types of apprenticeship agreements recognized by the WSATC.	18
WAC 296-05-309	Apprenticeship programs approved by the WSATC.	18
WAC 296-05-311	On-the-job training programs.	19
WAC 296-05-313	Apprenticeship committees - Composition.	19
WAC 296-05-315	Nonjoint and waiver committees - Additional requirements.	19

WAC 296-05-316	Apprenticeship agreements - Standards requirements.	19
WAC 296-05-317	Related/supplemental instruction.	23
WAC 296-05-318	Records required by the WSATC.	23
WAC 296-05-319	Apprenticeship agreement - Individual registration.	24
WAC 296-05-321	Apprenticeship agreement - Cancellation.	24
WAC 296-05-323	Certificate of completion.	24
WAC 296-05-325	Union waiver.	25
WAC 296-05-327	Reciprocity.	25
<b>Part D -- Equal Employment Opportunity in Apprenticeship</b>		
WAC 296-05-400	Equal employment opportunity plan -- Purpose, scope, and authority.	26
WAC 296-05-402	Equal employment opportunity process.	27
WAC 296-05-403	Definitions for Part D.	28
WAC 296-05-405	Exceptions to the requirement for adopting an affirmative action plan and a selection procedure.	28
WAC 296-05-407	Apprenticeship program sponsor's obligations.	28
WAC 296-05-409	Affirmative action information required by WSATC.	29
WAC 296-05-411	Affirmative action plan.	29
WAC 296-05-413	Outreach and recruitment requirements - Specific.	29
WAC 296-05-415	Affirmative action goals and timetables.	31
WAC 296-05-417	Selection of apprentices for approved apprenticeship programs.	31
WAC 296-05-419	Qualification standards.	33
WAC 296-05-427	Notification requirements.	34
WAC 296-05-429	Existing lists of eligibles and public notice.	35
WAC 296-05-431	Affirmative action records of the WSATC retained by the department.	35
WAC 296-05-433	Enrollment deficiency analysis.	35
WAC 296-05-435	Data and information.	36
WAC 296-05-437	Developing and evaluating enrollment goals and timetables.	36
WAC 296-05-439	Failure to meet goals and timetables.	37
WAC 296-05-441	Noncompliance with federal and state equal opportunity requirements.	37
WAC 296-05-443	Complaint filing.	37
WAC 296-05-445	Private review panels.	38
WAC 296-05-447	Processing of complaints.	38
WAC 296-05-449	Program registration cancellation procedures.	39
WAC 296-05-451	Reinstatement of program registration.	39
WAC 296-05-453	Adoption of consistent state plans.	39
WAC 296-05-455	Intimidatory or retaliatory acts.	39
WAC 296-05-457	Exemptions.	40

# CHAPTER 296-05 WAC

## APPRENTICESHIP RULES

### 296-05-001 Purpose, scope, and authority.

- (1) The Washington State Apprenticeship and Training Act (chapter 49.04 RCW) establishes the Washington state apprenticeship and training council (WSATC) and designates as its administrative arm the apprenticeship section of the department of labor and industries. The WSATC, acting in compliance with chapter 49.04 RCW, 29 CFR Part 29 and 29 CFR Part 30, has adopted these rules to:
  - (a) Establish operating procedures for the WSATC
  - (b) Establish standards for apprenticeship programs;
  - (c) Implement the intent and purpose of the Washington State Apprenticeship and Training Act;
  - (d) Perform other duties directed by the statute;
  - (e) Promote labor standards and the registration of approved programs to protect the welfare of the apprentice; and
  - (f) Encourage the establishment of apprenticeship programs and committees.
- (2) These rules are necessary to:
  - (a) Strengthen apprenticeship and training in the state of Washington;
  - (b) Facilitate approval and registration of apprenticeship and training programs;
  - (c) Explain factors related to apprenticeship and training in Washington state and federal laws;
  - (d) Establish procedures for presenting matters to the WSATC;
  - (e) Govern the WSATC's operation and ability to carry out its statutory obligations;
  - (f) Establish a specific procedure to resolve an impasse if a tie vote occurs on the WSATC; and
  - (g) Regulate registered apprenticeship and training programs.

### 296-05-003 Definitions.

The following definitions apply to this chapter:

**Adjudicative proceeding:** A proceeding before the WSATC in which an opportunity for a hearing before the WSATC is authorized by chapter 49.04 RCW or these rules before or after the entry of an order by the WSATC.

**Apprentice:** Is an individual who is employed to learn an apprenticeable occupation and is registered with a sponsor in an approved apprenticeship program according to chapter 49.04 RCW and these rules.

**Apprenticeable occupation:** Is a skilled trade(s) or craft(s) which has been recognized by the United States Department of Labor, Office of Apprenticeship, Training, Employer, and Labor Services or the WSATC and meets the criteria established in WAC 296-05-305.

**Apprenticeship agreement:** A written agreement between an apprentice and either the apprentice's employer(s), or an apprenticeship committee acting as agent for employer(s), containing the terms and conditions of the employment and training

of the apprentice.

**Apprenticeship committee:** A quasi-public entity approved by the WSATC to perform apprenticeship and training services for employers and employees.

**Apprenticeship program:** A plan for administering an apprenticeship agreement(s).

The plan must contain all terms and conditions for the qualification, recruitment, selection, employment and training of apprentices, including such matters as the requirement for a written apprenticeship agreement.

**Approved:** Approved by the WSATC or a person or entity authorized by the WSATC to do so.

**CFR:** The Code of Federal Regulations.

**Cancellation:** The termination of the registration or approval status of a program at the request of the supervisor or sponsor. Cancellation also refers to the termination of an apprenticeship agreement at the request of the apprentice, supervisor, or sponsor.

**Certificate of completion:** A record of the successful completion of a term of apprenticeship (see WAC 296-05-323).

**Certification:** Written approval by the WSATC of:

- (1) A set of apprenticeship standards established by an apprenticeship program sponsor and substantially conforming to the standards established by the WSATC.
- (2) An individual as eligible for probationary employment as an apprentice under a registered apprenticeship program.

**Committee program:** All apprenticeship programs as further described in WAC 296-05-309.

**Competent instructor:** An instructor who has demonstrated a satisfactory employment performance in his/her occupation or trade for a minimum of three years beyond the customary learning period for that trade or occupation.

**Current instruction:** The related/supplemental instructional content is and remains reasonably consistent with the latest trade practices, improvements, and technical advances.

**Department:** The department of labor and industries.

**Employer:** Any person or organization employing an apprentice whether or not such person or organization is a party to an apprenticeship agreement with the apprentice. "Employer" includes both union and open shop employers.

**File:** To send to:

Supervisor of Apprenticeship and Training  
Department of Labor and Industries  
Apprenticeship Section  
Post Office Box 44530  
Olympia, Washington 98504-4530

Or deliver to and receipt at:

Department of Labor and Industries  
7273 Linderson Way SE  
Tumwater, Washington 98501

**Individual agreement:** A written agreement between an apprentice and/or trainee and

either the apprentice's employer or an apprenticeship committee acting as agent for the employer.

**Industry wide standards:** The current, acceptable trade practices, including technological advancements, that are being used in the different trades.

**Journey level:** An individual who has sufficient skills and knowledge of a trade, craft, or occupation, either through formal apprenticeship training or through practical on-the-job work experience, to be recognized by a state or federal registration agency and/or an industry as being fully qualified to perform the work of the trade, craft, or occupation. Practical experience must be equal to or greater than the term of apprenticeship.

**On-the-job training program:** A program that is set up in the same manner as an apprenticeship program with any exceptions authorized by the WSATC and as further described in WAC 296-05-311.

**Notice:** Where not otherwise specified, notice means posted in United States mail to the last known address of the person to be notified. Notice may be given by telefacsimile where copies are mailed simultaneously or by a commercial parcel delivery company.

**Petitions, requests, and correspondence:** Any written business brought before the WSATC (examples may include: (1) Requests for new committees; (2) Requests for revisions to the standards; and (3) Appeals).

**Probation:**

- (1) **Initial:** The period following the apprentice's acceptance into the program which is limited in time by these rules and during which the apprentice's appeal rights are impaired.
- (2) **Disciplinary:** A time assessed when the apprentice's progress is not satisfactory. During this time the program sponsor may withhold periodic wage advancements, suspend or cancel the apprenticeship agreement, or take further disciplinary action. A disciplinary probation may only be assessed after the initial probation is completed. During the disciplinary probation, the apprentice has the right to file an appeal of the committee's action with the WSATC (as described in WAC 296-05-009).

**RCW:** The Revised Code of Washington.

**Registration:** Maintaining the records of apprenticeship and training agreements and of training standards.

**Regular quarterly meeting:** A public meeting held quarterly by the WSATC as described in WAC 296-05-200.

**Related/supplemental instruction:** Is instruction approved by the program sponsor and taught by an instructor approved by the program sponsor. Instructors must be competent in his/her trade or occupation. A sponsor must review related/supplemental instruction annually to insure that it is relevant and current.

**Relevant instruction:** Is related/supplemental instructional content that is directly required in and applicable to the performance of the apprentice's work. Relevant does not mean academic course content taught by a solely academically qualified instructor except for courses approved by the committee or specified by state law.

**Secretary:** The individual appointed by the director of the department according to RCW 49.04.030.

**Special meeting:** A public meeting of the council as described in WAC 296-05-203.

**Sponsor:** Any person, firm, association, committee, or organization operating an

apprenticeship and training program and in whose name the program is registered or is to be registered.

**Standards:** Is a written agreement containing specific provisions for operation and administration of the apprenticeship program and all terms and conditions for the qualifications, recruitment, selection, employment, and training of apprentices, as further defined in WAC 296-05-316.

**Supervision:** The necessary education, assistance, and control provided by a journey-level employee that is on the same job site at least seventy-five percent of each working day, unless otherwise approved by the WSATC.

**Supervisor:** The individual appointed by the director of the department according to RCW 49.04.030 who acts as the secretary of the WSATC. Where these rules indicate a duty of the supervisor or secretary of the WSATC, the supervisor may designate a department of labor and industries' employee to assist in the performance of those duties subject to the supervisor's oversight and direction.

**Trade:** Any apprenticeable occupation defined by the apprenticeship, training, employer and labor services section of the United States Department of Labor and these rules.

**Trainee:** An individual registered with the supervisor according to WAC 296-05-311.

**Training agent:** Employer of registered apprentices approved by the program sponsor to furnish on-the-job training to satisfy the approved apprenticeship program standards who agrees to employ registered apprentices in that work process. The training agent shall use only registered apprentices to perform the work processes of the approved program standards.

**Training agreement:** A written agreement between a training agent and a program sponsor that contains the provisions of the apprenticeship program applicable to the training agent and the duties of the training agent in providing on-the-job training.

