

**DIVISION 11
APPRENTICESHIP AND TRAINING COUNCIL**

General Rules

839-011-0020

Date and Location of Council Meetings

The Council **shall** [*will*] hold at least four regular public meetings each year as required by ORS 660.120(2)(g). The date of the next regular Council meeting will be designated by the Chair and announced at each Council meeting. Meetings may be scheduled at any location within the state of Oregon selected by the Chair.

Stat. Auth.: ORS 660

Stats. Implemented: ORS 660.120(2)(g)

839-011-0050

Certificate of Meritorious Service

Upon the recommendation of a local committee or the motion of a Council member, the Council may award a certificate of meritorious service to any individual who has devoted a minimum of three years of service to a registered apprenticeship program. [*The Council may grant a certificate of meritorious service to individuals who have devoted a minimum of three years to the service of registered apprenticeship based on either:*

- (1) *The recommendations of joint committees; or*
- (2) *The motion of a Council member.]*

Stat. Auth.: ORS 660

Stats. Implemented: ORS 660.120

839-011-0051

Delegation of Authority by Council

(1) The Chair and Director, with the approval of the Chair, may act on behalf of the Council for **federal purposes and** in all cases where immediate action is deemed necessary by the Chair and Director. All such actions shall be placed on the agenda for the next regular Council meeting for Council approval or ratification.

(2) All matters pertaining to the approval or deregistration of apprenticeship committees, standards, **program sponsors, employers,** training agents or apprentices must be ratified by the Council at its next meeting.

(3) Any standards referred back to local committees by the Council for revision may be approved by the Director when revised according to Council action.

Stat. Auth.: ORS 660.120(3)

Stats. Implemented: ORS 660.120, 660.210 & 660.170

839-011-0060

Public Records Request

(1) The Bureau will make available any record requested by any person pursuant to ORS 192.420, provided that the request is in writing and the record requested is not exempt from disclosure under the provisions of ORS chapter 192[,] **or** other applicable law. A

reasonable time shall be allowed for the Bureau to locate and retrieve information requested.

(2) The Bureau may charge a fee reasonably calculated to reimburse the Bureau for costs of providing and conveying copies of public records. When the fee is estimated to exceed \$25.00 per public records request, the Bureau will provide the requestor with written notice of the estimated amount of the fee and require written confirmation that the requestor intends to proceed with the request.

(3) As used in these rules:

(a) "Page" refers to paper either 8.5 x 11 inches or 8.5 x 14 inches. Staff will not reduce size or otherwise manipulate records to fit additional records on a page, unless staff concludes that it will be the most effective use of their time. A double-sided copy consists of two pages. Because of the increased staff time involved in double-sided copying, there is no reduction in the per page fee.

(b) "Normal and reasonable" staff time is 10 minutes or less per request.

(4) Unless otherwise specified in OAR **Chapter** [division] 839, the Bureau will charge a minimum fee of \$5.00 per request for records located in the Bureau's office facilities or \$15.00 per request for records located offsite, plus \$.20 per page, as reimbursement for requests requiring normal and reasonable staff time.

(5) If the time required exceeds normal and reasonable staff time, the actual costs of staff or supervisory time necessary for locating, reviewing, separating, photocopying, certifying and preparing records for mailing or other delivery will be charged for each hour or fraction thereof as follows:

(a) Supervisor/Administrator -- \$39.00 per hour;

(b) Investigator/Compliance Specialist/Consultant -- \$32.00 per hour;

(c) Clerical -- \$23.00 per hour.

(6) In addition to staff time, the Bureau will charge for supplies and use of equipment for producing records as follows:

(a) Twenty cents per page for photocopies;

(b) Actual cost for postage or other delivery costs;

(c) Fifty cents per page for copies by facsimile (fax) machine with a limit of 20 pages.

(7) The Bureau will charge \$41.00 per hour, with a \$12.00 minimum, for public record requests that require electronic reproduction. Charges include, but are not limited to, staff time spent locating, downloading, formatting, copying and transferring records to media, and any charges by a third party vendor.

(8) The Bureau will provide blank reproduction media at the following rates:

(a) Diskettes, 3.5 inch, \$1.00 each. (Due to the possibility of computer viruses, the Bureau will not permit requesters to provide diskettes;

(b) Video Cassettes, two hours, \$3.00 each;

(c) Audio Cassettes, \$2.00 each;

(d) Compact disks, 1.5 hours: \$1.50 (Due to the possibility of computer viruses, the Bureau will not permit requesters to provide compact disks.).

(9) The costs of any necessary Attorney General review of requested public records will be charged to the requester at the rate billed by the Department of Justice to the Bureau.

(10) The Bureau may require that all fees assessed pursuant to this rule be paid in cash, in correct change, prior to furnishing any copies, material, or information.

(11) Where a request is made to inspect records, the Bureau may impose restrictions regarding the location where the information requested will be made available for inspection. Where the Bureau allows the person requesting the information to search or inspect Bureau records, the Bureau may, as it deems necessary for the protection of the records, assign an employee to supervise the search. The charge for this service will be in accordance with section (5) of this rule.

(12) The Bureau may enter into agreements to provide routine, periodic reports in a consistent format for a negotiated price.

(13) The commissioner may waive the requirements to pay the charges described in this rule, or any part thereof after determining that the waiver is in the public interest and primarily benefits the general public. In determining whether sufficient public interest is demonstrated, relevant factors include:

(a) The requester's identity;

(b) The intended use of the information;

(c) The character of the information;

(d) Whether the requested information is already in the public domain;

(e) Whether the requester can demonstrate the ability to disseminate the information to the public; and

(f) The requestor's inability to pay, although this alone is not a sufficient basis to waive a fee.

