



March 18, 2024

VIA ELECTRONIC SUBMISSION

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

Re: Notice of Proposed Rulemaking, "National Apprenticeship System Enhancements" (RIN: 1205-AC13)

Dear Mr. Parton,

I am writing on behalf of the National Restaurant Association Educational Foundation (NRAEF) to comment on the above-referenced proposed rule on the Registered Apprenticeship program, published in the Federal Register on January 17, 2024 (89 Federal Register 3118). Apprenticeships are a cornerstone of career development within the hospitality industry, offering invaluable opportunities for individuals to gain practical skills, advance their careers, and contribute significantly to our economy. As the proposed rule changes stand to impact these programs significantly, we wish to share our perspectives and concerns to ensure that apprenticeships continue to serve as a powerful tool for workforce development.

#### **About the National Restaurant Association Education Foundation**

As the supporting philanthropic foundation of the National Restaurant Association, the NRAEF's charitable mission includes enhancing the industry's training and education, career development, and community engagement efforts. The NRAEF and its programs work to attract, empower, and advance today's and tomorrow's restaurant and foodservice workforce. NRAEF programs include ProStart® – a high-school career and technical education (CTE) program; Restaurant Ready/HOPES – partnering with community-based organizations to provide people with skills training and job opportunities; Military – helping military servicemen and women transition their skills to restaurant and foodservice careers; Scholarships – financial assistance for students pursuing restaurant, foodservice and hospitality degrees; and the Restaurant & Hospitality Leadership Center (RHLC) – U.S. Department of Labor Registered Apprenticeship programs designed to build the careers of service professionals.

#### **Restaurant Careers Empowered by Apprenticeships**

The NRAEF is deeply committed to fostering career development in the restaurant industry through innovative training and apprenticeship programs. The NRAEF, an apprenticeship intermediary for the Department of Labor (DOL) and a designated Apprenticeship Ambassador, has developed and sponsors numerous Registered Apprenticeship programs through the Hospitality Sector Registered Apprenticeship Program (HSRA) and Restaurant Youth Registered Apprenticeship (RYRA). Through a combination of hands-on learning coupled with coursework and study, the NRAEF collaborates with employers to identify



and enroll trainees who earn nationally recognized credentials when they complete the programs. More than 1,800 committed apprentices and 300-plus employer apprentice commitments are attached to the NRAEF programs.

### **Response to Proposed Apprenticeship Rules**

The NRAEF supports the modernization of apprenticeship rules. We applaud the DOL's efforts over the past eight years to broaden the industries and opportunities for apprenticeship, reach more diverse populations, create alternate pathways of advancement in work and careers, and facilitate the partnership between government, organizations/businesses, and workers. At the Foundation, we aim to change people's life trajectories through work and education, with Registered Apprenticeship programs playing a key role in our efforts.

In reviewing the new rules published by the DOL on January 18, 2024, we submit that we have significant concerns about the proposed changes to the Registered Apprenticeship. The proposed changes could significantly hinder our industry's engagement with these programs and likely decelerate the expansion of apprenticeship opportunities in the hospitality sector.

The proposed rules attempt to fit new and emerging apprenticeship programs, such as those in hospitality, within the rigid structure of historical programs designed for implementation by unions and large employers in industries with longer, time-based training and push single curriculums. The restaurant and foodservice industry attracts and welcomes individuals from all backgrounds, ages, and learning styles and provides opportunities for limitless growth and development pathways. Small businesses, which comprise ninety percent of our industry, typically lack large HR and training departments. The industry welcomed and implemented HSRA apprenticeship programs because they were developed and validated by the industry, were adaptable, and met all sizes and types of hospitality organizations where they were, providing opportunities for a training environment to support all kinds of learners. The new rules would curtail adaptability, allowing individuals outside the industry to judge program value and implementation—thus diminishing the industry's voice and failing to acknowledge the significance of apprenticeship in our industry and our approach to workforce training.

### **Purpose of Apprenticeship**

Apprenticeships offer competency-based training for career advancement within an industry. In the restaurant and foodservice industry, these competencies prepare individuals for advanced positions within and across various industries. Whether individuals stay for a year or 30 years, the industry trains individuals for further development. Apprenticeship is an integral part of this training. The industry's advancement pathways include what are traditionally considered industry jobs, such as cooks, chefs, supervisors, managers, and owners, and positions in communication and marketing, law, real estate, finance, training, and human resources. Base knowledge of the industry supports success in allied and interwoven advanced positions.