**WAC:** The Washington Administrative Code.

**WSATC:** The Washington state apprenticeship and training council.

#### **296-05-005 Rule development.**

- (1) In developing and adopting rules, the WSATC:
  - (a) Seeks the cooperation and assistance of all interested persons, organizations, and agencies affected by its rules.
  - (b) Promotes the operation of apprenticeship programs to satisfy the needs of employers and employees for high quality training.
  - (c) Recognizes that rapid economic and technological changes require that workers must be trained to meet the demands of a changing marketplace.
  - (d) Recognizes employers will benefit if graduates of state approved apprenticeship programs are skilled workers trained to industry wide standards rather than the exclusive standards of an individual employer or group of employers.
  - (e) Acknowledges that approved apprenticeship programs should be organized and administered to assure the maximum protection of apprentices' rights.
  - (f) Recognizes that the number of apprentices in a trade or group of trades in any geographic area must be sufficient to meet the needs of all employers and not be so large as to create an oversupply of apprentices.

- (g) Promotes comprehensive training and a variety of work experiences relevant to the occupations. Seeks to assure that during the approval process all apprenticeship standards are open to all employers on an equal and nondiscriminatory basis.
  - (h) Recognizes that quality training, equal treatment of apprentices, and efficient delivery of apprenticeship training are best provided by registered apprenticeship programs.
- (2) All amendments to this chapter must be developed and adopted according to the provisions of chapter 49.04 RCW, Apprenticeship Act; chapter 34.05 RCW, Administrative Procedure Act; and Executive Order 97-02. All proposed amendments to these rules must be approved by a two-thirds majority vote of regular WSATC members before they are published for public hearing. All WSATC members, the apprenticeship supervisor, committees and any other interested parties must be promptly notified, in writing, of any proposed rule amendments, public hearings on proposed rule amendments and new rule adoptions.
  - (3) The specific procedure(s) and form(s) for petitions requesting the making, amendment, or repeal of a rule are in chapter 34.05 RCW, as are the specific procedure and form for requesting declaratory rulings.
  - (4) Such petitions and requests must be addressed to:

The Washington State Apprenticeship and Training Council  
 Attention: Supervisor of Apprenticeship and Training  
 Department of Labor and Industries  
 Post Office Box 44530  
 Olympia, Washington 98504-4530

**296-05-007 Rules of procedure.**

All hearings and adjudication, under chapter 49.04 RCW and these rules, shall be conducted according to chapter 34.05 RCW, the Administrative Procedure Act and chapter 10-08 WAC, Model Rules of Procedure. The chair (or designee) is the presiding officer for adjudicative proceedings, held before the WSATC. The WSATC may either adjudicate matter(s) itself, or refer matter(s) to the office of administrative hearings for initial adjudication.

If the initial adjudication is before the WSATC, the WSATC will enter a final order. If the initial adjudication has been held at the office of administrative hearings, the administrative hearings judge shall issue an initial order. The WSATC, upon review of the initial order shall enter the final order. An initial order shall become final without further WSATC action five working days after the next regular quarterly meeting unless:

- (1) The WSATC upon its own motion determines that the initial order should be reviewed; or
- (2) A party to the proceedings files a petition for review of the initial order.

The WSATC may appoint a person to review the initial order and prepare and enter the final WSATC order.

**296-05-008 Process for objections to apprenticeship program standards.**

- (1) Objections to apprenticeship program standards shall be submitted to the department with a copy to the program sponsor for WSATC consideration twenty days prior to the regular quarterly WSATC meeting on a form provided by the department and approved by the WSATC.
- (2) The department shall notify the program sponsor no more than two business days after the department receives the objection.
- (3) In accordance with WAC 296-05-007, the WSATC may either adjudicate matter(s) itself or refer matter(s) to the office of administrative hearings for initial adjudication.
  - (a) If the WSATC decides to adjudicate all or part of the objections to the apprenticeship program standards, the individual(s) submitting the objections shall present the objections at the regular quarterly WSATC meeting or at the special WSATC meeting convened for purposes of hearing the objections. The department shall notify the competitor making the objections and the program sponsor that the objection is on the agenda for consideration and give their recommendation ten days prior to the WSATC meeting.
  - (b) If the WSATC decides to refer all or part of the objections to the office of administrative hearings, the WSATC shall identify the specific matters that the WSATC is requesting the office of administrative hearings to provide findings and conclusions for the initial order.
- (4) The department may attempt to facilitate a resolution to any objections during the process identified in this section.

**Note:** Per WAC 296-05-207, the approval or disapproval of committee programs, plant programs or amendments to those programs can only occur at regular quarterly meetings.

**296-05-009 Complaint review procedures.**

If a local committee or other organization administering the agreement cannot satisfactorily resolve a complaint, any apprentice who has completed his/her initial probationary period may submit the complaint to the apprenticeship program for resolution. Complaints that involve matters covered by a collective bargaining agreement are not subject to the complaint review procedures in this section. The investigation or review of any controversy by the supervisor or the WSATC will not affect any action taken or decision made by a committee or other organization until a final decision resolving the matter is issued.

- (1) Within thirty days of the action leading to the complaint, the apprentice must request the local committee or other organization to reconsider action.
- (2) The local committee or other organization must, within thirty days of the apprentice's request, provide written notification to the apprentice of its decision on the request for reconsideration. This notification shall be considered the final action of the committee.
- (3) If the apprentice chooses to pursue the complaint further, the apprentice must

submit a written complaint describing the controversy to the supervisor of the apprenticeship division within thirty days of the final action taken on the matter by the local committee or other organization. The written complaint must be specific and include all relevant facts and circumstances contributing to the complaint. Any documents or correspondence relevant to the complaint must be attached to the complaint. The apprentice must send a copy of the complaint to the interested local committee or other organization.

- (4) The supervisor must investigate complaints received from an apprentice. The supervisor must complete the investigation within thirty working days. During the investigation, the supervisor must attempt to effect a settlement between the parties. During the investigation the apprentice and the committee or other organization must fully cooperate with the supervisor by providing any relevant information or documents requested. The supervisor may delegate the investigation to any employee in the apprenticeship division. If the controversy is not settled during the investigation, the supervisor must issue a written decision resolving the controversy when the investigation is concluded.
- (5) If the apprentice, committee or other organization is dissatisfied with the decision of the supervisor, they may request the WSATC to review the decision. The request must be in writing and made within thirty days of the supervisor's decision. It must specify the reasons supporting the request. The party requesting review must provide a copy of the request to the other parties involved in the controversy. The WSATC must conduct an informal hearing to consider the request for review of the supervisor's decision. Unless special circumstances dictate, the hearing must be held in conjunction with the regular quarterly meeting.

At the hearing, the WSATC must review the supervisor's decision and all records of the investigation. The WSATC may also accept testimony or documents from any person, including the supervisor and the supervisor's staff, who has knowledge relating to the controversy. Parties at the informal hearing may be represented by counsel and may, at the WSATC's discretion, present argument concerning the controversy. The WSATC must not apply formal rules of evidence.

- (6) Within thirty days after the hearing, the WSATC must issue a written decision resolving the controversy. The WSATC's decision may be to affirm the decision of the supervisor. In that case, the supervisor's decision becomes the decision of the WSATC. All parties to the informal hearing must be sent a copy of the WSATC's decision. The chair may sign the decision for the WSATC.

#### **296-05-011 Compliance reviews.**

- (1) The purpose of a compliance review is to systematically and periodically review apprenticeship programs to ensure that the sponsor is complying with the approved program standards and these rules. Compliance reviews consist of a comprehensive analysis and evaluations of each aspect of the apprenticeship program. They must include on-site investigations and audits.
- (2) A compliance review may be required:
  - (a) For all existing programs on a regular and comprehensive basis.
  - (b) When the WSATC receives a complaint, which has not been referred to a

- private review body. (See WAC 296-05-009.)
- (c) When a sponsor seeks to reregister a program.
- (d) When a sponsor seeks to register a new program.
- (3) If a compliance review indicates that the sponsor is not operating as required by these rules, the supervisor must notify the sponsor in writing of the results of the review. The supervisor must:
  - (a) Make a reasonable effort to secure voluntary compliance on the part of the program sponsor within a reasonable time before penalizing as authorized in WAC 296-05-013.
  - (b) Provide recommendations to the sponsor to assist in achieving compliance.

**296-05-013 Sanctions for noncompliance.**

The WSATC is responsible to take the necessary action to bring a noncomplying program into compliance with these rules.

When the apprenticeship supervisor, based upon a compliance review or other reason, concludes that an apprenticeship program is not in compliance with the rules of this chapter and that the sponsor will not take voluntary corrective action, the WSATC must:

- (1) Institute proceedings to withdraw the program registration;
- (2) Refer the matter to the equal employment opportunity commission;
- (3) Refer the matter to the attorney general with recommendations for the institution of a court action under Title VII of the Civil Rights Act of 1964, as amended; or
- (4) Refer the matter to the attorney general for other court action as authorized by law.

## **PART A -- WSATC MEMBERS -- COMPOSITION, OFFICERS, AND DUTIES**

### **296-05-100 WSATC composition.**

- (1) The director of the department appoints three voting representatives each from employer and employee organizations, respectively. Each member shall be appointed for a three-year term.
- (2) The governor shall appoint, subject to confirmation by the senate, a voting public member for a three-year term.
- (3) The WSATC may also include ex officio members. These members have the right to participate in the discussion of any matter before the council but they may not vote.
- (4) An appointed member shall remain on the council until replaced by a qualified successor. When a vacancy does occur, it shall be filled for the remaining portion of the vacated term.

### **296-05-103 Officers.**

- (1) To carry out the business of the WSATC and to conduct business efficiently the WSATC has three officers:
  - Chair;
  - Vice-chair; and
  - Secretary.
- (2) The chair and vice-chair shall be elected by majority vote of the WSATC members present. This election will take place in odd-numbered years at the April regular quarterly meeting. They shall hold office for a term of two years and until the successor(s) are elected, or until death, resignation, or incapacitation. The supervisor of apprenticeship shall be the secretary of the WSATC.

### **296-05-105 Officer duties.**

- (1) The chair shall preside over all meetings, conducting them in accordance with *Robert's Rules of Order* as modified by these rules and regulations. The chair may vote in all matters before the WSATC as a regular member and may participate in discussion of all matters before the WSATC. The chair may also have other powers and duties that are provided in these rules; and are usual or necessary with the office of the chair; and as provided in *Robert's Rules of Order*.
- (2) The vice-chair shall preside over all WSATC meetings in the absence of the chair. When presiding, the vice-chair shall have all of the powers and duties of the chair.
- (3) The secretary, with the assistance of a recording secretary, must take and keep minutes of all special and regular meetings on file in the supervisor's office. The secretary must forward copies of minutes of all meetings to all regular and ex officio members of the WSATC. The secretary must also make copies of the minutes of all meetings available to the public upon written request. The secretary may also have other powers and duties that are provided in these rules or are usual or customary to the office of secretary; and as provided in *Robert's Rules of Order*.

**296-05-107 Additional duties for the supervisor-administrator of WSATC.**

- (1) In addition to being the council secretary, the apprenticeship supervisor (supervisor) is the WSATC administrator. As WSATC administrator, the supervisor must:
- (a) Perform the duties listed in RCW 49.04.030;
  - (b) Register all apprenticeship agreements that comply with the rules in this chapter;
  - (c) Review apprenticeship programs and recommend cancellation of any committee program, or plant program previously registered which is not operated in conformity with its apprenticeship standards; and
  - (d) Receive all documents concerning apprenticeship or training agreements (including revisions to) or any other matters affecting apprenticeship or training.

