



May 31, 2019

Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th Street NW, Room 10235
Washington, DC 20503

RE: JFF Comments for the EO 12866 Meeting on the Proposed Revision to 29 CFR Part 29, Industry-Recognized Apprenticeship Programs (IRAP) – RIN: 1205-AB85, Apprenticeship Programs, Labor Standards for Registration, Amendment of Regulations

To Whom It May Concern:

JFF appreciates the opportunity to participate in the June 4th, 2019 E.O. 12866 meeting to discuss the proposed amendment to rule 29 CFR Part 29 to incorporate Industry-Recognized Apprenticeship Programs (IRAP) under the regulations for the National Apprenticeship Act of 1937.

JFF is a national nonprofit that drives transformation in the American workforce and education systems. For 35 years, JFF has been designing innovative solutions that create access to economic advancement for all. Throughout our history, JFF has been a strong advocate in promoting apprenticeship and other quality work-based learning models. In 2017, JFF launched the Center for Apprenticeship & Work-Based Learning to spur mainstream adoption of work-based learning programs and serve as a resource to the apprenticeship community.

JFF applauds the Department of Labor's efforts to consider flexible new approaches to apprenticeship but has concerns that the incorporation of the new IRAP model into 29 CFR Part 29 will duplicate some of the features of the existing Registered Apprenticeship (RA) model, confuse the national apprenticeship community, provide a lower quality and less rigorous apprenticeship experience, and potentially burden employers with unforeseen costs or fees.

While JFF has not been able to review the proposed rule change, the Department has shared enough information on the IRAP proposal that is cause for concern. 29 CFR Parts 29 and 30 already provide a rigorous process for ensuring quality apprenticeship programs. The proposed IRAP program appears to be a duplicative and potentially costly process on top of an existing system that is already meeting the need of thousands of employers and workers across the nation. We agree with many organizations who believe the current RA system could be improved, and we strongly urge the Department to consider streamlining the existing RA system under 29 CFR Part 29 rather than creating an entirely new apprenticeship process that could add burden to employers, workers, and other stakeholders who participate in apprenticeship program

development. JFF respectfully provides the following additional comments on the proposed rule change.

1. **There is no evidence that IRAPs will be effective:** The Department provides no scientific research, evaluation evidence, or pilot project results to suggest that IRAPs will result in high-quality outcomes equivalent to the quality of existing RA programs. A test of pilot projects, as recommended in the [Secretary of Labor's Task Force Report on Apprenticeship Expansion](#), would help determine their effectiveness before working through this laborious proposed rulemaking process on an untested program. Good government requires some sort of evidence base, or prior practice, to determine potential effectiveness. In the case of IRAPs, there is none.
2. **IRAPs could create an unforeseen burden of costs and fees:** Under the existing RA system, there are no costs or fees paid by employers to approve or register apprenticeship programs through DOL or State Apprenticeship Agencies. There has been little information provided by DOL as to whether third-party certifiers, accreditors, or other registration entities will be permitted to charge fees for the service of accreditation. If the Department's intent is to allow accreditors to charge fees for these services, this would present a significant burden to employers and add substantial costs to the U.S. system of apprenticeships that presently don't exist. Fees for accreditation would also impact the ability of small and medium-sized businesses to participate in IRAPs. DOL should provide clarity and guidance on the ability of IRAP accreditors to charge fees and the estimated impact and burden of these fees on employers and program providers.
3. **Governors and states will have no involvement with, or authority over, IRAPs or the IRAP third-party accreditors:** Under the national apprenticeship system, DOL directly administers RA programs in 24 states while State Apprenticeship Agencies (SAA) oversee RAPs in 26 states and four territories. All RA programs must be approved and monitored by either DOL or an SAA. Under the IRAP proposal, program approval will be managed very differently with apprenticeship programs approved by a collection of third-party accreditors that have been approved by DOL. Governors or state agency leaders will have no authority over new IRAPs operating in their states and will have no authority over the third-party apprenticeship accreditors. These new IRAPs could compete with the existing work of SAAs who are bound to support the current RA system as required by DOL and state statutes. There are no current provisions for SAAs to approve, monitor, disbar, or otherwise regulate low quality programs that fail students or employers.
4. **IRAPs propose no minimum requirements or standards for on-the-job learning (OJL) or related technical instruction (RTI):** Unlike DOL's current RA requirements of 2,000 hours of OJL and 144 hours of RTI, there are no minimum standards of OJL or RTI outlined for IRAP programs. This leaves the door open for a range of new, shorter-term, lower-quality apprenticeship programs that could fail to meet a minimum threshold for high-quality apprenticeships. This failure to set minimum standards risks cheapening the nation's apprenticeship system by preparing workers only for entry-level positions, not the skilled and semi-skilled positions often associated with today's Registered Apprenticeships. JFF is concerned that many IRAP programs will require few minimum requirements and that these will not provide the rigor, quality, or standards of existing RA programs. We urge the Department to consider establishing minimal OJL and RTI requirements to ensure programs are training apprentices for middle- and high-skilled positions commonly associated with rigorous, high-quality apprenticeship programs.