While data capture for career changes is not well documented, some suggest that younger workers today will change careers 5 to 7 times, with further career changes more often noted in historically marginalized

populations, such as communities of color. In considering apprenticeship rules, we need to focus on advancing the skills of individuals today and supporting them as they leverage those skills within the industry they were trained in and in industries they may transfer to.

We are concerned that the new rules of apprenticeship move away from the evolution of work and careers and resort back to the idea that you are locked into a career and pathway, and moving careers would require starting at the bottom of that new path.

### **Concerns Regarding Proposed Rules for Registered Apprenticeships**

To streamline our feedback and ensure a comprehensive understanding of our position, we have categorized our concerns into the following key areas: Program Structure and Flexibility, Regulatory and Administrative Challenges, and Assessment and Evaluation.

#### **1) Program Structure and Flexibility**

- **OJT and RTI Requirements:** We are concerned that one of the criteria for occupation suitable for Registered Apprenticeship training specifies a base number of on-the-job training (OJT) and related technical instruction (RTI). It is unclear how time requirements reflect other criteria, such as skills acquired through OJT, recognizable in industry, progressive acquisition of skills, and RTI. It is also unclear why time requirements are needed around the definition and their basis of establishment. This, along with the minimum requirement hours of RTI, could result in the artificial addition of training hours and instructions, which would be related to unnecessary costs to both the employer and apprentice. If programs are truly industry-based, then the industry, both business and post-secondary degree programs, should define and validate the competencies and RTI necessary. NRAEF apprenticeship pathways are stackable. They incorporate pre-apprenticeship programs such as the Foundation CTE program ProStart and the work readiness program Restaurant Ready. All apprenticeship programs are designed to take entry-level workers and help them progress through the line cook, kitchen manager, and restaurant manager competencies. However, as they are stackable, completion of credentials and mastery of competencies in one program, pre-apprenticeship or apprenticeship, would negate the need to repeat them in the following program. Requiring hours-based programs unnecessarily prolongs training and advancement timelines.
- **'Cohorts' and 'Hiring' Language:** The rules continuously refer to 'cohorts' of apprentices and 'hiring' individuals after apprenticeships into jobs. This reflects models where larger organizations train 'workers' and place them into the field, similar to traditional construction and union-based apprenticeship programs. This is not the apprenticeship system for our industry, and such a model would not be adaptable, especially for small and growing businesses. Apprentices are employees who are selected for advancement. Often, there are only 1-2 per employer location. The start of apprenticeship is rolling and not based on a cohort system.
- **Stackable Apprenticeship Programs:** The NRAEF believes that stackable apprenticeship programs should remain and be encouraged, as they allow for branching multiple pathways and occupations

within a given sector. As mentioned earlier, success in a branch of the industry, such as marketing, HR, and technology, is realized to a greater degree with a base understanding of the industry. In the examples in the proposed rule, the individual in Technologist 1 might branch to a different pathway, not necessarily Technologist 2. Forcing programs to be longer and limiting industry exploration will minimize the opportunities of individuals and the dynamic changing environments of work today.

## 2) Regulatory and Administrative Challenges

- **National and State Program Approvals:** The NRAEF applauds the clarification of the rules on national and state approval of apprenticeship programs and standards. As a national organization working with multi-state and national employers, we look to simplify and align programs across states. We enable employers to access resources and Workforce Innovation and Opportunity Act (WIOA) benefits to implement apprenticeship programs more effectively.
- **Public Comment on Occupational Suitability (29.7(d)):** The NRAEF has concerns about the provision 29.7(d) requiring public comment on all occupational suitability determinations. NRAEF's process already includes industry input to develop the standards and validate its apprenticeship. We do not see how public comment could better validate the process. Opening it up for public comment unnecessarily elongates the already lengthy approval process and opens the assessment process to feedback from those not affiliated with the industry. We would rather the rule demonstrate adequate development and validation by industry than open it up for public comment.
- **Apprentice Recruitment Area Description (29.8a(3)):** Regulation 29.8a(3) requires that employers provide a description of their recruitment area for new apprentices. The rules assume that apprentices are new hires or centrally recruited and trained. Most individuals (90%) enrolled in the NRAEF's apprenticeship program are incumbent employees. NRAEF collaborates with employers to review their apprentice selection process. The rule should focus on apprentice selection versus recruitment and hiring practices.
- **Notification of Unions (29.10):** The NRAEF seeks greater clarity on 29.10 and the requirement of notification of unions. The rule indicates that when unions do not participate in the apprenticeship program, the sponsor must furnish an existing union with a copy of the application. Most businesses in the restaurant and foodservice industry are not unionized. No single union is the collective bargaining agent of foodservice and restaurant employees participating in apprenticeship. The NRAEF national program works with employers to identify apprentices. Therefore, it is not known if and what union an apprentice may be a member of, and consequently, it is difficult to identify the appropriate union to submit standards. Additionally, the process would significantly complicate and be cumbersome to sponsors and employers.
- **Financial Capacity of Sponsors (29.10 (a) (5)):** The NRAEF is concerned about the provision that the Registered Apprenticeship sponsor must submit information showing that it possesses and can maintain the financial capacity and other resources necessary to operate the program,