All written correspondence to the supervisor should be addressed to:

Supervisor of Apprenticeship and Training  
Department of Labor and Industries  
Apprenticeship Section  
P.O. Box 44530  
Olympia, Washington 98504-4530

- (2) The supervisor and the supervisor's staff:
- (a) May be consulted on any matters concerning apprenticeship and training and will provide on request, any information concerning apprenticeship and training available to them.
  - (b) Will conduct systematic reviews of the operation of all programs and investigate any discrepancies between the actual and required operations of any program. The supervisor will notify the noncompliant committee of any violation.
  - (c) May recommend sanctions including cancellation of a program not in compliance with its approved program standards.
  - (d) Assists in the resolution of any complaints against committees or other organizations administering apprenticeship agreements, which have been filed with the WSATC by apprentice(s) who have completed his/her initial probationary period.
  - (e) Must investigate any discrepancies of all complaints as specified in WAC 296-05-009.
  - (f) Conducts compliance reviews as specified in WAC 296-05-011.

**296-05-109 Merit awards.**

The WSATC may issue awards when appropriate.

## **PART B -- WSATC MEETINGS -- TYPES, PROCEDURES, AND CONDUCT**

### **296-05-200 Regular meetings.**

- (1) Each year, regular meetings of the WSATC shall be convened on the third Thursday of January, April, July, and October. These regular quarterly meetings shall be held at locations within the state of Washington. All meetings are open to the general public.
- (2) Notice of each regular quarterly meeting shall be given to all:
  - WSATC members;
  - Ex officio members; and
  - Approved program sponsors.

In addition, notices of meetings may be sent to all persons, organizations, agencies, or interested parties whose presence is desired and to any newspaper, news service, television, radio station, or other interested parties who have requested notices of WSATC meetings. The supervisor must distribute the notice of the regular meeting at least thirty days prior to the meeting date.

### **296-05-203 Special meetings.**

- (1) Special meetings of the WSATC may be called at the request of the chair or by a majority of the WSATC members. To call a special meeting, a written notice of the meeting must be personally delivered or mailed to:
  - Each member of the WSATC;
  - All approved program sponsors; and
  - Each general circulation newspaper, television or radio station which has on file with the WSATC or the supervisor a written request to be notified of special meetings.In addition, notices of meetings may be sent to all persons, organizations, agencies, or interested parties whose presence is desired.
- (2) To be valid, the written notice must list the date, time and location of the meeting and specify the business to be transacted by the WSATC. The WSATC cannot take final action on any matter that is not specified in the written notice. Special meetings must be open to the general public and adhere to the same open meeting requirements that apply to the regular quarterly WSATC meetings.
- (3) Notices of special meetings must be delivered personally or by mail at least twenty-four hours before the specified time of the meeting.
- (4) The exception is when a special meeting is called to consider rule changes according to chapter 34.05 RCW. In this case, the notice of the special meeting must be delivered at least twenty days before the time specified in the notice.
- (5) If the notice requirements in this section are not followed, any action taken by the WSATC at the special meeting will be null and void. However, the notice requirements can be waived if each regular WSATC member signs a written waiver of notice, at or prior to the meeting, and files it with the supervisor. With this filing, the notice shall be considered waived by any WSATC member present when the meeting convenes. Rule changes may not be made at special meetings where the notice requirements have been waived unless the requirements of chapter 34.05 RCW have been satisfied.

**296-05-205 Petitions, requests, and correspondence submitted to the WSATC.**

- (1) For the WSATC to act upon petitions or requests at a regular quarterly meeting, the petitions or requests must be submitted in writing to the supervisor at least forty-five days prior to the date of the regular quarterly meeting. Any petitions or requests not submitted forty-five days prior to a quarterly meeting must be deferred to the next regular quarterly meeting. If a petition or request is deferred, the supervisor must notify the petitioner.
- (2) Generally, correspondence not related to apprenticeship and training agreements and meetings, petitions and requests, must be submitted in writing to the supervisor of apprenticeship at least fifteen working days before the quarterly meeting at which the WSATC's consideration is requested. However, if the WSATC determines that the correspondence is crucial to any deliberations regarding approval or disapproval of an apprenticeship agreement, the supervisor may waive this fifteen-day requirement.
- (3) Noncrucial correspondence submitted less than fifteen working days before the quarterly meeting must be considered by the WSATC at the next quarterly meeting.
- (4) When an apprenticeship committee petitions the council or the supervisor, only the signature of the elected chair and secretary of the committee shall be accepted as a valid signature unless the petitioning committee has asked the council to recognize and accept the signature of another person. A petition requesting the recognition of a signature other than that of the elected chair and secretary must be signed by a quorum of the members from the petitioning committee.

**296-05-207 Other regulations that apply to council meeting conduct.**

- (1) All council meetings must be open to the general public. Members of the public cannot be required to register his/her name, give any information, or fulfill any condition prior to attending council meetings. All council meetings must be conducted according to the provisions of chapter 42.30 RCW, the Open Public Meetings Act and chapter 34.05 RCW, the Administrative Procedure Act. The following WSATC activities must take place in open public meetings:
  - All transactions of official business;
  - All commitments or promises;
  - All collective discussions;
  - All collective decisions; and
  - All council actions.
- (2) The approval or disapproval of committee programs, plant programs, or amendments to those programs can only occur at regular quarterly meetings.

**296-05-209 Voting.**

- (1) A quorum is two-thirds of the WSATC members entitled to vote.
- (2) All council members appointed by either the director or the governor are voting members of the council. Ex officio members may not vote on any issue.
- (3) To resolve tie votes, the chair shall establish a standing tie-breaker committee. The committee shall be comprised of an employer representative, an employee

representative, and the public member on the WSATC. In case of a tie vote on any proposed standards brought before the WSATC, the tie-breaker committee shall meet or confer, review the record, and render a decision within thirty days. The supervisor or a designee of the supervisor shall act as secretary to the committee and furnish all information necessary for a decision.

**296-05-211 Rules of order.**

*Robert's Rules of Order* shall prevail at all meetings unless otherwise provided for by these rules.

**296-05-213 Retroactivity.**

The WSATC may make any action or decision which it takes retroactive to the date of the previous business session.

## PART C -- APPRENTICESHIP PROGRAMS -- COMMITTEE, AGREEMENTS, TYPES, AND RECOGNITION

### **296-05-300 Apprenticeship and training programs — Approval.**

The WSATC is the body responsible for matters concerning apprenticeship and training in the state of Washington. The principal function of the WSATC is to approve, register, and regulate apprenticeship and training agreements. Persons or organizations desiring to institute an apprenticeship or training program must follow these steps:

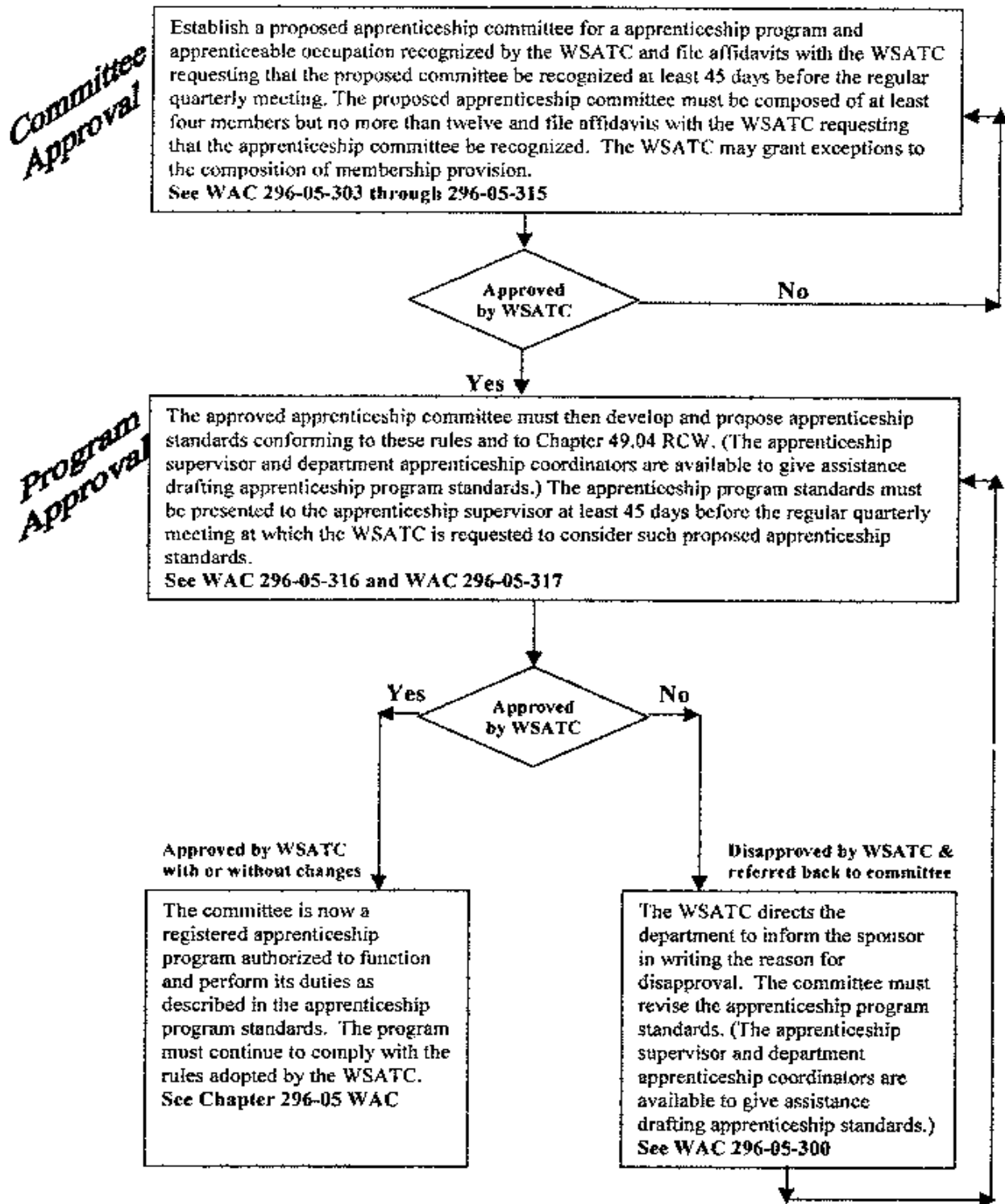
- (1) Organize an apprenticeship and training committee according to WAC 296-05-303 and file affidavits with the WSATC requesting that the committee be recognized.
- (2) Once the committee is recognized, it must propose standards conforming to these rules and to chapter 49.04 RCW. In addition, the standards must include the composition of the committee and general rules that it will follow in administering the program. (The apprenticeship supervisor and department apprenticeship coordinators are available to give assistance drafting standards.)
- (3) These standards must be presented to the supervisor at least forty-five days before the regular quarterly meeting at which the WSATC is requested to consider such proposed standards.
- (4) At the regular quarterly meeting, the proposed standards will be considered by the WSATC. The WSATC will:
  - (a) Approve;
  - (b) Approve provided the sponsor accepts the changes recommended by the WSATC; or
  - (c) Disapprove.

