

**OREGON STATE APPRENTICESHIP AND TRAINING COUNCIL  
RULES AND POLICY SUBCOMMITTEE  
Meeting Minutes - December 2, 2009**

**9:30 am**

**Michael McFall, Chair**

**I. Call to Order**

Chair Mike McFall called the meeting to order at 9:45 a.m.

**II. Introductions**

Council members:

Nelda Wilson, Trades Employee	Mike McFall, Industrial Employee
Ken Fry, Trades Employee	Bob Rogers, Public Member
John Rozell, Trades Employer ( <i>arrived at 10:00 a.m.</i> )	

Staff members:

Stephen Simms, Director, Apprenticeship and Training Division  
Karen Dale, Apprenticeship Operations Manager  
Paul Joiner, Apprenticeship Integration Coordinator  
Maureen Pointer, OSATC Recording Secretary

Apprenticeship Representatives:

Elizabeth Farmer, Eugene	Stacy Ozer, Portland
Tamara Boyd, Portland	Tony Cracolice, Eugene
Larry "Will" Williams, Portland	Richard Petersen, Portland

**III. Welcome**

**IV. Member Reports - *None this quarter.***

**V. OSATC Task Force Reports**

**A. Affirmative Action Task Force – Status Report**

Status of Phase II recommendations approved by Council June 2009:

- Independent Apprenticeship Website: The Division has contracted with a vendor to construct the website. The goal is to have the website operational by February 1, 2010.
- Cultural Competency/Diversity Training: Additional work is needed to establish minimum requirements for the training. Volunteers for the work group to establish these requirements are needed.

Next Affirmative Action Task Force Meeting: January 22<sup>nd</sup> or 28<sup>th</sup>. Finalized meeting information will be posted on the Bureau's website and notification will be emailed to task force members.

**B. Administrative Rules and Policy Task Force**

**i. Administrative Rules Revision – Status Report**

Mr. Simms hopes to have the editing and formatting of the rules finalized by the end of December, published in the Secretary of State's digest by February 1, 2010 with an effective date of March 15, 2010.

**OREGON STATE APPRENTICESHIP AND TRAINING COUNCIL  
RULES AND POLICY SUBCOMMITTEE  
Meeting Minutes - December 2, 2009**

**9:30 am**

**VI. Staff Reports**

**A. Compliance / Affirmative Action Goals**

The Division's goal is to conduct a full program operations and affirmative action compliance review for every program in the state in 2010.

At its September 2009 meeting, the Council confirmed continued use of two strategies for developing goals and timetables:

- Statewide occupational average – used as the target for programs whose minority and/or female participation falls below the occupational average;
- Workforce population – used as the target for programs whose minority and/or female participation meets or exceeds the occupational average.

*Council Member John Rozell arrived.*

These strategies are only initial steps towards establishing benchmarks for committees and will assist in determining what additional tools are needed to assist committees in reaching higher goals.

Suggestions for further analysis by Subcommittee members:

- Eliminate Department of Corrections programs from the analysis;
- Combine similar occupations, i.e.: millwright / industrial maintenance millwright; possibly eliminating the Dictionary of Occupational Titles symbol in some instances.

**B. Revised Apprenticeship Registration Agreement**

The Shared Information System (SIS) for tracking aggregate workforce information in Oregon was replaced by the Performance Reporting Information System (PRISM) approximately 3 years ago. The Division has not been able to obtain aggregate reports regarding apprenticeship participation from the state workforce system because the current apprenticeship registration agreement references the SIS and is therefore no longer valid. The proposed revisions to the agreement will change the reference in the agreement from SIS to the PRISM.

**M/S/C by unanimous voice vote** to recommend approval of the revised apprenticeship registration agreement, effective March 1, 2010.

**VII. Follow-ups from Previous Council Meetings**

**A. Calculation of Average Journey Wage – Discussion**

ORS 660.137(3) requires committees to determine the average journey worker wage for apprenticeship purposes based upon a survey of journey workers pay. The statute does not provide guidance as to how the average should be calculated. Committees have used different strategies in determining their average, resulting in a wide range of outcomes.

Proposed guidelines were presented at the September 2009 subcommittee and Council meetings and guidance was requested. Staff incorporated the recommendations from those meetings into a second draft of proposed guidelines for subcommittee review.