Stat. Auth.: ORS 344.745(1) & 660.120(1)

Stats. Implemented: ORS 344.745

Formation, Composition and Dissolution of Local Committees

839-011-0070

Definitions

(1) "Division" means the Apprenticeship and Training Division of the Bureau.

(2) "Employee" means any person employed or active in an applicable trade.

(3) "Local Committee" means any registered joint or trades apprenticeship or training committee approved by the Council.

(4) "State minimum guideline standards" means industry/trade benchmarks developed by a Council approved state committee and approved by the Council that represent the fundamental requirements necessary for entry into and completion of specific Council approved apprenticeship or training programs.

(5) "Registered **apprenticeship** program" means a local committee approved by the Council to operate an apprenticeship or training program in a specific occupation.

(6) "Registration of an **Apprenticeship Agreement**" means the acceptance and recording of an apprentice or trainee agreement by the Division on behalf of the Council.

Registration is evidence of the participation of the apprentice or trainee in a registered program.

(7) "Standards" means a written agreement submitted by a local committee and approved by the Council, which sets forth a plan containing all terms and conditions for the qualification, employment and training of apprentices or trainees as set forth in ORS 660.126 and 660.137.

(8) “Trainee” means any individual registered to a registered training program. For the purposes of these rules, all apprentice requirements apply to trainees unless otherwise noted.

(9) “Training agent” means an employer approved by a local committee to train apprentices and registered with the Division.

(10) “Training program” means any registered program of 2,000 on-the-job training hours or less. For the purposes of these rules, all apprenticeship requirements apply to training programs unless otherwise noted.

(11) “Traveling Training Agent” is an approved training agent working outside the geographic area where its primary place of business is located and registered by the Division.

(12) “**Journeyworker**” [*Journey Person*” or “*Journey Worker*”] is a fully skilled practitioner who can work independently in a given trade or occupation **in accordance with ORS 660.010(4)**. Generally, a skilled crafts person has a minimum of four years of verifiable trade-specific experience or has completed a state certified apprenticeship program in the applicable trade and holds a license where required.

(13) “Completion rate” means the percentage of an apprenticeship cohort who receive a certificate of apprenticeship completion within 1 year of the projected completion date. An apprenticeship cohort is the group of individual apprentices registered to a specific program during a 1 year time frame, except that a cohort does not include the apprentices whose apprenticeship agreement has been cancelled during the probationary period. The projected completion date is the number of years determined by the greater of the following measures:

(a) The number of required on-the-job training hours needed fro completion of the program divided by 2000 and rounded up to the nearest whole number; or

(b) The number of years of required related training prescribed in the applicable standard.

(14) “Job Site” means:

(a) For standards in construction trades, the area covered by an approved building permit, plan of development or contract number, or contractual agreement for new construction or renovation;

(b) For standards in non-construction trades, the physical area within the wall that services are offered or the location that is identified on the license by the licensing board and/or other local government.

Stat. Auth.: ORS 660.120(3)

Stats. Implemented: ORS 660.120(1)

Joint Committees

839-011-0072

Formation of Joint Committees

(1) Any person or group interested in forming a local joint committee may give written notice to the Division. Local committees in building and construction trades occupations may only be approved as group programs serving multiple employers.

(2) The interested party or group shall establish a date for an organizational meeting and provide the Division with written notice of the date, time and location of the meeting at

least 5 (five) working days in advance of the meeting. Division staff may attend organizational meetings in an informational role.

(3) At the organizational meeting participants, excluding **Division** staff, will:

(a) Adopt Roberts Rules of Order;

(b) Specify the committee name, its geographical jurisdiction, and the occupation(s) for which it will train;

(c) [*Select*] **Nominate committee** members [*nominees*] and submit their names to the Council pursuant to OAR 839-011-0074;

(d) Elect a chair and a secretary [*and secretary*] as committee officers, pursuant to OAR 839-011-0074(8).

(4) Local committees and training agents shall be responsible for the administrative cost and expenses associated with the operation of their programs. No committee or training agent shall charge or cause charges to be levied against an apprentice for purposes of financially supporting the administrative, clerical or organizational cost of operating a registered program. Apprentices may be required to pay the normal cost of tuition and related training materials.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 660

Stats. Implemented: ORS 660.120(2)(c), 660.135(1), (2), (3), (4) & (5)

839-011-0074

Committee Member Selection [JATC/JAC, TATC/TAC]

(1) Committees shall consist of an equal number of employer and employee representatives.

(a) Representatives of employers, or an employer organization representing the industry, shall submit nominations for employer committee members.

(b) Individuals representing the journey level workforce for the occupation, or an employee organization that represents the concerned employees and is involved with the occupation, shall submit nominations for employee committee members. For the purposes of these rules, an individual is eligible to serve as an employee representative for the occupation only if that individual:

(A) Is or has been a skilled practitioner in the occupation **and does not serve in a supervisory capacity as defined in the National Labor Relations Act, as amended**; or

(B) Is a bargaining unit representative for the employees of a participating training agent.
[; and]

[(C) *Does not serve in a supervisory capacity as defined in the National Labor Relations Act (as amended).*]

(2) Joint apprenticeship or training committees (JATC/JAC/JTC) shall consist of not less than two or more than four principal employer representatives and not less than two or more than four principal employee representatives.

(3) Trade apprenticeship or training committees (TATC/TAC/TTC) shall consist of one principal employer representative and one principal employee representative for each approved standard of the committee.

