

March 18, 2024

Mr. Brent Parton
Acting Assistant Secretary for Employment and Training Administration
U.S. Department of Labor
200 Constitution Ave NW
Washington, DC 20210

RE: Docket ID No. ETA–2023–0004, National Apprenticeship System Enhancements

Dear Acting Assistant Secretary Parton:

The Association of Community College Trustees (ACCT) appreciates the opportunity to provide comments on the proposed rules for the National Apprenticeship System Enhancements.

ACCT is a non-profit educational organization of governing boards, representing more than 6,500 elected and appointed trustees who govern over 1,200 community, technical, and junior colleges in the United States and beyond. Trustees have the fiduciary responsibility of their institution and responsibility for hiring the college leadership. Further, trustees are leaders in their community and are concerned with the health of the community college sector. In this role, they take their duties of both board governance and advocacy on behalf of their colleges seriously.

Community colleges have an important and expanding role in advancing apprenticeships in the United States. In our recent white paper, *Innovating Workforce Education: Community Colleges at the Forefront of Registered Apprenticeship* (<https://acct.org/publications-media/reports-and-papers/innovating-workforce-education>), we examined the increasing relevance of apprenticeship to community colleges. As registered apprenticeships expand in the scope of industries and encompass diverse career stages and occupational scopes, increasingly community colleges are serving not only as the related instruction providers for apprenticeships but also the sponsoring entity. As such, community colleges are becoming essential to the expansion of RA in the United States.

As an increasing number of non-traditional occupations are being explored as apprenticeships, community colleges serve a critical function by working in partnership with employers to develop a workforce with the high tech and advanced skills necessary for 21st century fields. Furthermore, community colleges are well positioned to broaden the implementation of apprenticeships in health care, information technology, and clean energy industries. With the passing of the Inflation Reduction Act (IRA), apprenticeships will serve as a critical strategy to advance the Administrations' clean energy transition goals particularly through positions that service alternative-fuel vehicles and in renewable energy storage occupations such as solar installer and wind turbine technician.

Overall, ACCT is pleased to see that many of the proposed rules support the safety, well-being, and financial opportunity inherent in the apprenticeship model to equitably protect all students while not deterring from new and emerging industry employers creating apprenticeship programs. Many of the rules support this goal by clarifying industry best practices, particularly for registered apprentices enrolled in programs sponsored by community colleges.

We support the overarching goals to focus on expansion with quality, equity at the center, and consistency and innovation. In particular, we support the inclusion of representatives from non-traditional occupations and industries on State Apprenticeship Councils, rules to ensure equitable recruitment practices, and many of the rules in section 29.8 (a) and (b) that benefit individual apprentices. However, we do have concerns regarding the incremental wage increase schedule, the implication that some expenses of the apprenticeship will not be covered by the employer, and new rules requiring the constant enrollment of at least one apprentice.

The recommended composition for the State Apprenticeship Council will help ensure balance and inclusion of underrepresented communities. In particular, community college leaders support inclusion of representatives or employers from sectors and occupations where apprenticeship is not currently widespread, particularly as those programs are likely to be the areas where community colleges would become the program sponsors. For example, Council representation from high tech manufacturing, healthcare, IT, human services, and business administration as well as green jobs industries will bring valuable perspectives critical to advancing apprenticeships in non-traditional occupations. The inclusion of a secondary or postsecondary representative familiar with registered apprenticeships is also important to help bridge gaps in understanding between the education and workforce ecosystems.

In the Standards of Apprenticeship section, 29.8, we particularly support (a)(3) to require program sponsors to provide a description of their recruitment efforts in their program standards to the benefit of access and universal outreach as well as 29.10(a)(4) that focuses on a written plan for equitable recruitment and retention, particularly for underserved communities.

Further sections of 29.8 and 29.10 that benefit apprentices include:

- 29.8(a)(8) Mandates apprentice credential descriptions;
- 29.8(a)(10) Requires sponsor to provide feedback and assessment to apprentices;
- 29.8(a)(11) Requires use of endpoint [inclusive] assessment processes;
- 29.8(a)(13), 29.8(a)(14), 29.8(a)(15), 29.8(a)(16) Requires attestation from employer regarding compliance with all employment and safety laws regarding their apprentices;
- 29.8(a)(17) Requires Standards to articulate wages and benefits, and retention of minimum wage floor;
- 29.8(a)(19) Revises the ratio of apprentices to journeyworkers; and
- 29.10(b)(3) Requires portable skills transferable within the industry.

In the Standards of Apprenticeship 29.8(a)(4), ACCT would suggest that the rule bring clarity to the incremental wage increase schedule when applied in the hybrid or competency-based model. Additional language should be added to the rule to articulate that the incremental wage increase scale, as part of a hybrid or competency-based apprenticeship, should be established to align with competency and/or credential achievement and not be required to also align with hours worked. With the current lack of clarity on this issue, situations have occurred wherein apprentices were compensated at a lower rate

than non-apprentice employees with the same credentials, in the same occupations, with the same employer. This seems to occur due to a lack of understanding that the incremental wage increase schedule establishes wage minimums and that the rates should not be based on hours worked, but rather competencies achieved in a hybrid or competency-based apprenticeship (regardless of the number of hours worked).