including the ability to pay apprentices (29.10 (a) (5)). As a sponsor, NRAEF works with employers to implement the apprenticeship program and identify employees to register. At no point is NRAEF financially responsible for supporting the apprentice. We seek clarification on whether the rule pertains to the organization's ability to sustain the program's implementation or to support the apprentice's wages.

### 3) Assessment and Evaluation

- **Instructional Methods for RTI:** The NRAEF is concerned about the specification of instructional methods for RTI. NRAEF's Registered Apprenticeship programs enable both employers and apprentices to select the method of RTI delivery that best meets their business (employer) and learning styles (apprentice). As a sponsor, NRAEF collaborates with employers and apprentices to select the most suitable RTI delivery method. We are concerned that the requirement of specifying delivery in standards will limit that flexibility.
- **Trainer/Instructor Qualifications (29.12):** The NRAEF is concerned about the requirement of attestation and written documentation on the qualifications of the trainer/instructor of OJT for the apprentice (29.12). We believe that this will deter employers from engaging in apprenticeship due to 1) increased documentation and reporting burden; 2) overreach of assessment of managers/supervisors within a business; 3) increased financial burden of the employer to demonstrate and provide continuous learning and upskilling of the supervisor; 4) lack of clarity on requirements and determination of the quality of business training by individuals not involved in the business.
- **End-Point Assessment (29.16):** The NRAEF is concerned about the requirement of an end-point assessment to determine full proficiency (29.16). The creation, validation, and dissemination of the assessment would be cumbersome and not fit all employers, especially small businesses with one or two apprentices. Given that apprentices are continually assessed and evaluated through their OJT, we question the efficacy of a comprehensive assessment over our current, ongoing evaluation method to demonstrate mastery. A comprehensive assessment will favor good test takers who have thrived in traditional classroom settings, designed for individuals to study and regurgitate information, versus the on-the-job demonstration of competency that apprenticeship enables.
- **Data Collection and Reporting:** The NRAEF is concerned with the increased data collection and reporting requirements. Currently, systems used by the DOL Employment and Training Administration do not effectively communicate with each other or outside systems and do not have consistent technical assistance support. The added requirements for detailed data record-keeping and significant follow-up data collection will necessitate extra staff and more hours dedicated to administrative tasks. Employers, especially small businesses, do not have the capacity for such reporting. National sponsors and intermediaries, such as ourselves, would need to divert time from assisting with developing and implementing apprenticeship programs to program record-keeping and reporting. Additionally, some of the specified metrics do not fit all apprenticeship programs:



- Cohort completion rates assume that apprentices are enrolled in cohorts/classes. The NRAEF program enrolls apprentices as they are identified by employers, supporting the implementation of programs by businesses of all sizes.
- The percentage of individuals who exit the program and enter post-secondary education or career pathway programs. As noted earlier, individuals can move from our industry to adjacent industries. Career pathways are not specified to traditionally thought-of restaurant and foodservice jobs (e.g., chef and manager) but can easily branch to training, HR, finance, and law.

### **Career and Technical Education (CTE) Apprenticeships**

The NRAEF applauds linking CTE to apprenticeship. NRAEF supports a long-established high school CTE program, ProStart, which provides students with a foundation in both culinary and restaurant/business management. The competencies and credentials of ProStart are built into the NRAEF-sponsored apprenticeship programs. A more formal linking of CTE to apprenticeship will allow both these programs to grow and thrive.

At a high level, we are concerned about how the rules regarding Perkins and post-secondary credit will work. In our experience, the interpretations of Perkins vary significantly at the state and county levels, as does the awarding number of post-secondary credits for a given program.

### **Concerns Related to CTE Apprenticeships**

To better understand our stance on CTE Apprenticeships, we have organized our concerns into three primary categories: Program Structure and Flexibility, Regulatory and Administrative Challenges, and Assessment and Evaluation.