(4) State minimum guideline committees shall consist of one principal employer and one principal employee representative from each local committee training in the occupation pursuant to the appointment procedures in OAR 839-011-0141.

(5) Committees may nominate one alternate member for each principal committee member and the alternate shall be selected according to the nominations procedures for principal committee members set forth in this rule. Alternates shall serve in the absence of principal members consistent with ORS 660.135(2).

(6) The Director shall list the names of the nominees on the next Council agenda. After consideration of whether the appointments provide a balanced representation of the viewpoints of employer and employee groups, the Council will approve the nominations.

(a) The Council may request the names of additional nominees if it does not approve any of the nominees.

(b) If either employers or employees cannot or will not recommend nominees for the committee, the Apprenticeship Representative for the area may recommend individuals involved with the occupation, and forward the name of the individual(s) to the Director. The Director will evaluate the individual(s), and if appropriate, provide interim approval pending submittal of the names of the individual(s) to the Council for approval according to the procedures of section (1) of this rule.

(7) When a vacancy occurs on a committee, it shall be filled according to the member nomination procedures set forth in this rule.

(8) Each committee shall elect a chairperson and a secretary from committee members. One of the offices must be held by an employer member and one office must be held by an employee member.

(a) The officers shall serve for no less than one year and no more than two years without an election unless the committee has adopted policies and procedures establishing the duration of officers' terms.

(b) In the event of a vacancy in an office, the respective employer or employee members shall elect from their representation a replacement to serve the unfilled term of office consistent with ORS 660.

(9) No Division staff may be elected or appointed to any position within a committee.

(10) Associate members may be elected or appointed by the committee but such members do not have voting rights on local committee matters.

Stat. Auth.: ORS 660

Stats. Implemented: ORS 660.145

839-011-0082

Deregistration of [Dissolving] Committees

(1) The Council will **deregister** [*dissolve*] committees for inactivity, inadequate activity, or failure to abide by ORS Chapter 660 or the rules and policies of the Council pursuant to ORS 660.120(4[2])(d), or if the committee has informed the Director or the Council that it will no longer perform its duties.

(2) On behalf of the Council, the Director shall, to the extent practical, secure the formation of a new committee where a previously approved committee failed to carry out an effective program.

(3) A committee shall be subject to deregistration if it has had no apprentices registered for two years or more, has not had at least two quorum meetings in a twelve month

period, has failed to administer to the needs of the apprentices or the industry concerned or if so otherwise deemed appropriate by the Council.

Stat. Auth.: ORS 660

Stats. Implemented: ORS 660.120(d)

839-011-0084

Approval of New Committees and Standards

(1) Additional committees or standards in an area already served by an existing committee in the same trade, craft or occupation shall be established in the same manner as any other local committee.

(2) All employers and their qualified employees shall be afforded the opportunity to participate, on a non-discriminatory basis, in existing programs.

(3) The Council **and the Apprenticeship and Training Division of the Bureau of Labor and Industries** will approve the creation of a new local committee or new standards for an existing committee only if the applicant for the new program or new standards can first demonstrate to the **Council and the Apprenticeship and Training Division**, by a preponderance of evidence, that the application is in conformity with the following requirements:

(a) The applicant shall submit documentation showing committee composition pursuant to ORS 660.135, .145.

(b) The applicant shall submit standards in a format approved by the Council that meet or exceed any existing statewide minimum guideline standards for the occupation. Where no state guideline standards exist, proposed standards shall meet or exceed national guideline standards approved by the federal Office of Apprenticeship. Where no state or national guideline standards exist, standards will be approved at the discretion of the Council **and the Apprenticeship and Training Division** when the proposed occupation is clearly identified and commonly recognized throughout an industry.

(c) The applicant shall submit an administration plan that includes:

(A) Written designation of the program administrator;

(B) Documented assurances that the committee will be adequately funded to support its administration and the presentation of related instruction;

(C) A written statement that details all costs to apprentices (including instruction, books, tuition); and

(D) Assurances that training agents and prospective training agents will be provided with a written statement of costs for program participation.

(d) The applicant must demonstrate the ability to track required on-the-job training, related and supplemental training and affirmative action information (i.e., work progress reports, apprentice/trainee rotation system, employer's apprentice/trainee evaluation forms, grading sheets, applicant logs) and provide the Council with copies of the forms and documents that will be used to track such information.

(e) The applicant shall submit a plan detailing how the committee will ensure that participating employers will provide work in all areas covered by the program standards (ORS 660.137(5)), including:

(A) Training in all counties listed in proposed geographical area;

(B) Training in all work processes set forth in the standards;