At the regular quarterly meeting, the WSATC will allow changes to correct clerical errors. The addition of standard language will be allowed if authorized representatives of the sponsor are present and authorized to accept changes. At the regular quarterly meeting, the WSATC will not accept changes to the format, language, or provisions of the submitted program standards which are not reasonably consistent with previously approved program standards.

If the WSATC disapproves the standards, it shall direct the department to inform the sponsor in writing the reason for disapproval.

- (5) Once the WSATC approves the program standards the committee is authorized to function and perform its duties as described in WAC 296-05-316.
- (6) If a competitor objects to the proposed standards or proposed amendment(s) to existing standards, the WSATC may either adjudicate the objection(s) with the proposed standards or refer the objection(s) with the proposed standards or proposed amendment(s) to existing standards to an administrative hearing as described in WAC 296-05-007. For purposes of this subsection "competitor" means a competing apprenticeship program in a similar or subset of the trade, craft, or occupation within the geographic area served.

## Apprenticeship Committee/Program Approval Process



Note: This flowchart represents the general process for apprenticeship committee/program approval and does not include exceptions and variations.

**296-05-303 Apprenticeship committees — Duties and responsibilities.**

- (1) Apprenticeship committees are appointed according to the provisions of RCW 49.04.040 and are composed of at least four members but no more than twelve. However, the WSATC may grant exceptions to this provision.
  - (2) Chapter 49.04 RCW, these rules, and the approved standards under which a committee operates define the duties of an apprenticeship committee. Committees shall function, administer or relinquish authority only with the consent of the WSATC.
  - (3) A committee is responsible for:
    - The day-to-day operations of the apprenticeship and training program;
    - Operating the program according to WSATC approved standards;
    - Accepting or rejecting applicants for apprenticeship or training;
    - Registering approved applicants with the supervisor;
    - Removing apprentices from the program as provided by the approved program standards;
    - Informing the supervisor of any matters that affect the standing of individuals as apprentices; and
    - Entering into agreements with other apprenticeship committees for the use of apprentices by training agents that are working outside their approved geographic area served.
- The WSATC will only recognize apprentices registered with the supervisor.
- (4) Committees approved by the WSATC must offer training opportunities on an equal basis to all employers and apprentices including all rights, appeals, and services available in the existing apprenticeship program. All existing committees that represent multiple employer or employer associations, except for committees that represent plant programs, are expected to provide access to apprenticeship and training opportunities to employers not currently participating in the program. Those opportunities must:
    - Provide training at a cost equivalent to that incurred by currently participating employers and apprentices;
    - Grant equal treatment and opportunity for all apprentices;
    - Offer reasonable working and training conditions and apply those conditions to all apprentices uniformly and equally;
    - Not require an employer to sign a collective bargaining agreement as a condition of participation in an apprenticeship program;
    - Require all employers requesting "approved training agent" status to comply with an WSATC approved agreement and all federal and state apprenticeship rules and the appropriate apprenticeship standards. (The training agent shall employ only registered apprentices when training for that occupation or trade);
    - Require sponsors, who approve "approved training agent" agreements, to furnish the department with a copy of the agreement and/or the list of approved training agents within thirty days of committee approval; and
    - Require sponsors who rescind "approved training agent" agreements and/or the list of approved training agents to notify the department that they have done so within thirty days of said action.
  - (5) Apprenticeship program sponsors may send registered apprentices to limited training agents.

This shall be called a "limited training agent agreement," which is when an employer that is not currently a registered training agent to a set of apprenticeship standards, enters into a single public works project agreement with the program sponsor for the purposes of apprenticeship utilization. The limited training agent agreement must specify that:

- The program sponsor must ensure that all program requirements are being followed.
- Apprenticeship utilization requirements must be in the public works contract.
- The agreement is for a specific trade(s) or occupation(s).

The limited training agent must sign the training agent form.

This limited training agent agreement does not obligate the employer to use registered apprentices in any other type of work or trade or occupation other than the one for which the limited training agreement is entered into.

This is a pilot program lasting for two years (July 2004 - July 2006) in Spokane County only.

The department must conduct a study and provide a report back to the Washington state apprenticeship and training council on the effect of the rule. This report should contain vital information including the numbers of apprenticeship hours generated, any adverse impacts on apprenticeship programs and apprentices, any compliance problems, any health and safety problems, or other considerations requested by the council at a later date. This report is due to the WSATC by March 15, 2006.

- (6) If an existing committee fails to or refuses to offer apprenticeship and training opportunities to all employers, the WSATC may take action to remove the restrictions to access in order to comply with the intent of chapter 49.04 RCW and these rules. Action may include, but is not limited to, the decertification of the existing committee and recognition of a new committee.

### **296-05-305 Apprenticeable occupations.**

An apprenticeable occupation is a skilled trade which possesses all of the following characteristics:

- (1) It is customarily learned in a practical way through related instruction and on-the-job supervised training.
- (2) It is clearly identified and commonly recognized throughout an industry.
- (3) It is not part of an occupation previously recognized by the registering agency as apprenticeable, unless such part is practiced industry wide as an identifiable and distinct trade.
- (4) It involves manual, mechanical, or technical skills and knowledge which require a minimum of two thousand hours of on-the-job work experience.
- (5) It requires a minimum of one hundred forty-four hours of related instruction per year to supplement on-the-job work experience.
- (6) It involves skill sufficient to establish normal career sustaining employment for the length of the apprentice's work life. It entails technical and theoretical

considerations which are susceptible to instruction within the period defined in the program standards.

**296-05-307 Types of apprenticeship agreements recognized by the WSATC.**

The WSATC acting according to RCW 49.04.060, recognizes the following types of written apprenticeship agreements (statements) that describe the apprenticeship training conditions:

- (1) Agreements between an association of employers and an organization of employees.
- (2) An agreement between an employer and an employee organization.
- (3) An employer's statement when there is no bona fide employee organization in the plant affected by the agreement.
- (4) An agreement between an apprenticeship program and an individual apprentice.

**296-05-309 Apprenticeship programs approved by the WSATC.**

The following apprenticeship programs may be approved by the WSATC. All the following programs with the exception of individual waiver programs must be administered by a committee.

- (1) Group-joint, or area joint. A program where there is a labor organization. These programs are jointly sponsored by a group of employers and a labor organization. They are administered by employer and employee representatives from an apprenticeship and training committee composed equally from management and labor.
- (2) Individual-joint. A program where there is a labor organization. These programs are jointly sponsored by an individual employer and a labor organization. They are administered by employer and employee representatives from an apprenticeship and training committee composed equally from management and labor.
- (3) Group nonjoint, or area group. A program where there is no labor organization. These programs are sponsored by an employer association(s) administered by an apprenticeship committee.
- (4) Individual nonjoint. A program where there is no labor organization. These programs are sponsored and administered by an individual employer.
- (5) Group waiver. These programs involve an employer association(s) and a labor organization. Either the employer group or the labor organization voluntarily waives participation in the program by notifying the other party in writing.
- (6) Individual waiver. These programs involve an individual person, company, plant, firm, and a labor organization. Either management or labor voluntarily waives participation by notifying the other party in writing.
- (7) Plant. A program for a single physical location or a group of physical locations owned by the sponsor. The WSATC, based on the authority in RCW 49.04.040, assumes jurisdiction and serves as the committee. The apprenticeship agreement must specify the number of required hours for completion of the apprenticeship. The hours specified must represent at least two thousand hours of reasonably continuous employment. That agreement must conform to the applicable provisions of chapter 49.04 RCW and these rules.

**296-05-311 On-the-job training programs.**

On-the-job training programs may be set up in the same manner as apprenticeship programs with any exceptions authorized by the WSATC. However, no on-the-job training program must be established or authorized where there is a parallel apprenticeship program in existence. An on-the-job training program shall be any program that requires two thousand or less hours of employment for completion. All of the rules in this chapter that apply to apprenticeship agreements and programs also apply to on-the-job training programs except on-the-job training programs will be approved by the supervisor subject to the review of the WSATC.

A sample standard for an on-the-job training program is available from the supervisor.

**296-05-313 Apprenticeship committees — Composition.**

- (1) Apprenticeship committees must be composed of an equal number of management and nonmanagement representatives.
- (2) For apprenticeship committees that represent one occupation, at least fifty percent of the members of committees must be occupationally qualified by education and experience in the specific occupation for which the committee is responsible. The committee must be able to verify the occupational qualifications of the members.
- (3) For apprenticeship committees that represent multiple occupations, the committee members must either:
  - Be occupationally qualified by education and experience in the specific occupations for which the committee is responsible and must be able to verify the occupational qualifications of the members; or
  - Be known to represent the interests of the multiple occupations served.
- (4) All committee members must be knowledgeable in the process of apprenticeship and/or the application of chapter 49.04 RCW and these rules.

**296-05-315 Nonjoint and waiver committees — Additional requirements.**

- (1) The WSATC shall only recognize nonjoint and waiver standards for a specific occupation or directly related occupations.
- (2) When multiple related occupations are approved on a single standard, each occupation shall be considered as an individual standard.
- (3) Unrelated occupations shall be submitted under separate standards.

**296-05-316 Apprenticeship agreements — Standards requirements.**

The WSATC shall have the authority to develop, administer, and enforce program standards for the operation and success of an apprenticeship and training program.

The sponsor's proposed program standards must include a list of duties and responsibilities of the program sponsor reasonably consistent with other approved program standards.

All apprenticeship agreements must comply with the approved program standards,

chapter 49.04 RCW, and these rules. The standards of apprenticeship agreements must include the following:

- (1) A statement of the trade or craft to be taught and the required hours for completion of apprenticeship which must not be less than two thousand hours of reasonably continuous employment.
- (2) A statement identifying the program sponsor, establishing the apprenticeship committee and enumerating the sponsor's and committee's duties and responsibilities. This statement must include provisions to:
  - (a) Elect a chair and a secretary from employer and employee representatives of the committee.

EXCEPTION: This provision is not necessary for a plant program.

- (b) Convene at least three annual regular meetings of the program sponsor and apprenticeship committee. The meetings shall be at least three times per year, be attended by a quorum of committee members (as defined in the approved program standards), be documented with minutes which must be periodically submitted to the department and made available to the WSATC upon request. Conference call meetings may be conducted in lieu of regular meetings but must not exceed the number of attended meetings and no disciplinary action shall be taken at conference call meetings.
- (c) Explain the program sponsor's request for apprentices in the area covered by the apprenticeship standards established under these rules and a plan to include reasonable continuous employment.
- (d) Establish minimum standards of education and skilled occupational experience required of apprentices.
- (e) Rotate apprentices in the various processes of the skilled occupation to assure a well-rounded, competent worker.
- (f) Determine the adequacy of an employer to furnish proper on-the-job training in accordance with the provisions of the approved standards.