The issue of whether training agents should report prevailing wages as a part of their committee wage survey generated considerable discussion between subcommittee members and local committee representatives. The major concern of the committees is that inclusion of the prevailing wages may inflate the apprenticeship wage to the point that some of the smaller training agents may be eliminated from participating in apprenticeship due to the cost.

Mr. Simms stated that the statute requires committees to provide an explanation of how the average wage was determined and suggested eliminating the third bullet regarding exclusion of prevailed wages in the computation of the average hourly wage. Committees could explain whether or not prevailed wages were included in the survey. He further suggested that if a committee's proposed average wage was below the

**OREGON STATE APPRENTICESHIP AND TRAINING COUNCIL  
RULES AND POLICY SUBCOMMITTEE  
Meeting Minutes - December 2, 2009**

**9:30 am**

acceptable range and prevailing wages were not included the survey, the wage proposal submission could be returned as unacceptable.

**M/S/C by unanimous voice vote** to recommend approval of the guidelines, with the removal of the third bullet point of guidance regarding exclusion of prevailing wages.

**C. Fringe Benefits & PWR - (At the Director's request the Chair took this agenda item out of order.)**

Previous discussion on this issue took place at the September 2009 subcommittee meeting. Many believe that fringe benefits paid by participating employers should be included as part of the calculation of average wages for apprenticeship purposes. The Division disagrees with this assertion because fringe benefits are not standard across all employers and all committees unless all of the training agents affiliated with the committee are signatory to a collective bargaining agreement.

- Many contractors do not have fringe benefits packages;
- Contractor have varying requirements for fringe benefits eligibility;
- Apprenticeship regulations state that committee must establish an average journey wage but are silent on the inclusion of fringe benefits.

Council members stated that additional discussion was needed on the issue. The subcommittee recommended that the Division communicate with other states to determine the following:

- Do they include fringe benefits?
- If so, how are these fringe benefits accounted for in the wage survey?

Mr. Simms will poll other states and report at the December 2009 Council meeting.

**B. Selection Methods – Update**

Staff has been unable to proceed further on the agenda items and hopes to have reports by the March 2010 subcommittee meeting.

- i. Use of Exceptions/Alternating Employer Choice**
- ii. Use of GED and High School Diploma as minimum qualifications and scoring criteria**

**D. Unemployed Apprentices – Proposed parameters for new registrations**

The issue of unemployed apprentices was discussed at the September 2009 subcommittee and Council meetings. There are currently approximately 6500 registered Oregon apprentices, a decrease from 8000 a year ago. At the same time there are ongoing outreach and recruitment efforts, new applicants and committees needing to start new apprentices in order to maintain their training schedule, both with their related training provider and in order to have new people ready to meet future workforce needs. The subcommittee provided guidelines regarding ways to keep apprentices in the pipeline, being sensitive to the contractual issues regarding maintaining related training providers, and establishing clear reemployment policies and procedures.

Concerns previously raised by this subcommittee and addressed by staff included the following:  
EEO Goals - Can a committee suspend or decrease EEO goals during the recession?

- Staff's response and recommendation – No. EEO obligations are not subject to fluctuations in employment. If employees are being hired, there is still an equal opportunity obligation.
- Reemployment Policies and Procedures – Can committees hire new apprentices if they have unemployed apprentices?
  - The Division concurs with the Federal regulations that require that every committee have established reemployment policies and procedures that advance individuals through the program and that programs not indenture new apprentices if they have a substantial number of out-of-work apprentices.

**OREGON STATE APPRENTICESHIP AND TRAINING COUNCIL  
RULES AND POLICY SUBCOMMITTEE  
Meeting Minutes - December 2, 2009**

**9:30 am**

- The Division acknowledged the need for committees to indenture new apprentices to keep people in the pipeline to meet future workforce needs and to keep their related training in place, but believes that they should reemploy existing apprentices prior to employing new apprentices.

The subcommittee members concurred that committees should continue to follow their established reemployment policies and procedures. Apprentices have had to adjust during the recession and committees and related training providers should make similar adjustments and creatively manage their apprentice and applicant pools until the employment picture stabilizes.

The Division will continue to provide guidance to committees as requested.