- (C) Committee expectations of supervising journey workers and a plan for the supervision of apprentices/trainees in the ratio set forth in the standards (ORS 660.126(1)(c), (f));
- (D) Training agent qualifications and duties (ORS 660.137(5)); and
- (E) A plan for training participating employers on their duties and responsibilities.
- (f) The applicant shall submit a complete related training curriculum, including instructor qualifications, class outlines and expected competencies, grading procedures and completion criteria. This submission shall include:
- (A) An explanation of the curriculum delivery method and a description of the related training facilities;
- (B) Certification of the curriculum and instructional delivery plan by either a state education certifying authority or nationally recognized industry association (ORS 660.137(2)(c), .126(1)(j), .157); and
- (C) Assurances that classroom and related instruction can be delivered throughout the geographic area. The applicant must submit a contract or other documentation demonstrating that actual instructional resources are in place. The committee's geographic area must be one that can be reasonably served by the committee with respect to employers and the location of the related training services (ORS 660.126(1)(a)).
- (D) Assurances that instructors meet the Oregon Department of Education's requirements for vocational-technical instructors or are subject matter experts, defined as an individual, such as a journeyworker, who is recognized within an industry as having expertise in a specific occupation. If the instructor is a subject matter expert, the submission must include assurances that the instructor has or will have had training in teaching techniques and adult learning styles, which may occur before or within nine months after the apprenticeship instructor has started to provide the related technical instruction.**
- (g) The applicant must submit operating policies and procedures and assurances that the program will be operated in accordance with the same; and
- (h) The applicant shall submit a plan to recruit, evaluate and select apprentice/trainee applicants, including an application form that meets Council requirements.
- (4) All objections to the approval of a new committee or new standards shall be submitted to the Council in writing at the meeting where the application is being considered for approval, specifically detailing any objections to the application. Council may rule on the application and objections thereto at that time or grant the applicant 30 days after the Council meeting to submit a written rebuttal to the objections to the Director. Council shall direct the Director to investigate and evaluate the objections and rebuttal and to provide a report to Council within 45 days of receipt of the rebuttal statement. At the next Council meeting after the initial submission, Council shall either approve or deny the application and provide a specific written explanation for its actions.
- (5) All new programs shall serve a probationary period of three years after Council approval. Failure to clearly demonstrate the ability to operate a satisfactory program during the probationary period, based upon periodic program reviews conducted by the Division, shall result in **deregistration** [*cancellation*] of the program by Council.
- (6) Compliance reviews will be conducted during the probationary period pursuant to OAR 839-011-0145 unless the Council directs the Division to conduct reviews more frequently. Should the Council find operating deficiencies in the course of any such

review, the program shall immediately take action to correct the deficiencies and submit a report to the Council explaining corrective measures taken within 90 days of the Council initial finding of deficiencies. If the committee has not corrected the deficiencies within the 90 day period, the Council shall deregister [*dissolve*] the program at the next scheduled Council meeting.

Stat. Auth.: ORS 660.120(3)

Stats. Implemented: ORS 660.135(1)

Apprenticeship and Training Standards

839-011-0088

Registration of Apprenticeship Agreements

(1) The Council delegates registration of apprenticeship agreements to the Division and recognizes an agreement as registered when:

(a) It is on a form that has been approved pursuant to ORS 660.020 and issued by the Division;

(b) Information requested on the form as authorized by ORS 660.020 has been supplied by the apprentice. The requested information includes, but is not limited to the apprentice's Social Security Number for identification purposes;

(c) It has been signed by the apprentice and the local joint committee. Approval must be recorded as soon as possible at a committee meeting; and

(d) The agreement has been submitted to and received by a representative of the Division.

(2) The effective starting date of an apprenticeship in non-licensed trades shall be not more than [*ninety*] forty five (45) days prior to the date that a fully executed **original agreement and committee minutes approving the registration are** [*is*] [*submitted to and*] received by a representative of the Division. In the licensed trades, the effective starting date of an apprenticeship shall not commence before a fully executed apprenticeship agreement is received by a representative of the Division, unless the committee has written authorization from the Division to issue an initial license and operates in accordance with the conditions of authorization.

(3) Local committees shall develop and implement a policy and procedures detailing the process for evaluating previous experience in a uniform manner and awarding advanced standing to new apprentices for on-the-job or related training.

(a) The committee may grant credit for prior experience for any time previously spent by the apprentice in the trade or occupation that the committee considers applicable to the work processes in the program standards.

(b) In licensed trades, only lawfully obtained and documented experience that specifically applies to an Oregon license may be considered in granting credit for prior experience.

(4) All apprenticeship agreements will be maintained in the Division's main office.

Stat. Auth.: ORS 660.120(3)

Stats. Implemented: ORS 657.732 & 660.060(8)

839-011-0090

Causes for Disciplinary Actions by Council

The Council has the authority to take disciplinary action against a committee for conduct or action, including but not limited to:

- (1) Inappropriate use of an apprentice's **registration status** or **an apprentice's** []time, skills or training;
- (2) Inadequate training of [an] apprentices[(s)];
- (3) Inappropriate assignment or abuse of discretion in work assignments;
- (4) Discriminatory action(s) against an apprentice(s);
- (5) Violation of any state or federal law; [or]
- (6) Failure to submit required documentation to the Division in a timely manner;**
- (7) Failure to communicate with the Division or the Council in a timely manner; or**
- (8) [(6)] Any other action deemed inappropriate by the Council.**

Stat. Auth.: ORS 660.120(1)

Stats. Implemented: ORS 660.120(1) & ORS 660.120(2)(d)

839-011-0140

Approval and Dissolution of Standards

- (1) A local committee must submit new standards or revisions to previously approved standards, together with executed signature sheets and committee minutes to the Director at least 45 calendar days before the date of the next Council meeting pursuant to OAR 839-011-0030.
- (2) Proposed standards and revisions must be in a form and format approved by Council that includes all elements specified in ORS 660.126. The Council may require additional information of committees pursuant to OAR 839-011-0084, including program administration and training plans.
- (3) Standards in a form or format other than that approved by the Council and the Division may be accepted when they are part of the federal Office of Apprenticeship approved national pattern standards and are consistent with federal Office of Apprenticeship regulations and guidelines, these rules and Council policies.
- (4) With Council approval, local committees may charge applicants a reasonable non-refundable application fee. Such fees shall be stated in the standards as a minimum qualification for entry into the program. Committees shall be required to:
 - (a) Incorporate the payment of a non-refundable application fee into the minimum qualifications of the committee's standards. The standards shall also reflect that applicants with an income below 150% of the federal poverty guidelines may apply for a non-refundable application fee waiver. Federal poverty guidelines are established by the Federal Department of Health and Human Services and are recognized by the Oregon Adult and Family Services Division;
 - (b) Show that the non-refundable application fee results in no disparate impact and report annually to the Council whether disparate impact has been determined to result from the fees charged; and
 - (c) Show that the local committee experiences an extraordinary burden with respect to the administration of applications, i.e., beyond the ordinary course of conducting such procedures. Examples of an extraordinary burden **include** [are], but not limited to, development of specific entrance examinations, validation studies and extensive testing or interview procedures.
- (5) Revised standards will supersede the committee's previous standards covering the same occupation.