EXCEPTION: This does not apply to plant programs.

- (g) Recommend competent instructors and related/supplemental instruction in accordance with local vocational requirements.
  - (h) Recommend a course outline for related/supplemental instruction, as well as coordinate related/supplemental instruction with on-the-job work experience.
  - (i) Hear and adjust all complaints of violations of apprenticeship agreements.
  - (j) Adopt, as necessary, program rules to administer the apprenticeship program in compliance with its standards, chapter 49.04 RCW, and these rules.
  - (k) Periodically review and evaluate apprentices before advancement to the apprentice's next wage progression period.
  - (l) Maintain apprenticeship records and records of the administrative program as may be required by the WSATC, chapter 49.04 RCW, and these rules. (See WAC 296-05-318.)
- (3) The following Equal Employment Opportunity Pledge:

"The recruitment, selection, employment and training of apprentices during their apprenticeship shall be without discrimination because of race, sex, color, religion, national origin, age, disability or as otherwise specified by law. The sponsor shall take positive action to provide equal opportunity in apprenticeship and will operate the apprenticeship program as required by the rules of the Washington State Apprenticeship and Training Council and Title 29, Part 30 of the Code of Federal Regulations."

- (4) When applicable, an affirmative action plan and selection procedures.
- (5) A numeric ratio of apprentices to journey-level workers may not exceed one apprentice per journey-level worker. It must be consistent with proper supervision, training, safety, continuity of employment, and applicable provisions in collective bargaining agreement, if any. The ratio must be described in the program standards and shall be specific and clear as to application in terms of job site, work group, department, or plant. An exception to this requirement may be granted by the WSATC.
- (6) A statement of the related/supplemental instruction including content, format, hours of study per year (which shall be a minimum of one hundred forty-four hours per year).
- (7) An attendance policy which includes a provision that if the apprentice fails to fulfill the related/supplemental instruction obligations, the sponsor may withhold the apprentice's periodic wage advancement, suspend or cancel the apprenticeship agreement. A provision that time spent in related/supplemental instruction classes shall not be considered as hours of work and the apprentice is not paid for the classroom time. A provision that the hours of actual attendance by the apprentice in related supplemental instruction classes must be reported to the department on a quarterly basis for industrial insurance purposes.
- (8) A provision to ensure that the sponsor provides for instruction of the apprentice during the apprentice's related/supplemental instruction in safe and healthful work practices in compliance with the Washington Industrial Safety and Health Act, and applicable federal and state regulations.
- (9) A provision for a formal agreement between the apprentice and the sponsor and for registering that agreement with the department.
- (10) A provision for the timely notice to the department of all requests for disposition or modification of apprenticeship agreements including:
  - Certificate of completion;
  - Additional credit;
  - Suspension;
  - Military service;
  - Reinstatement;
  - Cancellation; and
  - Corrections.
- (11) A provision for advancing an apprentice's standing based on previous experience in the skilled trade or in some other related capacity.
- (12) A provision for the transfer of an apprentice from one training agent to another training agent or the sponsor in order to provide as much as possible, continuous employment and diversity of training experiences for apprentices.
- (13) A provision for the amendment of the standards or deregistration of the program. This provision must comply with chapter 49.04 RCW, these rules, and WSATC policies and procedures.

- (14) An apprenticeship appeal procedure in compliance with chapters 49.04, 34.05 RCW, and these rules.
- (15) A statement of the processes in the trade or craft divisions in which the apprentice is to be taught and the approximate amount of time to be spent at each process.
- (16) A statement of the number of hours to be spent by the apprentice in work and the number of hours to be spent in related/supplemental instruction which instruction shall be not less than one hundred forty-four hours per year.
- (17) A statement of the minimum qualifications for persons entering the apprenticeship program including the age of the apprentice which may not be less than sixteen years of age. All exceptions to minimum qualifications, if any, must be clearly stated and applied in a nondiscriminatory manner.
- (18) Provision that the services of the supervisor and the WSATC may be utilized for consultation regarding the settlement of differences arising out of the apprenticeship agreement where such differences cannot be adjusted locally or as required by the established trade procedure.
- (19) Provision that if an individual training agent is unable to fulfill its obligation under the apprenticeship agreement, it will transfer the obligation to the program sponsor.
- (20) Such additional standards as may be prescribed in accordance with the provisions of this chapter.
- (21) Disciplinary procedures and criteria for apprentices. The procedures may include a committee-imposed disciplinary probation during which the committee may according to expressed criteria:
  - Withhold periodic wage advancements;
  - Suspend or cancel the apprenticeship agreement;
  - Take further disciplinary action; or
  - The disciplinary procedures must include a notice to the apprentice that the apprentice has the right to file an appeal, of the committee's action, to the WSATC.
- (22) A provision for an initial probation which the WSATC or the supervisor of apprenticeship may terminate an apprenticeship agreement at the written request by any affected party. The initial probation must not exceed twenty percent of the term of apprenticeship unless an exemption has been granted for longer probationary periods as specified by Civil Service or law. The initial probationary period must be expressed in hours of employment. During the initial probationary period, the apprenticeship agreement may be terminated by the sponsor or the apprentice without a hearing or stated cause. An appeal process is available to apprentices who have completed the initial probationary period.
- (23) Provisions prohibiting discrimination on the race, sex, color, religion, national origin, age, disability or as otherwise specified by law during all phases of apprenticeship.
- (24) Provisions to ensure adequate records of the selection process are kept for a period of at least five years and are available to the WSATC or its representative on request. ("Adequate records" means at least a brief summary of any interviews and the conclusions reached on each of the specific factors which are part of the total judgment concerning each applicant.)
- (25) Provisions to ensure that local committee rules and regulations be consistent with these rules and the applicable apprenticeship agreement.

- (26) Provisions to ensure any proposed standards for apprenticeship are reasonably consistent with any standards for apprenticeship already approved by the WSATC for the industry, craft or trade in question. The goal is to achieve general statewide uniformity of standards in each industry, trade or craft. Proposed standards for a new program shall be considered consistent if they are equal to or exceed the minimum number of hours approved by the United States Department of Labor for a trade, craft, or occupation. If the United States Department of Labor has not established a minimum number of hours for a trade, craft, or occupation, the WSATC may utilize its discretion to determine the minimum number of hours that must be achieved. In addition, the course content and delivery method must be designed to achieve the same levels of skills as existing standards within the state for that industry, trade, or craft.
- (27) A provision to ensure that the progressively increasing wage scales based on specified percentages of journey-level wage, which must be submitted, at least annually, to the WSATC. These may be submitted on a form provided by the department.

A sample apprenticeship agreement and a standard form for program standards are available from the supervisor.

**296-05-317 Related/supplemental instruction.**

The WSATC shall establish apprentice-related/supplemental instruction for trades and occupations based on recommendations from the state board for community and technical colleges.

**296-05-318 Records required by the WSATC.**

Each sponsor must keep adequate records including, but not limited to, the following:

- (1) Selection of applicants:
  - (a) A summary of the qualifications of each applicant;
  - (b) The basis for evaluation and for selection or rejection of each applicant;
  - (c) The records pertaining to the interviews of applicants; and
  - (d) The original application for each applicant.
- (2) Operation of the apprenticeship program:
  - (a) On-the-job training assignments;
  - (b) Promotion, demotion, layoff, or termination;
  - (c) Rates of pay or other forms of compensation or conditions of work;
  - (d) Hours of training provided; and
  - (e) Any other records needed by WSATC to determine compliance with these rules.
- (3) Affirmative action plans:
  - (a) A copy of the program's complete affirmative action plan. All data and analysis made to determine enrollment deficiencies;
  - (b) Evidence that affirmative action plans are reviewed on an annual basis; and
  - (c) Evidence that affirmative action plans, goals and timetables are updated when necessary.
- (4) Documentation necessary to establish a sponsor's good faith effort in implementing its affirmative action plan:

- (a) Who was contacted;
  - (b) When the contacts were made;
  - (c) Where the contacts occurred;
  - (d) How the contacts were made; and
  - (e) The content of each contact.
- (5) Qualification standards: Evidence that the sponsor's qualification standards meet the requirements of WAC 296-05-316.

**296-05-319 Apprenticeship agreement — Individual registration.**

All individual agreements are subject to the approval of the supervisor and must be registered with the supervisor.

**296-05-321 Apprenticeship agreement — Cancellation.**

The supervisor may recommend that an agreement and program be canceled when a program does not comply with these rules or the program's standards. The procedures for cancellation are as follows:

- (1) When any program is found to be operating inconsistently or contrary to these rules or its established program standards, the supervisor must notify the offending committee, person, firm or agency of the violation(s).
- (2) The offending committee, firm, or agency has sixty days to correct the violation(s).
- (3) If the supervisor does not receive notice, within sixty days, that action has been taken to correct the violations, the supervisor may recommend cancellation of the apprenticeship or training program and agreement to the WSATC.
- (4) A recommendation to cancel a program must be in writing, addressed to each WSATC member, and detail the reasons for the recommendation.
- (5) A copy of the recommendation, along with a notice that the WSATC will consider the recommendation, must be mailed to the last known address of each member of the committee administering said program, or to those persons responsible for the program.
- (6) The WSATC must consider the recommendation at its next regularly scheduled quarterly meeting. However, at least thirty days must pass between the date of the recommendation and the date of the regular quarterly meeting. If thirty days has not passed, the recommendation must be considered at the subsequent regular quarterly meeting.
- (7) At the regular quarterly meeting, all interested person(s) may present evidence or testimony regarding the recommendation.
- (8) The WSATC must act on the recommendation by a majority vote of the members present and voting.
- (9) Once the WSATC has voted, it must give written notification of its decision to all interested parties along with the reasons supporting it.
- (10) The cancellation of any program or agreement automatically cancels any agreement(s) registered under them. However, any organization or firm not responsible for the violations that caused the cancellation may petition the WSATC for approval of the canceled agreement or program as a new program.

**296-05-323 Certificate of completion.**

At the request of the apprenticeship committee, the WSATC shall issue certificates of completion. An affidavit of the secretary, chair, or authorized official of the committee concerned must accompany the request. The affidavit must state that the apprentice has been an active, registered participant of that committee's program for at least six months and has successfully completed his/her apprenticeship. These may be submitted on a form provided by the department.

**296-05-325 Union waiver.**

- (1) When apprenticeship programs allowing for the substantive union participation are proposed for registration by an employer or employers' association and the union does participate, the proposal must be accompanied by a written statement from the union supporting the registration. Such a statement is referred to as a "no objection" statement.
- (2) When there is no evidence of any union participation, the employer or employers' association must simultaneously furnish to the union that serves as the collective bargaining agent of the employees to be trained, copies of the registration application and the apprenticeship program. Before taking a final action on the application, the supervisor must give the union a reasonable time period to respond. (A "reasonable time" shall be at least thirty days but no more than sixty days.) If the union fails to comment within the allotted time period, it will have waived its right to participate in the program.