**VIII. Council Policy 16 – Registration parameters**

**XIV. Multi-State Reciprocal Agreement – Status Report -** *(At the Director's request the Chair combined the two agenda items.)*

Mr. Simms announced that a Multi-State Reciprocal meeting would be held on December 21, 2009, Washington State Department of Labor and Industries, Kelso, WA. The agenda is not yet set. Mr. Fry and Ms. Wilson will represent Oregon at the meeting. The Washington L & I Longview office has closed. The new office is located at 711 Vine St., Kelso, WA 98626-2650.

The reciprocal agreement is reflected in Council Policy 16, incorporating the terms of the agreement. In some cases the reciprocal agreement creates a situation where it is more difficult for a training agent from Washington to work in Oregon. While employers from other states can simply come to Oregon and register as traveling training agents, regardless of whether they are registered in their home state, Washington training agents must first register in Washington before they can work apprentices here.

Mr. Petersen reviewed the parameters for issuing temporary reciprocal licenses to apprentices employed by training agents in reciprocal states and in non-reciprocal states, noting that electrical licensing rules impede the issuance of these licenses. He added that the reciprocal agreement and Council Policy 16 have some inconsistencies regarding traveling training agent requirements and believes that they should be reviewed before the new Federal rules go into effect January 1, 2011. These issues will be forwarded to the upcoming reciprocal meeting for discussion.

Statutory revisions to ORS Chapter 660 are required in order to accommodate the Federal rules. The first draft will be ready for subcommittee and Council review, March 2010 and final drafts for approval, June 2010. Anne Wetmore will provide an overview of the new rules at the December 2009 Council meeting.

Mr. Simms will provide the portion of the Federal rules regarding the portability of employers using apprentices to Ms. Wilson and Mr. Fry prior to the reciprocity meeting.

**IX. Certifying OJT Hours for WA Exams**

Due to the recession, more apprentices are looking for work in other states. Washington Labor and Industries' licensing section is requiring that any Oregon apprentices seeking credit for the Washington licensing examination obtain certification of their on-the-job training hours and related instruction hours prior to being allowed to sit for the exam. These active Oregon apprentices want to take their Oregon apprenticeship experience and combine it with trainee hours earned in Washington and other legally obtained experience in order to qualify for the exam.

If an apprentice has completed or been terminated from a program, the Division will gladly certify this experience since it has a report from the committee regarding the apprentice's terminal status. The Division believes that it cannot certify the experience of an active apprentice:

- until the committee reports to the Division and certifies the individual has completed or has been terminated from its program with a specific number of OJT and RT hours; and
- because this practice encourages apprentices not to complete their apprenticeship program by having the Division certify their hours so they can go to another state to obtain a license.

**OREGON STATE APPRENTICESHIP AND TRAINING COUNCIL  
RULES AND POLICY SUBCOMMITTEE  
Meeting Minutes - December 2, 2009**

**9:30 am**

**M/S/C by unanimous voice vote** to recommend affirming the Division's current policy of not certifying the experience of active apprentices to licensing bodies.

**IX. DOC Ratio Discussion**

*Committee representatives present: Gary Thompson, Chair; Andy Parker, Administrator; Columbia Gorge JATC*

At the September 2009 Council meeting Labor Commissioner Avakian directed the Council to resolve the long standing issue regarding Department of Corrections (DOC) apprenticeship programs and whether they should be fully recognized as true apprenticeship programs. The Council has previously approved DOC programs but each time a new standard is added, a new discussion is raised regarding the ratio of apprentices to journey workers and whether the inverted ratio granted to Corrections programs devaluates them to the status of trainee programs.

The Department of Corrections has four approved standards - Limited Maintenance Electrician, Manufacturing Plant Electrician, Sheet Metal Worker, and Painter. The Division proposes that an ad hoc committee be formed, consisting of one employee and one employer representative from other active committees in the same occupations. The ad hoc committee would make one or two visits to DOC facilities training apprentices to review their related training, observe the apprentices working and report back to the subcommittee and Council in March 2010, as to whether the programs are providing quality on-the-job training and quality related instruction or whether the inflated ratio dilutes the training to the point that they should not be registered apprenticeship programs.