(6) The Division will report any standards that apprentices have not been active in for two or more years to the Council for dissolution due to inactivity. Thereafter, new standards must be approved prior to registration of any new apprentices.

Stat. Auth.: ORS 660.120(3)

Stats. Implemented: ORS 660.120(2)(b), 660.126 & 660.137

839-011-0141

Minimum Guideline Standards

The Council may approve minimum guideline standards for occupations it deems necessary.

(1) At its discretion, or upon petition by two or more local committees directly affected by minimum guideline standards, the Council will direct the Division to convene a state committee composed of members of local committees training in the occupation. Division staff will organize the meeting time and location, and contact all appropriate local committees.

(a) Each local joint committee training in the occupation may appoint no more than one employer and one employee representative (with alternates) to the state committee pursuant to OAR 839-011-0074. Notification of this action must be submitted to the Division in writing annually. Appointments will be valid only after written notice of the names of the appointees is received by the Division at least one (1) day before a scheduled state guideline committee meeting.

(b) The employer and employee members of local trades committees (and alternates) shall represent their respective occupations on the state committee pursuant to ORS 660.155(2).

(c) Only properly appointed representatives to the state guideline committee will be permitted to vote on issues before the State Guideline Committee.

(d) A quorum shall consist of 50% plus one of the total appointed local joint committee representatives; local trade committee representatives will be counted only if they are present at the state committee meeting. A quorum of the total appointed local committee representatives constituted pursuant to this rule may revise the quorum requirement for future state committee meetings, pending review and approval by the Council.

(e) Each state committee may adopt policies and procedures consistent with ORS 660 as it deems necessary for the orderly conduct of its meetings.

(2) The state committee will develop or revise minimum guideline standards in accordance with the needs of the industry and occupation. This committee shall establish minimum guidelines in the following standards areas:

(a) Minimum qualifications;

(b) Hours of employment;

(c) Maximum probationary period;

(d) Maximum ratio of apprentices to journey [*level*] workers;

(e) Minimum work processes and approximate hours; and

(f) Minimum related/supplemental instruction.

(3) New or revised minimum guideline standards shall be distributed to all local committees training in the occupation for review and comment prior to submission to the Council.

- (a) Each local committee shall have not more than 30 days to present any written objections. This information shall be referred to the state committee for review.
 - (b) The state committee shall then prepare its final recommendations to the Council.
 - (c) If consensus is not reached by the state committee, a majority and minority report will be submitted to the Council for consideration.
 - (d) When majority and minority reports are submitted, the Council and the Division will take into consideration the geographic area covered by each participating committee as well as the number of apprentices served and the number of training agents affected **in determining whether to accept the minimum guideline standard as submitted or approved amendments thereto.**
- (4) Total on-the-job training hours for a local committee may not fluctuate below the requirements dictated by minimum guideline standards. The variations must be within statutory limits governing the licensed occupations.
Stat. Auth.: ORS 660.120(3)
Stats. Implemented: ORS 660.120(2)(a)

839-011-0142

Apprentice/Trainee Qualifications

- (1) The Council **and the Division** shall evaluate proposed qualification standards or selection methods pursuant to the criteria set forth in Title 29 CFR Part 30, the Equal Employment Opportunity in Apprenticeship Plan noted in OAR 839-011-0200, the objectives expressed by the committee and/or sponsor, and such other factors as the Council **and the Division** may deem appropriate. Evaluation of proposed qualification standards or selection methods shall include an analysis of whether they would result in an adverse impact upon any protected class of applicants.
- (2) The Council **and the Division** shall not consider proposed standards that contain any of the following requirements within their minimum qualifications:
 - (a) Physical ability to do the job, unless it specifically references a validated occupational requirement, such as lifting a sack of cement to a specified height;
 - (b) Any tests (including color tests) that do not meet the validity requirements under 41 CFR 60.3;
 - (c) A valid driver's license; or
 - (d) A medical exam.
- (3) Standards submitted containing any of these requirements will not be placed on the Council agenda.
- (4) The minimum qualifications section of the standards may include a note advising applicants that employers may require apprentices to meet additional lawful conditions of employment. These must be identified by employers and specified in the standards.
Stat. Auth.: ORS 660.120(3)
Stats. Implemented: ORS 660.120(2)(a)

839-011-0143

Ratio

- (1) Registered apprentices shall only work for training agents registered to the same committee as the apprentice. *[and must be supervised by journey workers in the same*

trade or occupation, except as provided in sections (5) and (6) below and employed by the same training agent employing the apprentice.]

(2) Except as provided in sections (5) and (6) below, registered apprentices shall be supervised by journey workers employed in the same trade or occupation by the same training agent employing the apprentice.

(3) [(2)] The apprentice to journey [level] worker ratio for any registered program approved by the Council and the Division shall be clearly set forth in the standards for the given occupation and must be specific as to application in terms of jobsite, workforce, department or plant.