**296-05-327 Reciprocity.**

Reciprocity means that the WSATC will recognize and approve out-of-state apprenticeship programs and standards of employers and unions in other than the building and construction industry if certain conditions are met and the out-of-state sponsoring entity requests it. To qualify for reciprocity, the out-of-state sponsoring employers and unions must:

- (1) Jointly form a sponsoring entity on a multistate basis; and
- (2) Register with any recognized state apprenticeship agency/council or with the United States Department of Labor, Apprenticeship Training and Employer Labor Services according to the requirements of 29 CFR Part 29, as adopted February 15, 1977.

## PART D -- EQUAL EMPLOYMENT OPPORTUNITY IN APPRENTICESHIP

### **296-05-400 Equal employment opportunity plan — Purpose, scope and authority.**

The WSATC's affirmative action plan is based on the statutory authority granted in chapter 49.04 RCW and according to the provisions of 29 CFR Part 30. The purpose of the affirmative action plan is to promote equality of opportunity in apprenticeship by:

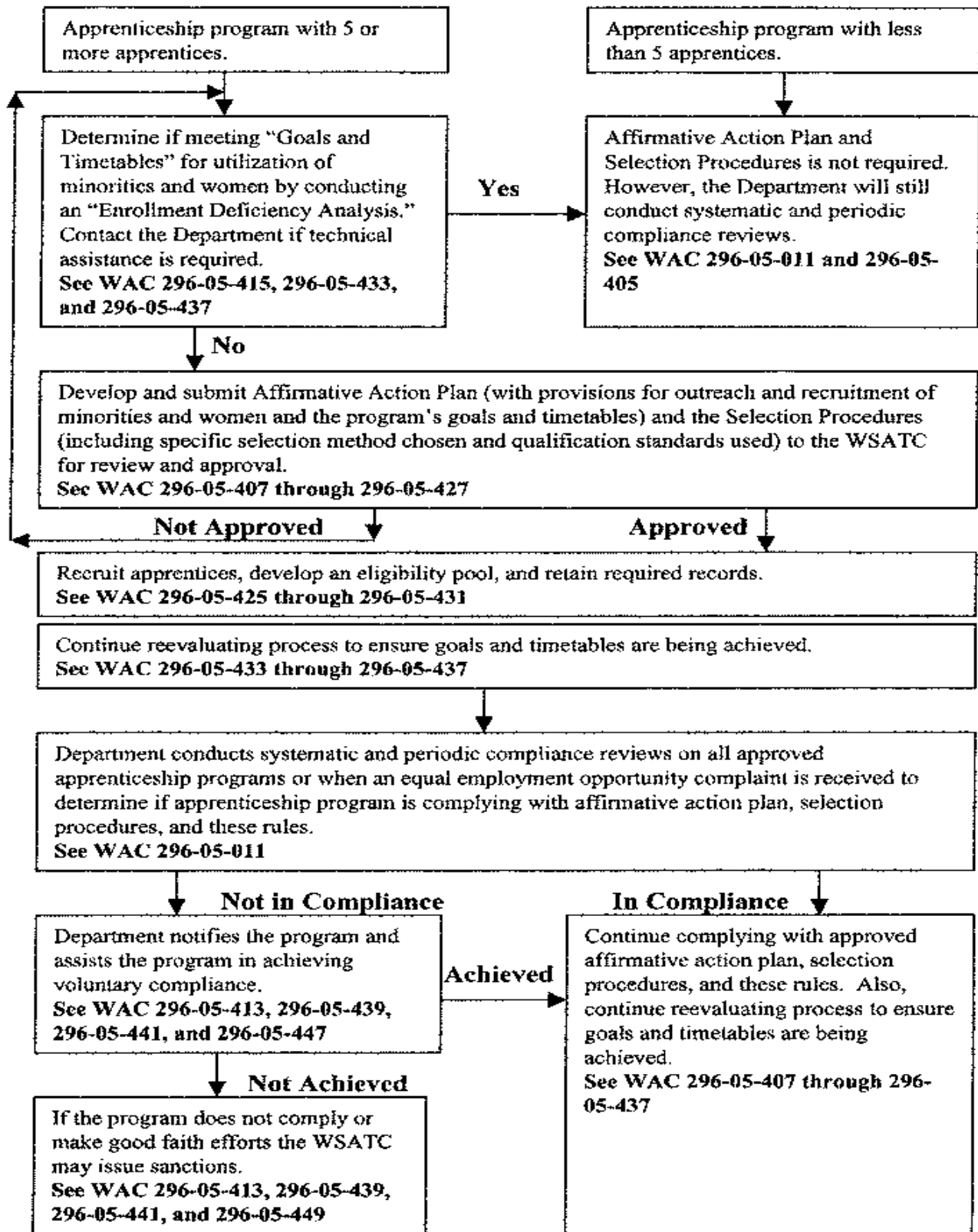
- Prohibiting discrimination in apprenticeship programs based on race, sex, color, religion, national origin, age disability or as otherwise specified by law;
- Requiring equal employment opportunities in apprenticeship programs through affirmative action; and
- Coordinating the WSATC's equal employment opportunity programs with affirmative action policies and procedures with other equal opportunity programs.

The following sections contain the policies and procedures to promote equality of opportunity and equity of treatment of apprentices in apprenticeship programs approved by the WSATC. These policies and procedures are to be used to:

- Recruit and select apprentices;
- Review and revise apprenticeship programs;
- Process equal employment opportunity complaints;
- Take corrective action when appropriate;
- Deregister noncomplying apprenticeship programs; and
- Continue recognition or withdraw recognition of apprenticeship programs.

An affirmative action program must not be used to discriminate against any qualified applicant or apprentice on the basis of race, sex, color, religion, national origin, age, disability or as otherwise specified by law.

## Equal Employment Opportunity Process



**296-05-403 Definitions for Part D.**

The following definitions are to be used with this part.

**Underutilization:** Enrolling minorities and women in a ratio not proportionate to the participation of minorities and women that is representative of the geographical region served.

**Women or female:** As used in Part D of this chapter refers to minority women and nonminority women.

**296-05-405 Exceptions to the requirement for adopting an affirmative action plan and a selection procedure.**

- (1) A sponsor is not required to adopt an affirmative action plan or a selection procedure if:
  - (a) It has fewer than five apprentices; or
  - (b) The program is determined by the WSATC to be in compliance with an approved equal employment opportunity program. An approved program is one which:
    - (i) Provides for selection of apprentices;
    - (ii) Provides for affirmative action in apprenticeship;
    - (iii) Includes goals and timetables for participation of minorities and women in the labor force in apprenticeship which meet or exceed the requirements of WAC 296-05-415; and
    - (iv) Meets the requirements of the following laws:
      - Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000, et seq.);
      - The regulations implementing 42 U.S.C. 2000, et seq.;
      - Executive Order 11246 as amended; and
      - The regulations (41 CFR Part 60) implementing Executive Order 11246.
- (2) A program sponsor must submit satisfactory evidence of its qualification for the exception to the WSATC. If the program sponsor designed the apprenticeship program or the equal opportunity program to circumvent the requirements of these rules, the program will not qualify for an exception.

**296-05-407 Apprenticeship program sponsor's obligations.**

- (1) A sponsor of an approved apprenticeship program must:
  - (a) Promote equal opportunity in its apprenticeship program; and
  - (b) Recruit, select, employ and train apprentices without discrimination based on race, sex, color, religion, national origin, age, disability or as otherwise specified by law.
- (2) A sponsor of an approved apprenticeship program with five or more apprentices must uniformly apply all rules related to apprentices. Such rules include, but are not limited to:
  - Equality of wages;
  - Periodic advancement;
  - Promotion;

- Assignment of work;
  - Job performance;
  - Rotation among all work processes of the trade;
  - Imposition of penalties or other disciplinary action; and
  - All other aspects of the apprenticeship program administered by the program sponsors.
- (3) Adopt and implement an affirmative action plan and selection procedure as required by chapter 49.04 RCW, 29 CFR Part 30, and these rules unless the approved apprenticeship program qualifies for an exception (see WAC 296-05-405).

**296-05-409 Affirmative action information required by WSATC.**

In addition to the program standards required by WAC 296-05-316, program sponsors seeking new program registration and approval by the WSATC must submit the following:

- (1) The proposed affirmative action plan;
- (2) The proposed selection procedures; and
- (3) Any other information about the sponsor's equal employment opportunity plan required by the WSATC.

The affirmative action plan and additional information is considered in conjunction with the program standards in the WSATC's decision whether to approve or disapprove an apprenticeship program. If the WSATC disapproves the apprenticeship program, it shall direct the department to inform the sponsor in writing the reason for disapproval.

**296-05-411 Affirmative action plan.**

An approved affirmative action plan must:

- (1) Be in writing.
- (2) Be more than passive nondiscrimination.
- (3) Include procedures, methods and programs to:
  - (a) Clearly identify present and potential minority and female apprentices.
  - (b) Establish affirmative action goals and timetables.
  - (c) Equalize opportunity in apprenticeship to allow full utilization of the work potential of minorities and women.
  - (d) Assure equal opportunity in apprenticeship for all individuals participating in or seeking entrance into Washington's labor force.
- (4) Include provisions for outreach and positive recruitment to increase the participation of minorities and women in apprenticeship programs by expanding and promoting apprenticeship opportunities to minorities and women. (See WAC 296-05-413.)

Nothing in a sponsor's approved affirmative action plan may be used to discriminate against any qualified applicant or apprentice on the basis of race, sex, color, religion, national origin, age, disability or as otherwise specified by law.

**296-05-413 Outreach and recruitment requirements — Specific.**

To gain approval, an affirmative action plan must include the following specific provisions for outreach and recruitment criteria:

- (1) To increase minority and female participation in apprenticeship, program sponsors are expected to strengthen program outreach and recruitment efforts. The affirmative action plan must specify the activities they will use to achieve this result.
- (2) The program sponsor is not necessarily required to include all of the listed activities in its affirmative action program. The WSATC, when approving the sponsor's affirmative action plan, will determine the number of specific activities a sponsor must implement to satisfy this outreach and recruitment requirement. The WSATC will consider all circumstances including the size and type of the program and its resources. When special circumstances exist, the WSATC may provide financial or other assistance it deems necessary to implement the requirements of this section from any funds made available to it for such purpose.
- (3) Examples of positive outreach and recruitment activities are:
  - (a) Distributing information about the nature of apprenticeship programs, program admission requirements, current apprenticeship opportunities, sources of apprenticeship applications, and the equal opportunity policy of the sponsor.

For programs only accepting applications at specific intervals, such information shall be disseminated at least thirty days in advance of each application date. For programs that accept applications throughout the year, this information must be distributed at least semiannually.

To be effective, the information described in this section must be given to the WSATC, local schools, employment service offices, women's centers, outreach programs and community organizations which effectively reach minorities and women. Also it must be published in newspapers which are circulated in the minority community and among women as well as the general areas in which the program sponsor operates.