#### **1) Program Structure and Flexibility**

- **Post-Secondary Credit Hours:** The NRAEF is concerned about the provision that the program can require at least twelve post-secondary credit hours as part of the program. In our experience, post-secondary institutions are hesitant to 'give away' credit hours. Credit hour allocation differs widely among institutions, even with a standardized curriculum, exams, and work competencies. This is best demonstrated by the ProStart Passport, which provides students in our CTE program with a list of colleges giving credit for program completion. Examples of the variation in credit can be found [here](#). Organizations offering secondary credit assessments often 1) underestimate credits, 2) exclude industry representatives from the assessment process, and 3) levy substantial annual fees to maintain credit articulation agreements.
- **CTE Sponsorship Selection:** The NRAEF would like further clarity on the requirements of who can sponsor a CTE apprenticeship program (29.24). NRAEF sponsors both national Registered Apprenticeship programs and national CTE programs. We work with state association partners for

the implementation of the CTE program and work with local employers. When partnering with national employers, we take the lead in managing the relationship. We have concerns that, to build onto our national program model, the requirements of more localized sponsorship would result in inconsistencies in program content and delivery.

## 2) Regulatory and Administrative Challenges

- **Public Feedback on Programs:** NRAEF programs are industry-informed and validated by the industry. Public comment is not appropriate for industry-specific training.
- **Documentation for CTE Apprenticeship Selection:** The NRAEF is concerned about the documentation the sponsor provides for selecting a CTE apprentice. As these programs are integrated into high schools and community colleges, enrollment is based on the school adopting the program. Thus, enrollment is based on the student and counselor, not the sponsor.

## 3) Assessment and Evaluation

- **End-Point Assessments:** As with Registered Apprenticeship, we do not believe a comprehensive end-point assessment should be an apprenticeship mandate. Such assessment caters to specific types of learners and does not necessarily demonstrate proficiency and application of skills.
- **Placement and Retention of CTE Apprentices:** The NRAEF has concerns about the viability of determining placement and retention of CTE apprentices 6 and 12 months after the program. In many cases, enrolled students use emails and contact information associated with their school. Young adults often show limited responsiveness and fail to update their contact information. Secondly, we appreciate that apprenticeship programs in our industry launch careers in our industry and other industries, including other industry's apprenticeship programs. In marking the follow-up and success of a program, we feel career advancement and additional apprenticeship programs should be considered across industries and not within industries. Competency-based programs in hospitality adequately prepare individuals for a multitude of career pathways. We feel follow-up data should capture and reflect the broad nature of advancement.

## Conclusion

In conclusion, the NRAEF wholeheartedly supports the modernization of apprenticeship rules and recognizes the DOL's efforts to broaden apprenticeship opportunities. However, our feedback highlights significant concerns regarding the proposed changes to the Registered Apprenticeship Program. These concerns focus on potential restrictions on program adaptability and inclusiveness, especially for small businesses, and the importance of maintaining competency-based training that aligns closely with industry needs.

We believe in the transformative power of apprenticeships to offer targeted, competency-based training that facilitates career advancement across a spectrum of industries, creating a dynamic and adaptable workforce. We emphasize preserving the flexibility, accessibility, and industry relevance of these





programs to ensure they remain effective conduits for employment and career progression for individuals from diverse backgrounds.

We urge the DOL to contemplate our feedback and engage in constructive dialogue with the hospitality industry to refine the apprenticeship system. We are committed to contributing positively to this process, ensuring the apprenticeship framework reflects current industry demands and is adaptable to future challenges.

Looking ahead, we are optimistic about the role of apprenticeships in fostering economic growth and workforce development. We thank the DOL for the opportunity to submit our comments and look forward to a continued partnership to enhance the apprenticeship landscape for the benefit of the hospitality industry and its workforce.

Sincerely,

A handwritten signature in black ink, appearing to read "Sue Crystal-Mansour".

**Sue Crystal-Mansour, Ph.D.**

Vice President, Program Impact

National Restaurant Association Educational Foundation





## **Appendix: Restaurant Youth Registered Apprenticeship (RYRA) Signatories**

The following RYRA partners endorse the comments made by the NRAEF regarding the Notice of Proposed Rulemaking, “National Apprenticeship System Enhancements” (RIN: 1205-AC13):

**Sonia Riggs**, President & CEO, Colorado Restaurant Association

**Laura Shunk**, President, Colorado Restaurant Foundation

**Carrie Leishman**, President & CEO, Delaware Restaurant Association, Delaware Restaurant Association Educational Foundation (DRAEF)

**Stan Harris**, President & CEO, Louisiana Restaurant Association

**Jonathan Baynham**, Executive Director, Louisiana Restaurant Association Education Foundation (LRAEF)

**Marshall Weston, Jr.**, President & CEO, Restaurant Association of Maryland, Restaurant Association of Maryland Education Foundation (RAMEF)

**Joe Massaro**, President & CEO, Pennsylvania Restaurant & Lodging Association