(4) [(3)] The maximum ratio of apprentices to journey [level] workers for an occupation covered by a state committee will be developed as part of the minimum guideline standards for the occupation. Requests for a less restrictive ratio from local committees will be referred to the state committee for evaluation of minimum guideline ratio.

(5) [(4)] For occupations where a minimum guideline standard is not in place, local committees are expected to meet the following apprentice to journey level ratios:

(a) Construction trades: **Not more than one apprentice for the first journey worker on the job site. Additional apprentices are authorized at the ratio of one apprentice for each three additional journey workers on the job site. (Expressed hereafter as**

1:1,1:3)

(b) Industrial trades and fixed-site facilities: 1:1,1:2

(c) Other trades (non-traditional and new and emerging occupations): 1:1,1:1

(d) Committees wishing a less restrictive ratio must submit a request to the Council for consideration, along with information including but not limited to:

(A) Specific workforce demographics justifying a different ratio;

(B) Plan to monitor effects of ratio on the safety and continuity of employment for apprentices; and

(C) Comparison of completion rate to statewide average for occupation.

(6) [(5)] In licensed trades, an apprentice must be supervised by a journey [level] worker holding **a license covering the specific work being performed on the job site***[the same or a higher license classification than the apprentice unless the Council has approved state guideline standards permitting a lower level of journey worker supervision].*

(7) [(6)] Electrical power line installers and repairers and linemen apprentices may work for training agents registered to other local joint committees in order to ensure that all work processes are fulfilled, pursuant to a written agreement between the apprentice, the local committees and both training agents.

(8) [(7)] In limited situations, the Council may grant a training agent a short-term waiver of the established ratio for a given program, upon demonstration of extreme need. In no event shall an apprentice work without qualified journey worker supervision. Ratio waivers of less than 90 days must be requested by the committee on behalf of a training agent. Local committees are not authorized to grant temporary waivers to training agents. A temporary waiver of ratio may be granted under the following circumstances:

(a) Serious injury or illness of the journeyworker, where the journeyworker is expected to return to work in 90 days or less; or

(b) The sudden departure of a journeyworker from employment with the training agent for causes not attributable to the training agent. The employer is expected to replace the departing journeyworker within a reasonable amount of time and in no event shall this

amount of time exceed ninety (90) days. The training agent must document its efforts to replace journey [*level*] workers which may include, but shall not be limited to:

- (A) Copies of job orders;
- (B) Classified advertising [*placed*], including a posting of the journey wage rate offered; and
- (C) Job orders placed with the Oregon Employment Division.

(9)[(8)] The lack of available qualified or licensed journeyworkers shall not be a valid reason for granting a temporary ratio waiver.

(10)[(9)] The Council may authorize the Director to grant or deny waivers as set forth above on an interim basis. Such action taken by the Director must be submitted to the Council for ratification at its next meeting after interim approval or denial has been made.

Stat. Auth.: ORS 660.120(3)

Stats. Implemented: ORS 660.120(2), 660.126(1)(f)

839-011-0145

Compliance Reviews

- (1) All committees are subject to periodic reviews of program operation and affirmative action activities.
- (2) The Division shall develop and maintain a review schedule that identifies programs scheduled for review, the type of review to be conducted and the time period to be evaluated.
- (3) The Program Operation Compliance Review will evaluate program operation and administration.
 - (a) New committees will receive a Program Operation Compliance Review annually for the first three years of operation, unless otherwise directed by the Council.
 - (b) After the first three (3) years, committees found in compliance will receive a Program Operation Compliance Review every three (3) years. Committees maintaining a completion rate of at least 70% for all standards during the three (3) previous consecutive years will receive a Program Operation Compliance Review every five (5) years.
- (4) The Affirmative Action Compliance Review will evaluate outreach, recruitment, and selection activities.
 - (a) Committees with five or more apprentices registered to a single standard during the previous three years will receive an annual Affirmative Action Compliance Review.
 - (b) Training agents who select their own apprentices in accordance with the committee's approved selection procedure will receive a separate annual Affirmative Action Compliance Review.
- (5) Additional reviews may be scheduled if
 - (a) The Director has a reasonable belief that such reviews are prudent and in the best interest of apprenticeship;
 - (b) Complaints have been received that the program is not operating in compliance; or
 - (c) At the Council's direction.
- (6) Committees found out of compliance will be required to appear at the next meeting of the appropriate Council subcommittee.
- (7) All reviews shall be reported on a form and in a format approved by the Council. Upon review of compliance reports, the Council shall take action including but not limited to the following:

- (a) Approve the report;
 - (b) Refer the report back for further clarification;
 - (c) Extend the review period for up to six (6) months;
 - (d) Order a probationary period including more frequent and detailed program reviews;
 - (e) Direct compliance and/or corrective action accordingly;
 - (f) Impose sanctions;
 - (g) Deregister the committee and/or standards for non-compliance; or
 - (h) Any other action as directed by the Council **and the Division.**
- Stat. Auth.: ORS 660.120(3)
 Stats. Implemented: ORS 660.120(2)(a) & 660.120(2)(f)

839-011-0162

Employer Training Agents

(1) The Division will register training agents upon receipt of committee minutes showing approval of specific employers as training agents and a fully executed training agent registration agreement for each employer.

(2) The effective starting date for a new training agent shall be no more than forty five (45) days prior to the date that a fully executed original training agent agreement and committee minutes approving the registration of the employer are received by a representative of the Division.

(3)[(2)] No employer shall be required to join an industry or trade association as a condition of approval as a training agent.

(4)[(3)] Where two or more programs of the same occupation exist in the same geographical area an employer may not serve as an approved training agent for more than one such program at a time.

