



NATIONAL CENTER FOR WOMEN'S EQUITY IN APPRENTICESHIP AND EMPLOYMENT

Key CWIT Recommendations for NPRM to Revise 29 CFR part 29 To Support Diversity, Equity, and Inclusion

1. Require that the minimum qualifications for RAP personnel contained in RAPs' Standards of Apprenticeship include appropriate training in maintaining respectful workplaces, making bias-free evaluations, and using bias-free teaching techniques, and that RTI instructors and evaluators be assessed in their regular performance reviews on how well they accomplish those tasks.¹
2. Include the "living wage" recommendation adopted by the ACA,² which reads as follows:

The Office of Apprenticeship of the US Department of Labor should revise the definition of "apprenticeable occupation" in 29 CFR § 29.4 as follows:

- A. To add to the definition of "apprenticeable occupation" in 29 CFR § 29.4 a requirement that, for an occupation to be apprenticeable, the prospective sponsor must demonstrate that the wage profile for that occupation by the last stage of the apprenticeship prior to completion pays a living wage based on local living standards; individual programs that register programs utilizing those occupations would be expected to propose a wage schedule in accordance with that occupation's wage profile for their locations.
 - B. The term "living wage based on local living standards" is defined as 200% of the federal poverty level for a family of three, adjusted by a geographic cost-of-living differential for regions where the cost of living exceeds the federal average.
3. Require that RAPs' Standards of Apprenticeship guarantee that PPE will fit appropriately, according to individual apprentices' sizes and body types.³
 4. Require that RAPs' Standards of Apprenticeship guarantee bathrooms, changing facilities, and places for lactation that are safe, secure, and sanitary.⁴
 5. Add an Equity Index to the RAP performance measures by which the Registration Agency evaluates programs.⁵
 6. Complaints. There are three components of this recommendation:
 - (a) Require that RAPs establish an internal complaint system – that is, a system for filing and addressing complaints about violations of part 29 and part 30 filed with the RAP or employer.
 - (b) For both internal complaints and external ones – that is, for complaints filed with a Registration Agency – require that the complaint system:
 - Must resolve complaints as quickly as possible;
 - Must ensure that the apprentice who made the complaint gets written notice and an explanation of the complaint's disposition;

- Must allow removal of an individual who is alleged to have engaged in bullying, harassment, hazing, or other conduct during the pendency of the complaint.
- (c) For external complaints, require that the apprentice who made the complaint be informed explicitly that third-party complaints can be ‘anonymous’ in that they don’t have to identify the complainant by name, and, if a complaint presents credible evidence of a violation, that the Registration Agency can open a compliance review and then interview apprentices without informing the program of who made the complaint.⁶
7. Require RAPs to provide their Standards, including all appendices, including the Affirmative Action Plan (Appendix C), their completion rates, and their Equity Indices (for each population group) to OA for posting on OA’s website.⁷
 8. Require that RAPs’ Standards of Apprenticeship guarantee periodic evaluation of apprentices’ performance that includes a standardized set of competencies and rating system.⁸
 9. Require that apprentices be given written notice and documentation of how their conduct violated the program’s rules at each stage of progressive discipline.⁹
 10. Require each group RAP to assign a field monitor to be responsible for making sure that what’s happening in the field – i.e., at the participating employers where their apprentices work – conforms with the RAP’s Standards and with 29.29 and 29.30, and require the field monitor to visit the participating employer whenever there’s a complaint.¹⁰

Recommendations Regarding Registration Agencies:

11. Change the required frequency of RAP reviews by OA and the SAAs from every 5 to every 2 years.¹¹
12. Strengthen oversight of the SAAs by changing the frequency with which OA must review them to every 3 years and making SAAs’ funding conditional on their conforming their regulations and state EEO plans to OA’s.¹²
13. Require OA and the SAAs to post¹³ (with Personal Identifying Information removed):
 - a. (for SAAs) Their apprenticeship laws/regs/etc., including their State EEO Plan
 - b. Compliance agreements
 - c. De-registrations
 - d. Reinstatements
 - e. Data on the Reg. Agencies’ performance ((# reviews performed, # reviews completed, # of apprentices who were enrolled in the RAPs performed, total amounts of backpay or other relief awarded, % of reviews that ended up with deficiencies, prevalence of types of deficiencies) annually.