- (b) Participating in workshops conducted by employment service agencies, school districts, and community based organizations to increase apprenticeship program awareness of apprenticeship opportunities.
- (c) Cooperating with local school districts, vocational education systems, and school employees to develop programs for preparing students to meet the standards and criteria required to qualify for entry into apprenticeship programs.
- (d) Increasing awareness of a sponsor's equal opportunity policy within the sponsor's organization. The goal of this increased awareness within the sponsor's organization is to foster understanding, acceptance, and support among the sponsor's various officers, supervisors, employees, employers, and members. This is to encourage the necessary active assistance in achieving the program's obligations required by these rules.
- (e) Participating in existing outreach programs whose focus is the recruitment and preparation of minority and female apprenticeship applicants. Whenever possible, these should provide applicants with pretesting experience and training.
- (f) Developing outreach programs whose focus is the recruitment and preparation of minority and female apprenticeship applicants. If

apprenticeship outreach programs do not exist, the sponsor should attempt to develop them. This effort may require working with other sponsors and appropriate community organizations. It may require obtaining financial assistance from the WSATC. Also, the sponsor shall initiate programs that prepare and encourage women to enter traditionally male dominated apprenticeship programs and trades.

- (g) Encouraging the development and use of programs for preapprenticeship education, preparatory trade training, or other work related experiences that prepare candidates for apprenticeship.
- (h) Granting to all applicants, without prejudice, advance standing or credit for previously acquired experience, training, skills, or aptitude.
- (i) Engaging in other activities to ensure that the recruitment, selection, employment, and training of apprentices without discrimination based upon race, color, religion, national origin, sex, age, disability or as otherwise specified by law. Some examples of these activities include:
  - (i) General publication of advertisements, industry reports, articles on apprenticeship opportunities and advantages.
  - (ii) Use minority and female apprentices and journey-level workers as recruiters.
  - (iii) Provide career counseling to prospective applicants.
  - (iv) Periodically audit affirmative action programs to see if goals are being met.
  - (v) Develop monitoring procedures to ensure that employers are granting equal employment opportunities to apprentices (these procedures may include reporting systems, on-site reviews, or briefing sessions).

#### **296-05-415 Affirmative action goals and timetables.**

- (1) An affirmative action plan must include goals and timetables. The first step in deciding whether goals and timetables are necessary is the completion of an analysis of the sponsor's program to determine whether there is an underutilization of minorities and/or women in the trade(s) represented by the program. This analysis must be:
  - (a) Conducted by the sponsor with technical assistance provided by the department;
  - (b) In writing; and
  - (c) Included in the sponsor's affirmative action plan.
- (2) If the sponsor's analysis demonstrates that minorities and females are underutilized in the program, the program has an enrollment deficiency that must be corrected. Enrollment goals and timetables to correct this deficiency must be established and they must be included in the sponsor's affirmative action plan. (See WAC 296-05-433.)
- (3) If the sponsor's analysis demonstrates that no enrollment deficiencies exist, enrollment goals and timetables are not required. However, where no goals and timetables are established, the affirmative action plan must include a detailed explanation why no goals and timetables have been established.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. 01-22-055, § 296-05-415, filed 10/31/01, effective 1/17/02.]

### **296-05-417 Selection of apprentices for approved apprenticeship programs.**

In addition to development of a written affirmative action plan, the sponsor must submit a written plan for the selection of apprentices. The selection plan must ensure that minorities and women have an equal opportunity to be selected as apprentices and that full utilization and equal opportunity in apprenticeship is achieved promptly. The selection procedures must use one of the methods specified in this section.

(1) A sponsor may not implement any selection method until the WSATC approves the program's affirmative action plan. In the affirmative action plan, the sponsor must identify the approved selection method it has adopted. The WSATC allows the following selection methods to be used:

- (a) **Selection on basis of rank from pool of eligible applicants.** With this method, a sponsor selects apprentices from a pool of eligible applicants based upon a rank ordering of applicant qualifying standard scores. A sponsor adopting this method must create a pool of eligible candidates who have either reached the minimum legal working age and meet the sponsor's minimum physical requirements or who have reached the minimum legal working age and meet the sponsor's qualification standards.
- (b) **Random selection from pool of eligible applicants.** A pool of eligible applicants must be created from persons who have either reached the minimum legal working age and meet the sponsor's minimum physical requirements **or** who have reached the minimum legal working age and meet the sponsor's qualification standards. With WSATC approval, a sponsor may randomly select apprentices from a pool of eligible applicants. This method must be supervised by an impartial person(s) not associated with the administration of the apprenticeship program. The time and place of the selection, and the number of apprentices to be selected, must be publicly announced before the selection takes place. The selection process must be open to all applicants and the public. The names of apprentices drawn by this method shall be posted immediately following the selection at the program sponsor's place of business.
- (c) **Selection from pool of current employees.** A sponsor may select apprentices from an eligibility pool of program employees. The actual selection process may be prescribed by a collective bargaining agreement where one exists, or by the sponsor's established promotion policy.
- (d) **Alternative selection methods.** In addition to the above specified methods, the WSATC allows a sponsor to select apprentices by alternative methods, including its present selection method. However, the sponsor who adopts an alternative method of selection must submit the following information to the apprenticeship supervisor:
  - (i) A detailed discussion of the selection method it proposes to use;
  - (ii) A copy of its affirmative action plan;
  - (iii) A copy of its enrollment deficiency analysis; and
  - (iv) If necessary, its goals and timetables for increasing the number of minority and female applicants and apprentices in the program.The sponsor may not implement any such alternative method until the WSATC has approved the method and the affirmative action program (including its goals and timetables).

When an alternative selection method is used and the training agent selects the apprentices, the employer must sign an agreement with the WSATC, agreeing to comply with the equal employment opportunity requirements of these rules and 29 CFR Part 30.

- (2) Exceptions to selection procedures may be used if:
  - (a) An employee of an employer not qualifying as a journey-level worker becomes a training agent, he/she shall be evaluated by the apprenticeship program using constant standard nondiscriminatory means and registered at the appropriate period of apprenticeship based on previous work experience and related training.
  - (b) The individual who signs an authorization card during the organizing effort by an employer wherein fifty percent or more of the employees have signed whether or not the individual is approved as a training agent, an individual not qualifying as a journey-level worker shall be evaluated by the sponsor and registered at the appropriate period of apprenticeship based on previous work experience and related training.
- (3) Organizing statements specified in subsection (2) of this section, that result in direct entry into the apprenticeship program, shall be properly placed within the program selection procedure as an exemption.
- (4) If the WSATC or the department fails to act upon the sponsor's selection method and affirmative action program within thirty days of its submission to the department, the sponsor may implement the selection method until acted upon by the WSATC.

#### **296-05-419 Qualification standards.**

Qualification standards are the criteria, used by sponsors to select applicants into an eligibility pool. These qualification standards and the procedures used to determine the standards must be specified in detail in the sponsor's affirmative action plan and must:

- Identify the specific criteria and attributes used to evaluate applicants;
  - Specify the acceptable scores required for each qualification standard;
  - Demonstrate a direct relationship between each qualification standard, its required score and the expected job performance;
  - Establish a significant statistical relationship between the score required for admission to the pool and the applicant's performance in the apprenticeship program. This statistical relationship must be based upon the procedures discussed in 41 CFR Part 60-3 (Guidelines on employee selection procedures); and
  - Specify that the applicant has achieved an acceptable score on all the qualification. Unless an applicant achieves an acceptable score on all the qualification standards, the applicant will be ineligible for admission to the pool.
- (1) **Aptitude test scores for use as qualification standards.** Aptitude tests may be used as qualification standards; however, any aptitude test score used as a qualification standard must be directly related to apprenticeship job performance. To demonstrate this relationship, there must be a significant statistical relationship between the aptitude test scores required for admission to the pool and performance in the apprenticeship program. In determining this relationship, the sponsor must follow the procedures discussed in 41 CFR Part 60-3. These

requirements also apply to any aptitude tests used by a program sponsor and administered either by a state employment agency or any person, agency or organization engaged in the selection or evaluation of personnel. If a national aptitude test is developed and administered by a national apprenticeship committee, it must meet these requirements before it will be approved by the United States Department of Labor.

- (2) **Educational achievements for use as qualification standards.** Educational achievements can be used as qualification standards; however, all such achievements used to determine admission to a program pool must be directly related to apprenticeship job performance. This direct relationship must be demonstrated by a significant statistical relationship between the achievement scores required for admission and expected performance in the apprenticeship program. In demonstrating such a statistical relationship, the sponsor must meet the requirements of 41 CFR Part 60-3.

Official school records or a certified passing grade on a general educational development (GED) test recognized by state or local public instruction officials shall be evidence of educational achievement. These education achievement requirements must be uniformly applied to all applicants.

- (3) **Role of the interview in the applicant selection process.** Interviews must not be used as a qualification standard for admission to an eligibility pool for programs using the selection methods described in WAC 296-05-417 (1) and (2). However, after an applicant is placed in a pool and before selections are made from that pool, an applicant can be interviewed. When interviews are conducted, they must:
- (a) Consist only of objective questions relevant to the applicant's fitness for the apprenticeship program.
  - (b) Not include questions related to qualifications previously used to determine entrance to the pool.
  - (c) Require each interviewer to record the questions and the general nature of the applicant's answers.
  - (d) Require each interviewer to prepare a summary of any interview conclusions.

Adequate records of the interviews must be kept including a brief summary and conclusion and how the specific factors like applicant motivation, ambition, and willingness to accept direction affected the interviewer's final decision.

- (4) **Examples of qualification standards include:**
- Standardized aptitude tests;
  - School diplomas or the equivalent;
  - Health requirements essential to the chosen occupation;
  - Interviews conducted in a fair manner (see subsection (3) of this section);
  - School grades; and
  - Previous work experience.
- In applying these standards, the sponsor must meet the requirements of 41 CFR Part 60-3.

## **296-05-427 Notification requirements.**

All applicants who meet the program admission requirements must be notified that they have been placed in an eligibility pool. All program sponsors must give a written notice of rejection to each applicant who is not selected for either an eligibility pool or the apprenticeship program. This rejection notice must include the reasons for rejection, the admission requirements for those admitted to the pool or program and the appeal procedures available.

**296-05-429 Existing lists of eligibles and public notice.**

- (1) A sponsor who adopts a selection method under WAC 296-05-417 must conduct an enrollment deficiency analysis (see WAC 296-05-433). If, as a result of this analysis, the sponsor concludes that there are fewer minorities and/or women on its existing pools and lists than there should be, these pools and lists must be discarded.
- (2) Once the existing pools and lists have been discarded, new eligibility pools must be established and lists must be posted at the sponsor's place of business. Sponsors must allow at least a two-week period for accepting applications for admission to the apprenticeship program. There must be at least thirty days of public notice in advance of the earliest date for application for admission to the apprenticeship program (see WAC 296-05-411).
- (3) Once an applicant has been placed in an eligibility pool, they must be retained on the eligibility lists for two years unless they request, in writing, that they be removed or unless they fail to respond to an apprentice job opportunity mailed to applicant's last known address by certified mail, return receipt requested. It is the applicant's responsibility to keep the sponsor informed of the applicant's current mailing address. A sponsor, upon receiving a written request from a former applicant whose name was removed from an eligibility list, may restore the applicant's name to the list.
- (4) Applicants who have been accepted in the program must be given a reasonable time in which to report for work. A "reasonable time" will be interpreted in light of the customs and practices of the industry for reporting for work. All applicants must be treated equally in the determination and application of "a reasonable time."