(a) In the event an employer has been approved as a training agent by two or more such programs, the Division shall notify the employer and the appropriate committees of this rule and require that the employer respond within twenty (20) working days of receipt of the notice, designating the program in which the employer chooses to continue and resigning from all others. Such notice shall be sent by certified mail, return receipt requested.

(b) An employer who does not respond pursuant to section (3)(a) of this rule, shall be deemed conclusively to have elected to resign as a training agent from all such programs. The Division shall notify the committees serving programs in which the employer had participated that the employer's training agent status has been revoked by operation of this rule.

(5)[(4)] In limited cases where special conditions exist, the Council may consider an employer's request to participate in multiple programs in the same occupation within the same geographical area:

(a) When an individual construction project has special conditions warranting consideration for multiple training agent status, the employer must work with all committees involved to establish a plan that provides for the health, safety, and continuity of employment for all apprentices.

(b) When the committees and employer have reached agreement on a plan that will enhance the training opportunities for all apprentices, they shall jointly submit a written

request to the Council outlining their plan and requesting the exemption from section (2) of this rule.

(6)[(5)] An employer with a principal place of business outside the geographic jurisdiction of a local committee may seek approval to register with that local committee as a traveling training agent. Each such employer must agree to comply with Oregon state, county and municipal laws, rules and ordinances and the rules, policies, procedures and standards of the local committee.

(7)[(6)] A local committee may approve traveling training agent status for an applicant employer that is a registered training agent with an apprenticeship sponsor or committee outside its geographic jurisdiction if:

- (a) The employer is in good standing with its sponsor or home committee;
- (b) The employer provides the committee with periodic updates of its good standing status from its sponsor or home committee;
- (c) The employer and its sponsor provides the local committee with a plan explaining how the related training of any traveling apprentices will be accomplished;
- (d) The employer and its sponsor provide updates to the local committee every six (6) months on the progress status of any traveling apprentices; and
- (e) The employer and the local committee must agree on the number of traveling apprentices, directly employed by the traveling training agent, who will be registered through the local committee. The employer and the local committee must agree on the manner in which local apprentices will be utilized by the traveling training agent.

(8)[(7)] A local committee may approve traveling training agent status for an unregistered employer whose principal place of business is outside of its geographic jurisdiction, but all apprentices dispatched to the traveling training agent must be registered to the local committee.

Stat. Auth.: ORS 660

Stats. Implemented: ORS 660.120(1) & 660.137(5)

839-011-0175

Cancellation Notices

All notices to appear for cancellation of apprenticeship agreements must be addressed to the apprentice and postmarked at least twenty-two (22) calendar days in advance of the appearance date for the consideration of the cancellation.

Stat. Auth.: ORS 660.**137(4)**[120(1)]

Stats. Implemented: ORS 660

Hist.: BL 6-1994, f. & cert. ef. 10-10-94; BL 11-1996, f. & cert. ef. 12-10-96; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

839-011-0265

Partial Rotation of Apprentices

(1) All apprentices must obtain work experience for at least 50% of the hours listed for each work process in the committee's approved standards. A committee unable to provide an apprentice with work experience equaling at least 50% of the hours listed in any of the work processes must provide and document additional related training to compensate for the lack of on-the-job training. A written statement, held in the apprentice's files, shall document such compensatory training and shall include, date, time, place, hours and

instructor. In no event may distance learning classes be used to compensate for deficiencies in [*work*] total work process hours.

(2) For licensed occupations, all variations in work processes must be within the statutory limits governing the trade.

Stat. Auth.: ORS 660

Stats. Implemented: ORS 660.120

839-011-0270

Administrative Cancellation or Completion of Apprenticeship Agreements

(1) Whenever a local committee has insufficient members to conduct business, has not met at least once within a six-month period or has been dissolved by Council, the Director may:

(a) Cancel an apprenticeship agreement:

(A) At the apprentice's request; or

(B) For good cause as defined by ORS 660.060(7) or;

(C) In the case of program deregistration, or for lack of training standards.

(b) Complete an apprenticeship agreement when documentation has been submitted to the Director demonstrating that the apprentice has complied with the required standards established by the committee.

(2) Such action by the Director or the committee shall be taken pursuant to the following procedure:

(a) Notice shall be provided by certified mail to the apprentice, employer, committee, Council and any interested parties before [*to*] any action **to administratively complete or cancel an agreement**; and

(b) Written notice to the apprentice, employer, committee, Council and any interested parties of the final action taken by the Director.

(3) An apprentice may appeal an administrative cancellation as an order other than a contested case order under ORS 183.484.

Stat. Auth.: ORS 660.120

Stats. Implemented: ORS 660.120(2)(f)

839-011-0290

Plumber Apprentices — Phased Supervision

(1) The Division shall issue plumbing apprentice licenses to active apprentices or trainees registered to standards approved by the Council. Apprentice license formats shall be jointly agreed to by the Division and the Oregon Building Codes Division.

(2) All apprentices and trainees must be directly supervised in accordance with OAR 839-011-0143, unless approved for phased supervision.

(3) Pursuant to OAR 918-695-0140, a local committee may take action to permit plumbing apprentices to work under phased supervision under the following circumstances:

(a) The plumber apprentice must work in the physical presence of an appropriate journey level plumber; and

(b) An appropriate journey level plumber present at the immediate work site at all times, except for not more than a cumulative thirty (30) minutes during any work shift during

which time the journeyworker [*person*] is immediately available by voice communication.