Mr. Parker stated that they were open to the idea and would welcome the opportunity for others to observe their programs. Mr. Parker pointed out that even though they asked for the inflated ratio, only one of their institutions actually utilizes it, noting that each institution is different and some prefer to stay with the standard ratio.

Mr. Rogers believes that the DOC operates good programs and should not be scrutinized further. He also expressed his concern that the Council should not continue to approve programs if they have doubts about their quality.

Ms. Wilson commended the programs for voluntarily lowering the ratio when possible and for being safety conscious.

The subcommittee directed the Division to form an ad hoc committee consisting of one employee and one employer representative from committees in each of the represented occupations to visit the facilities and report back to the subcommittee, March 2010.

**X. Arctor, Inc.**

Arctor, Inc. ("Arctor") registered as a training agent with the Columbia Masons TATC ("TATC"), after attending the TATC's required orientation and completing the required forms. Arctor bid on an Oregon prevailing wage project that required the use of apprentices, but was not awarded the job. Some months later, Arctor placed a successful bid on the Wheelock Library Project in Washington State. Arctor certified that they would be using apprentices on the job and submitted certified payrolls indicating that they employed four apprentices on the project. Arctor was not registered as a Washington State training agent and the TATC never dispatched any apprentices to the program. Arctor paid the alleged apprentices sub-prevailing wages, a violation of the Washington prevailing wage law as their named individuals were not registered apprentices.

The Washington State Prevailing Wage Unit has cited Arctor and required them to pay journey worker rates for all hours on the Wheeler job. Arctor indicates that it has made proper payment of the wage and has since resigned as a training agent from the TATC. The investigation found no wrong doing on the part of the Oregon Columbia Masons TATC.

The Division concluded that Arctor used its status as a registered training agent to obtain the Wheelock County job. It certified to Washington State that it would be using apprentices on the job and then proceeded to pay individuals who were not registered in Oregon or Washington at the apprentice rate. As a consequence of its actions, the Division recommends that Arctor, Inc. be prohibited from registering as a training agent with any program in the State of Oregon for 24 months. The Division also asked that the Oregon Columbia Masons TATC review its process for orienting new training agents to ensure this does not happen again.

**OREGON STATE APPRENTICESHIP AND TRAINING COUNCIL  
RULES AND POLICY SUBCOMMITTEE  
Meeting Minutes - December 2, 2009**

**9:30 am**

Tiffany Kriesel, Administrator, Oregon Columbia Masons TATC, clarified that the individuals were working as plasterers and that is not a trade covered by the TATC and that the training agent was aware that they had no registered apprentices. Ms. Kriesel was unclear why the TATC was mentioned in the investigation when the reason given for voluntary training agent withdrawal in July 2008 was "no use of service during the participation period".

Ms. Simms responded that the TATC was mentioned because Artecor listed that they were registered with the TATC on the Washington form.

**M/S/C by unanimous voice vote** to recommend that Artecor, Inc. be prohibited from registering as a training agent with any apprenticeship program in the State of Oregon for 24 months and that the Oregon Columbia Masons TATC review its process for orienting new training agents.

Ms. Kriesel assured the subcommittee that the committee did follow their new training agent procedures. The committee met with Artecor representatives, provided the proper orientation and Artecor signed an agreement stating that they received a copy of the standards and understood ratio and dispatch.

**XI. Team Awareness Training**

The Division requested to table the discussion until the March 2010 subcommittee meeting.

**XII. 29 CFR 29 Amendment – Status Report**

The Division hopes to have a draft ready for review, March 2010. Anne Wetmore, USDOL will provide more information at the December 17<sup>th</sup>, 2010 Council meeting.

**XV. Correspondence - All correspondence attached to submissions in Council packets.**

**XVI. Council and Subcommittee Meeting Dates**

Standards Review Subcommittee meeting: Scheduled to start at 1:00 p.m.

Council meeting: December 17, 2009, 10:00 a.m., Northwest College of Construction, Portland

Proposed 2010 meeting dates are included in Council packets. Council members should notify staff if the proposed dates present scheduling conflicts. Ratification of the calendar will be requested at the December Council meeting.

**XVII. Good of Apprenticeship**

At the request of the Standards Review Subcommittee Chair, the afternoon meeting will commence at 1:15 p.m.

**XVIII. Adjournment**

The meeting was adjourned at 12:00 p.m.