Additional parts of the Standards of Apprenticeship and Program Registration proposed rules that cause concern include the following:

Section 29.8 *Standards of Apprenticeship*

- *29.8(a)(9) Establishes a requirement for standards to state whether time spent in related instruction counts as hours worked, providing clarity on wage rates and fringe benefits for those hours. [This is replicated in 29.9(c)(14) Apprenticeship Agreements section.]*
 - The question regarding whether or not time in related instruction counts toward hours worked is a significant equity issue. As such, the rule should resolve this equity issue by clarifying that time spent in related instruction should indeed count as hours worked. In situations where programs do not conduct related instruction in a way that allows apprentices to attend during their work hours, a tremendous disservice is done to those apprentices who must complete their related instruction in addition to their employment work hours. Requiring related instruction outside of regular work hours creates a hardship for apprentices from low socioeconomic backgrounds and those earning lower wages. Requiring related instruction outside of work hours often results in apprentices – especially single parent apprentices – to juggle multiple family responsibilities and can result in additional childcare expenses. In other scenarios, it is not uncommon for apprentices to work a shift through the night and then be required to participate in related instruction the next day without time to sleep. This approach to scheduling is absolutely unacceptable. The registered apprenticeship model is a holistic approach with related instruction as a critical component of this professional development framework. Therefore, as a required component of apprenticeship, apprentices' time should be compensated. The rules should clarify that across all apprenticeships, hours spent in related instruction should 1) count as paid employment time including all benefits, and 2) count toward hours worked. This should be mandatory and not optional based on employer preference or specific registered program.
- *29.8(a)(18) Requires transparency about unreimbursed costs, expenses, or fees and stipulates that these should be necessary, reasonable, and compliant with wage laws.*
 - This proposed rule is of great concern. This gray area results in tremendous inequality for apprentices/students between and among employers. Requiring transparency should be a moot point as the employer should be responsible for all costs associated with related instruction and on-the-job training across the board. Currently, apprentices enrolled in the same program but employed by different employers may or may not be reimbursed equally for the same educational expenses. Requiring transparency does not address this lack of equal treatment. In some cases, community colleges can braid grants and other funding streams to support costs for necessary expenses such as books, uniforms, safety shoes/equipment, tools, drug tests, credentialing fees, etc. However, ultimately, the employer should be responsible if there are no other sources to

reimburse these costs. There should be no unreimbursed costs for the apprentice/student.

Section 29.10 Program Registration

- *29.10(a)(6) Mandates disclosure of instances where a government agency determined violations of laws related to workplace practices. The applicant must describe the violations and actions taken to remedy them.*
 - This proposed rule should apply to the RA program employers and not necessarily to the program sponsor. Furthermore, compliance with this rule seems cumbersome. For a large corporation as an RA program employer partner, this rule does not appear to narrow the scope to a specific state, site or facility or timeframe. This rule could be a deterrent for employers with many facilities and thousands of employees. The attestation requirement described in sections 29.8(a)(13), 29.8(a)(14), 29.8(a)(15), 29.8(a)(16) seems adequate. This appears to narrow this disclosure to the location where the apprentice will be working and receiving their on-the-job training.
- *29.10(a)(8) Demands submission of immediate steps to implement EEO requirements, including identifying responsible individuals, publicizing the EEO pledge, and outlining anti-harassment training.*
 - The concern with this proposed rule is with the term “*outlining*” anti-harassment training. A better requirement would be to require an attestation on the employer agreement form that compliant anti-harassment training will have been completed by all journeyworkers, mentors, and/or supervisors of apprentices. An additional similar attestation required of the related instruction provider (community college) would also suffice. “*Outlining*” anti-harassment training completed by anyone who could or will be a journeyworker (with the employer) or a related instruction provider (community college instructor) is unrealistic because from the time the new RA program is submitted for approval, there could be (and likely will be) turnover of journeyworkers. This concern also exists at community colleges where instructors are drawn from a large pool of qualified professionals for which any one of them could teach one or more related instruction courses. Obtaining and submitting an outline of the anti-harassment training completed by each journeyworker, mentor, supervisor and related instruction provider seems unrealistic and extremely cumbersome.
- *29.10(e) Specifies the need for at least one enrolled apprentice for program registration, with exceptions during specified periods.*
 - Given that there are ebbs and flows in hiring during which there may or may not be apprentices enrolled in a program, requiring at least one enrolled apprentice to *maintain* program registration is not realistic. If there are no apprentices over a period of time – such as 2-3 years – perhaps the rule could recommend review by the Apprenticeship Council for continued registration eligibility. This would allow the program sponsor to clarify enrollment projections and work in partnership with the Apprenticeship Council to determine the best course of action for any given RA program.
 - A second concern is the lack of clarity with the rule as stated. If the intent is that there must be at least one apprentice enrolled in order to *register* a new RA program, there doesn’t appear to be a feasible way to do this. Without the approved Standards, it would be difficult to hire and enroll new apprentices.

ACCT strongly encourages the Employment and Training Administration to proceed with the following recommendations regarding the proposed rules:

- Proceed with the recommended composition of State Apprenticeship Councils,
- Include equitable recruitment requirements,
- Include the specifically noted sections of 29.8 and 29.10 that benefit apprentices,
- Provide clarity regarding incremental wage increase schedule requirements when applied in the hybrid or competency-based model to align with competency and/or credential achievement,
- Require related instruction time to count as hours worked,
- Eliminate and forbid unreimbursed costs for apprentices,
- Narrow the focus of workplace practice violations disclosure requirements,
- Revise anti-harassment training rule to require attestations only, and
- Create a timeframe of 2-3 years without an enrollment for RA program registration.

Thank you for the opportunity to share this feedback. ACCT greatly appreciates the Biden Administration's support for apprenticeships, and the Department of Labor's attention to the evolving state of registered apprenticeships nationwide. For additional questions or information related to these comments, please contact ACCT Vice President, Public Policy, Carrie Warick-Smith at cwsmith@acct.org.

Sincerely,



Jee Hang Lee
President and CEO
Association of Community College Trustees