(4) The plumber apprentice may work under phased supervision when the following specific conditions are met:

(a) The appropriate journeyworker [*person*] is immediately available to the apprentice by voice communication (immediately available means that the apprentice can reach the appropriate journeyworker [*person*] within a 15-minute period);

(b) The appropriate journeyworker [*person*] meets with the apprentice at least once each day to go over the work done by the apprentice;

(c) The activity is consistent with the committee's work requirements as established in its written policy;

(d) There is only one apprentice on the job site; and

(e) The apprentice has been specifically approved for one (1) or more of the following phases:

(A) Phase 1: The apprentice only engages in water heater replacement or conversion after completing at least six (6) months of work experience, eight (8) hours of related instruction and is evaluated and authorized to do this type of work by the committee;

(B) Phase 2: The apprentice engages in work covered in Phase 1 and minor repairs in a one (1) or two (2) family dwelling after completion of three (3) periods of work experience, the appropriate related instruction for three (3) periods and is evaluated and authorized to do this type of work by the committee;

(C) Phase 3: The apprentice engages in work covered in Phase 1 and 2, and general repairs and replacement of existing installations after completion of four (4) periods of work experience, the appropriate related instruction for four (4) periods and is evaluated and authorized to do this type of work by the committee; or

(D) Phase 4: The apprentice engages in work covered in Phase 1, 2 and 3, and new or remodel installations after completing five (5) periods of work experience, the appropriate related instruction for five (5) periods and is evaluated and authorized to do this type of work by the committee.

(5) Phased supervision licenses will be issued by the Division upon notification of committee approval and reissued for the duration of the program unless the committee takes action to rescind approval.

Stat. Auth.: ORS 660.120(3)

Stats. Implemented: ORS 693.040

839-011-0310

Apprentice Rights

(1) Upon registration the local committee shall provide each apprentice with the following information:

(a)[(1)] Apprenticeship Standards for the program in which the apprentice is registered;

(b)[(2)] Division approved committee policies and procedures; and

(c)[(3)] Copy of the apprenticeship agreement.

(2) Within the constraints of industry and market conditions, the apprentice has the right to be employed and diligently and faithfully trained by the committee's approved training agents in accordance with the terms and conditions of the Apprenticeship Agreement and Apprenticeship Standards.

(3) The apprentice has the right to classroom and workplace conditions that are free of harassment and intimidation.

(a) “Harassment and intimidation” means any act that

(A) Substantially interferes with the apprentice’s educational benefits, opportunities or performance;

(B) Takes place on or immediately adjacent to apprenticeship classrooms or training agent work sites;

(C) Has the effect of:

(i) Physically harming an apprentice or damaging an apprentice’s property;

(ii) Knowingly placing an apprentice in reasonable fear of physical harm to the reasonable fear of physical harm to the apprentice or damage to the apprentice’s

property; or

(iii) Creating a hostile educational environment, including interfering with the psychological well-being of an apprentice; and

(D) May be based on, but not limited to, the protected class status of a person.

Stat. Auth.: ORS 660.120(1)

Stats. Implemented: ORS 660.120(2)(a)

839-011-0320

Required Appearance at [Presentations to] Council Meetings

(1) The Council shall require a committee member or designee other than Division or federal Office of Apprenticeship staff to be present at the appropriate subcommittee meeting when seeking approval for:

(a) New committee;

(b) New standards or;

(c) Other submittals that do not have a staff recommendation for approval.

(2) When a committee member or designee is not required to be present at a subcommittee meeting and questions or deficiencies are noted, the committee will be given ten (10) working days to correct the deficiencies and obtain a Division recommendation for approval.

(a) If deficiencies are corrected, the submittal will be moved to the Council agenda.

(b) Any submittal with deficiencies not corrected within the ten (10) day time limit will be referred to the next meeting of the appropriate subcommittee.

(3) The Director may make exceptions to this rule upon receipt of a written request from the committee setting forth circumstances, such as an emergency or undue hardship, that might justify a failure to attend subcommittee meeting.

Stat. Auth.: ORS 660.120(1)

Stats. Implemented: ORS 660.120(2)(a)

839-011-0334

Eligibility of Family and Current Employees

(1) To the extent that the State Apprenticeship and Training Council determines that it would not result in an adverse impact on apprenticeship opportunities based on an individual's protected class status, an applicant who is otherwise eligible for selection as an apprentice under the selection method approved by the Council for use by the local

committee may be directly indentured to a family business or the applicant's current employer, subject to the consent of the applicant, regardless of whether another employer would otherwise be entitled to **register** [*indenture*] the applicant under the selection method used by the local committee.

(2) As used in this section, "otherwise eligible for selection as an apprentice under the selection method approved by the Council for use by the local committee" shall mean that the applicant:

(a) Has met the minimum qualifications for entry into the program; and

(b) Has been evaluated or ranked by the local committee pursuant to the procedure set forth in its approved selection method; and

(c) Based on that evaluation or ranking, is the next applicant or in the immediate group of applicants eligible to be assigned or dispatched to a registered training agent pursuant to the local committee's approved selection method.

(3) When submitting a new or revised selection method to the Council for approval, local committees must indicate whether they will be using an exception to the selection methods established in Title 29 CFR Part 30 and must note in their committee minutes when an individual is indentured pursuant to subsections (1) and (2) above.

(4) Nothing in this rule is intended or should be interpreted as discouraging the use of a qualification standard or selection method on the basis of relative qualifications, if the qualification standard or selection criteria **have** [*has*] been validated in accord with the guidelines established in Title 41 CFR Part 60-3.6.

Stat. Auth.: ORS 660.120(1)

Stats. Implemented: ORS 660.139