5. **There will be brand confusion for employers, workers, and other apprenticeship stakeholders:** Adding a new and different apprenticeship model on top of an existing and established Registered Apprenticeship model will create confusion for employers, workers, and other stakeholders. The hallmark of apprenticeships are structured and rigorous program standards accepted by industry. Introducing IRAPs that have differing standards and outcomes may confuse the “brand” of apprenticeships for workers and employers. The past 12 months of IRAP discourse has already caused great confusion in a field that needs to work hard to explain the promise of apprenticeship to employers and workers.
6. **The accreditation system could create potential conflicts of interest:** The IRAP proposal could result in significant conflict of interest in the field. With little oversight planned for these new accreditors and program sponsors, there are numerous concerns regarding accreditors and the programs they are to approve and monitor. Is the accreditors’ role to serve as an honest broker for approving programs? Can accreditors develop their own curriculum that they then subsequently self-approve? If they are permitted to approve their own programs, who monitors and evaluates their performance? Can accreditors charge fees for accrediting programs? It would be helpful for the Department to provide additional clarity and guidance regarding possible conflicts of interest scenarios and how they intend to monitor and respond to potential conflicts.
7. **Accreditors should be accountable to monitoring and oversight:** There are few provisions outlined in DOL documents that describe the Department’s role in monitoring accreditors to ensure they are reasonably overseeing important program requirements, such as safety, EEO, credentialing, and program quality. There are also no provisions for how DOL will respond to an accreditor who fails to fulfill, or violates, the requirements of being an accreditor. There has been little shared with the public on the role and responsibilities of accreditors once they have accredited a program. The Department should clarify the accreditors’ role and responsibilities for program oversight and monitoring and their process for cancelling or de-registering programs that fail to perform as approved.
8. **DOL’s role in monitoring and oversight is unclear and would require capacity:** The Department has yet to outline a thorough process for monitoring and oversight of new IRAP programs. It is unclear whether this a DOL responsibility, or the responsibility of the third-party accreditor for monitoring and reporting of programs they approve. It is assumed that the Department’s Office of Apprenticeship will have responsibility for oversight of the accreditation system, but more information and guidance is needed to understand how this important monitoring function will operate over all apprenticeship programs. Furthermore, if the Office of Apprenticeship is to be responsible for IRAP program monitoring, will they have the staff capacity to monitor the existing RA system and also provide the required oversight of the expansion of a parallel apprenticeship system for all 54 states and territories? Given the Departments current budget and staffing allocation, it is difficult enough to oversee the existing RA system, much less adding and entirely new program with no additional staff to support critical functions. How does the Department plan to provide this oversight and monitoring function? Is there a budget request to build additional staff capacity to provide for this important quality control function?
9. **There is questionable statutory authority for IRAPs:** There is no compelling statutory authority for the revision of 29 CFR Part 29 for IRAPs. Since this proposed rule does not provide for any substantial changes to the existing rule that governs the RA system, IRAPs seem to be an unnecessary addition, not an amendment, to the existing rule. An alternative

approach would be to revise 29 CFR Part 29 to make it easier and less burdensome for employers to use the existing RA system, rather than proposing a rule and implementing a duplicative apprenticeship program of unknown effectiveness.

10. **The welfare of apprentices must be upheld:** It is unclear who is responsible for safeguarding and protecting the welfare of apprentices regarding safety on the job, wages, EEO, workplace complaints, and other program quality issues related to an employment setting. The Department should clearly define the process if an approved IRAP program fails to meet the requirements in these areas, and it should describe the role of the Department to intervene, address, resolve, or take other action on these issues.

Recommendations:

- **Follow Task Force recommendation for pilot projects:** JFF urges the department to test an IRAP pilot program to evaluate outcomes to ensure its efficacy prior to going through the laborious process of changing the rule. The [Secretary of Labor's Task Force Report on Apprenticeship Expansion](#) of May 10, 2018, calls for a pilot project to “test the process” of how the different components of this new program could work together: Page 34 of the Task Force report states: “The Industry-Recognized Apprenticeship program should begin implementation with a pilot project in an industry without well-established Registered Apprenticeship programs. This would test the process for reviewing certifiers and would help the Federal Government better understand how to support industry groups working to develop standards and materials for Industry-Recognized Apprenticeship programs.” JFF agrees with this recommendation.
- **Slow down and clarify the process for Information Collection Requests (ICRs) and Rulemaking:** The recent process for ICRs on the accreditor application process and proposed rulemaking seems rushed, confusing, and out of sync. The Department issued two ICRs in September and December on Accrediting Entity Information and Accreditor Collection Forms before the proposed rule was ever made public. Since the revision of 29 CFR Part 29 will further outline the requirements of IRAPs and the accreditation process, it seems prudent to advance the ICR process *only after* the rule has been out for public comment and finalized by DOL. The Department should update, revise, and re-issue these two ICRs after the revised regulations are promulgated and open for public comment. This will provide prospective IRAP applicants the opportunity for a thorough review of the final regulations and clearer understanding of their ultimate roles and responsibilities as apprenticeship accreditors.

Thank you for the opportunity to provide comments on the proposed rulemaking process for the Industry-Recognized Apprenticeship Programs (IRAP) during this review period. We hope these comments prove useful in the Administration's work in shaping a high-quality apprenticeship system that serves workers and employers.

Respectfully submitted,

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