**296-05-431 Affirmative action records of the WSATC retained by the department.**

The WSATC must keep the following types of records in the apprenticeship supervisor's office:

- (1) Registration requirements;
- (2) Individual program standards;
- (3) Registration records;
- (4) Program compliance reviews and investigations;
- (5) Any other records pertinent to the determination of compliance with these rules; and
- (6) Any records that must be reported to the United States Department of Labor.

The records required by these rules and any other information relevant to compliance with 29 CFR Part 30 must be maintained for five years. Also, these records and related information must be made available upon request to the United States Department of Labor or other authorized representatives.

**296-05-433 Enrollment deficiency analysis.**

- (1) In analyzing a program to determine whether a deficiency exists, the sponsor must consider at least the following factors:
  - (a) The percentage of the working age minority and female population in the program sponsor's labor market area;
  - (b) The percentage of the minority and female labor force in the program sponsor's labor market area;
  - (c) The percentage of the minority and female apprentices participating in a particular trade or craft compared to the percentage of minorities and women in the labor force in the program sponsor's labor market area;
  - (d) The percentage of minorities and women participating as journey-level employee(s) employed by the employer(s) participating in the program as compared with the percentage of minorities and women in the sponsor's labor market area and the extent to which the sponsor should be expected to correct any deficiencies through the achievement of goals and timetables for the selection of apprentices; and
  - (e) The general availability of minorities and women in the sponsor's labor market that have present or potential capacity for apprenticeship in the program sponsor's labor market area.
- (2) To calculate the above percentage(s) or any other percentages for the analysis, the sponsor must use the following formula: Divide the number of minority individuals or females in a particular classification in the labor force or population by the total labor force or population.

**296-05-435 Data and information.**

- (1) The apprenticeship supervisor must provide program sponsors with data and information on minorities and women labor force characteristics generated by the employment security department or the office of financial management. This information is available for standard metropolitan statistical areas as well as special statistical areas.
- (2) The specific data used to calculate the percentages in WAC 296-05-433 must be obtained from records maintained by apprenticeship committees.

**296-05-437 Developing and evaluating enrollment goals and timetables.**

- (1) Goals and timetables must be based upon the sponsor's enrollment analysis of its underutilization of minorities and women and its entire affirmative action program. Specific enrollment goals for minorities and a separate single goal for women may be acceptable unless a particular group is employed in a substantially disparate manner. In such a case, separate goals must be established for the disparate group. An example of such a situation would be where a specific minority group of women were underutilized even though the sponsor had achieved its enrollment goals for women generally. A separate, additional goal should be established to increase the enrollment of this specific group.
- (2) In establishing the enrollment goals and timetables, the sponsor should establish

- reasonable goals that can be achieved through a good faith effort.
- (3) In evaluating whether a sponsor has satisfied the affirmative action requirements of these rules, the WSATC must determine whether the sponsor has made a good faith effort to do so.
  - (4) The sponsor's good faith efforts shall be judged by whether the sponsor is following its affirmative action program and attempting to make it work. A specific example of a good faith effort by a sponsor would be when a sponsor conducts evaluations of its affirmative action program and makes the necessary changes to achieve success in the attainment of its goals.

**296-05-439 Failure to meet goals and timetables.**

- (1) If a sponsor, despite its good faith efforts, fails to meet its goals and timetables within a reasonable period of time, the sponsor may be required to make appropriate changes in its affirmative action program in order to obtain maximum effectiveness toward the attainment of its goals.
- (2) If the WSATC determines the failure of a sponsor to meet its goals and timetables is substantially a result of the enrollment selection method adopted, the sponsor may be required to develop and adopt a WSATC prescribed selection method.
- (3) If a sponsor's failure to meet its goals is substantially a result of the qualification standard it used to select minorities and/or women, the sponsor may be required to show that the qualification standards directly relate to job performance. Specifically, the sponsor will be expected to demonstrate a significant statistical relationship between the qualification standards used and the required job performance. This statistical relationship must be based upon the procedures discussed in 41 CFR Part 60-3 (Guidelines on employee selection procedures).

**296-05-441 Noncompliance with federal and state equal opportunity requirements.**

When a compliance review concludes that a sponsor is not operating according to the federal or state laws or regulations requiring equal opportunity, the apprenticeship supervisor must take action. Such action must include:

- (1) Notifying the sponsor in writing of the review results;
- (2) Making a reasonable effort to secure voluntary compliance from the program sponsor; and
- (3) Giving the sponsor a reasonable amount of time to comply with the review recommendations before undertaking sanctions under WAC 296-05-013.

**296-05-443 Complaint filing.**

- (1) Any apprentice or applicant for apprenticeship who believes they have been discriminated against may file a complaint. The basis of the complaint may be:
  - (a) Discrimination on the basis of race, sex, color, religion, national origin, age, disability or as otherwise specified by law by a sponsor or a sponsor's program;

- (b) The equal opportunity standards have not been followed; or
  - (c) The sponsor's affirmative action plan does not comply with the requirements of this chapter.
- (2) A complaint may be filed in person or through an authorized representative. The complainant may choose to file a complaint with the WSATC or with a private review panel as established in WAC 296-05-445.
  - (3) A complaint must be in writing and shall be signed by the complainant. The complaint must include the name, address, and telephone number of the person allegedly discriminated against, the program sponsor involved, and a brief description of the circumstances leading to the complaint.
  - (4) The complaint must be filed not later than one hundred eighty days from the date of the alleged discrimination or violation of the sponsor's affirmative action plan or the rules of this chapter. If a complaint is initially filed with the private review panel and the complainant later wishes to refer the complaint to the WSATC, the referral must occur within one hundred eighty days of the circumstances leading to the complaint or within thirty days of the private review panel's final decision, whichever is later. If good cause is shown, the WSATC may extend these time periods.

**296-05-445 Private review panels.**

Sponsors may establish private review panels to resolve affirmative action complaints. The WSATC encourages sponsors to establish, fair, speedy, and effective procedures for the operation of the private review panel. Private review panels should be comprised of three or more responsible persons from the community who will serve without compensation. They should not be directly associated with the administration of an apprenticeship program. If necessary, sponsors may join together to establish a private review panel.

**296-05-447 Processing of complaints.**

- (1) All approved programs must establish procedures explaining the program's complaint review process. These procedures must comply with the requirements of this section. Each sponsor must give a copy of the complaint procedures to each apprenticeship applicant and to all enrolled apprentices.
- (2) When the apprenticeship supervisor receives a complaint and the sponsor has a private review panel in place, the complaint must be referred to the panel unless the complainant chooses otherwise or unless the council concludes that the panel will not satisfactorily resolve the complaint.
- (3) Once the complaint is referred to the private review panel, the panel has no more than thirty days to resolve it. At the end of the period, the supervisor will obtain the reports from the complainant and the review body as to the disposition of the complaint. If the complaint has been satisfactorily resolved and there is no other indication of failure to apply equal opportunity standards, the case shall be closed and the parties formally notified.
- (4) If the private review panel has not satisfactorily resolved the complaint within ninety days, the WSATC may conduct a compliance review and take all necessary steps to resolve the complaint.
- (5) If the review panel satisfactorily resolves the complaint but there is evidence that

- the equal opportunity practices of the sponsor's program are not in compliance with the requirements of this chapter, the council must conduct a compliance review and take all steps necessary to bring the program into compliance.
- (6) When a private review panel does not exist, the WSATC may conduct a compliance review to determine the facts of the complaint and any other information necessary to resolve the dispute.
  - (7) If the WSATC believes that satisfactorily resolving a complaint requires a change in the time limits established in this section, it can modify the time constraints by adopting special processing procedures. However, special processing procedures must only be adopted when circumstances warrant them and only if they will not prejudice any person or party associated with the complaint.

**296-05-449 Program registration cancellation procedures.**

- (1) If the WSATC decides to withdraw a program's registration, it must give written notice to the sponsor that there is reasonable cause, under WAC 296-05-013, to do so.
- (2) If the sponsor requests a hearing, it must be a written request to the apprenticeship supervisor within fifteen days of the receipt of the WSATC's withdrawal notice. When the supervisor receives the sponsor's request, a hearing must be convened. The WSATC's final decision to withdraw a program's registration must be based on the compliance review file and other evidence presented at the hearing. The WSATC may allow the sponsor a reasonable time to achieve voluntary corrective action. If the WSATC decides that the apprenticeship program is not in compliance and that voluntary corrective action is not an option, the program's registration may be withdrawn. If the WSATC decides to withdraw the program's registration, it must make public notice of the order and give written notice to the sponsor. If the withdrawal was the result of complaint proceedings, the WSATC must give written notice of the withdrawal to the complainant as well.

**296-05-451 Reinstatement of program registration.**

Any apprenticeship program deregistered as authorized by these rules may be reinstated upon presentation of adequate evidence to the WSATC that the apprenticeship program is operating in compliance with these rules.

**296-05-453 Adoption of consistent state plans.**

All apprenticeship programs registered with the WSATC must comply with the requirements of these rules and 29 CFR Part 30. If a program fails to comply or is inconsistent with the requirements of these rules and/or 29 CFR Part 30, the WSATC may disapprove or deregister the program. The WSATC must notify the United States Department of Labor of any state apprenticeship program disapproved and deregistered by it. The state apprenticeship program disapproved or deregistered by the WSATC for noncompliance with the requirements of these rules or 29 CFR Part 30 may, within fifteen days of the receipt of the notice of disapproval or deregistration, appeal to the United States Department of Labor to set aside the determination of the WSATC. The United States Department of Labor must make its determination on the basis of the

record. The United States Department of Labor may grant the state program sponsor, the state apprenticeship and training, and the complainant, if any, the opportunity to present oral or written argument.

**296-05-455 Intimidatory or retaliatory acts.**

- (1) Any intimidation, threat, coercion, or retaliation by or with the approval of a sponsor, against a person who has exercised rights or privilege under Title VII of the Civil Rights Act of 1964 as amended or the amended Executive Order 11246 is a violation of the equal opportunity standards of these rules. Such acts may be investigated by the WSATC and, if appropriate, will be prosecuted.
- (2) Identity of a complainant must be kept confidential except when it is necessary to carry out the intent of these rules, for example, the need to conduct an investigation, hearing, or judicial proceeding.

**296-05-457 Exemptions.**

A sponsor may request an exemption from Part D of these rules. The request may ask exemption from all of the section or from selected ones. The request must be in writing and must be addressed to the apprenticeship supervisor. It must explain why an exemption is needed. An exemption may be granted either by the WSATC or by the secretary of the United States Department of Labor, but can only be granted for good cause. If the WSATC approves an exemption that affects a substantial number of employers, it must notify the United States Department of Labor explaining why the exemption was allowed