Endnotes

¹ Rationale: The relationship of this recommendation to ensuring nondiscrimination and equity for apprentices is self-evident.

² Rationale: It is disproportionately apprentices from underrepresented communities who are in jobs for which they don't even get paid a living wage upon completion of their apprenticeships. As you know, the living wage resolution that passed at the ACA's May 10, 2023, meeting enjoyed widespread support on the ACA – from representatives of employers and community colleges as well as unions.

When CWIT first submitted recommendations for 29.29 revisions to OA at the ACA meeting in Emeryville, CA, in March -- prior to the ACA's vote at the May 10, 2023, meeting. The living-wage language in those recommendations was somewhat different from the language that the ACA ended up adopting; it referred to family-sustaining wages with benefits. CWIT endorses the language adopted by the ACA instead of the language referring to family-sustaining wages with benefits that we originally proposed.

³ Rationale: Non-fitting PPE is an endemic problem for tradeswomen. OSHA Construction Standards for PPE have not explicitly required PPE to fit each employee, although on July 20, 2023, OSHA published an NPRM to revise its Construction Standards for PPE to make that requirement explicit for employers covered by OSHA. Making the same change in §29.5 would align OA's requirements for RAP sponsors with OSHA's requirements for employers.

⁴ Rationale: A workplace without facilities that meet these standards is by definition a discriminatory workplace, because women face working conditions that are different from and inferior to the conditions that men enjoy (since men's needs for sanitation, safety, and proximity are met even if the facilities do not meet these standards).

⁵ Rationale: Under the current § 29.6(b)(1), the only two performance measures that must be implemented are the results of apprenticeship program reviews and completion rates. An Equity Index is the ratio of percentage of a population group among a RAP's apprentices to the percentage of that group in the available workforce. An equity index of 100 indicates parity -- the apprenticeship program reflects the diversity of the community in which it operates. An equity index of above 100 indicates higher levels of participation. An equity index of below 100 indicates under-participation (also called underutilization) of the group.

⁶ Rationale: These provisions are necessary because fear of retaliation is a major reason why apprentices do not file complaints of discrimination (or any other type of complaint). Another reason is that apprentices think it is futile to do so. Apprentices' experiences are too often that after they file a complaint, they hear nothing back from the agency and see no change. This recommendation addresses both those concerns. In particular, the recommendation to clarify how complaints can be made anonymously would go a long way to addressing concerns about retaliation.

⁷ Rationale: This transparency is essential to enable apprentices, unions, community groups, and other stakeholders to evaluate RAPs' programs, success at graduating apprentices, and success at providing equal opportunity.

⁸ Rationale: In our experience, RAPs do not always conduct formal evaluations of apprentices' performance or use consistent standards for such evaluations – and that failure, in turn, results in a wholly discretionary evaluation system that is too often applied differently – whether consciously or unconsciously -- to women, people of color, and individuals with disabilities (IWDs). Regular evaluation using a standardized rating system and criteria would make it harder for such discrimination to flourish and to be unprovable.

⁹ Rationale: Again, in our experience, female apprentices and apprentices of color are subject to discipline without being told why; without explanation, the apprentices cannot correct their conduct or evaluate the fairness of the discipline.

¹⁰ Rationale: All too often, administrators of group programs do not know how their apprentices are actually treated on the job by their employer – for example, whether the employer is providing them with what the RAP's Standards promise and whether the apprentices who are women, people of color, and IWDs get the same experience and instruction that the other apprentices do. Requiring a field monitor addresses this problem.

¹¹ Rationale: Reviews are now so infrequent that many RAP administrators have never experienced one and don't even know that their programs are subject to review by their Registration Agency. We realize that adopting a frequency of every two years would mean that OA would have to hire more staff and/or change the duties of some staff – but that is what is required if sponsors' obligations are taken seriously. (Note that apprenticeship program reviews cover compliance with both parts 29 and 30 of 29 CFR.)

¹² Rationale: Our experience has been that not all the SAAs are as eager to implement 29.30 – these changes would enable OA to ensure more consistent and better performance by the SAAs.

¹³ Rationale: Posting this information enables apprentices, unions, community groups, and other stakeholders to evaluate the Registration Agencies' performance, including their performance at implementing 29.30.