

**OREGON STATE APPRENTICESHIP AND TRAINING COUNCIL**

**RULES AND POLICY SUBCOMMITTEE**

**Meeting Minutes - June 3, 2009**

**9:30 am**

**Michael McFall, Chair**

**I. Call to Order**

Chair Mike McFall called the meeting to order at 9:42 a.m.

**II. Introductions**

Council members:

John Rozell, Trades Employer  
Nelda Wilson, Trades Employee  
Ken Fry, Trades Employee

Bob Rogers, Public Member  
Mike McFall, Industrial Employee  
Bob Ferguson, Industrial Employer

Staff members:

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

Apprenticeship Representatives:

Stacy Ozer, Portland  
Tamara Boyd, Portland  
Larry 'Will' Williams, Portland

Beth Farmer, Eugene  
Tony Cracolice, Eugene  
Richard Petersen, Portland

**III. Welcome**

**IV. Member Reports – none**

**V. OSATC Task Force Reports**

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

Four issues were identified during Phase I for additional work. Phase II work groups have been developing action plans to address the following issues:

1. Cultural Competency/ Diversity: Proposing that all committees be required to adopt the Wisconsin Transition to Trainer or suitable alternative curriculum and that the curriculum be completed by all apprentices in Oregon during the course of their programs.
2. Website Outreach: Proposing development of an apprenticeship community-owned website to reach out to students, women and minorities, giving them a richer definition of apprenticeship.
3. General Outreach: Creating a "Brand Oregon" that presents a common face for anyone who is interested in apprenticeship; not just a logo, but a common way of doing business.
4. Mentoring: Still developing final recommendation, but proposing that all committees provide some type of mentorship service to apprentices. More information regarding the proposal will be available at the June 2009 meeting.

Director Simms noted that the AATF, a volunteer team, has done a fantastic job. A detailed presentation of all action plans will be provided at the June 2009 Council meeting. Council will be asked at that time to approve definitive steps for implementation.

**B. Administrative Rules and Policy Task Force - Administrative Rules Revision Status Report**

The task force previously reviewed all council policies and administrative rules (Chapter 839-011) and proposed to:

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1. Incorporate the policies into the administrative rules where appropriate.
2. Eliminate rules that duplicate statute.
3. Conduct general housekeeping to clean up the rules.

Staff will conduct a final review and publish the proposed rules after the current legislative session. Public hearings will be held across the state and testimony received will be presented at the September 2009 Council meeting.

There were no changes to ORS 660 in the current legislative session, although electrical licensing changes may require revisions to the administrative rules for apprenticeship. These will be incorporated if needed.

### VI. Staff Reports

#### A. Legislative and Budget Update

The state is facing a budget shortfall of approximately \$600 million. The bureau will likely be taking a 10% reduction. Proposed cuts include elimination of 11 full time Bureau employees including the closure of the Medford office. For the division, this results in the loss of 1 apprenticeship representative and 1 support person in Medford, with restoration of the vacant apprenticeship representative positions in Portland and Bend. Services to the apprenticeship community will be affected and a revised service model will be provided for review after the budget is finalized.

#### B. Internal Review

A modified new standards submission form has been developed and was used this quarter for two new standards. Council member comment and feedback regarding the new form is welcome.

#### C. Compliance

Four compliance reviews in the new format have been submitted for approval this quarter. Staff are still working on the affirmative action analysis form to reincorporate statistical calculations into the review. A final analysis form will be available for review at the June 2009 Council meeting. Council member comment and feedback is welcome.

#### D. Website

The public council roster includes some personal information such as home address and cell phone numbers. Council members were asked to review and update the information so that corrections can be made to the public document.

*Council Member Bob Ferguson arrived at 10:07 a.m.*

Work continues modifying the organizational format of the division website. End-user buttons for applicants, apprentices, committees, training agents, etc. have been implemented to facilitate easy access to the most relevant information. A "What's new in apprenticeship" area has been added for posting events such as the Women in Trades Fair. Some committee forms are now available on-line. The team is also conducting a page-by-page review of the website information. Suggestions and corrections to the website are welcome. The division's website is [www.oregon.gov/boli/atd](http://www.oregon.gov/boli/atd).

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

#### A. Calculation of Average Journey Wage

Staff was directed to develop general guidelines for committees on points to consider when determining their average wage. The guidelines are still under development and staff requested to defer discussion to September 2009.

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### B. Selection Methods

Inconsistencies in selection methods and minimum qualifications have been noticed during the course of internal review. There was substantial discussion at the March 2009 subcommittee meeting regarding both issues.

#### i. Use of Exceptions/Alternating Employer Choice

Statistics show that the alternating employer choice process has had a disparate impact on women and minorities. Staff was directed to contact every committee in the state utilizing the process and request that they submit in writing, their reasoning for using it. Four written responses were received. One of the main concerns voiced was that the Council would be taking away the employer's right to choose their employees.

Current federal rules, 29 CFR Part 30, include a regulated system for the selection of apprentices in registered programs. Committees and employers agree to operate within this system when they decide to participate in registered apprenticeship. They may need additional help from staff and the Council to understand their obligations under these rules.

There was a general consensus among subcommittee members that the alternating employer choice process:

- a. Does not promote affirmative action
- b. Does not diversify the workforce
- c. Is unfair to the applicants on the top of the ranked list

The subcommittee believes the issue needs further analysis to determine:

- a. The impact on smaller committees if eliminated
- b. The benefits of educating committees
- c. What evaluation tools are available to ensure applicants are evaluated fairly and objectively

Jon Coulimore, MA 1046 committee chair, suggested penalizing only those committees that are abusing the alternating employer choice process.

Tiffany Kriesel, Northwest College of Construction (NWCC), Administrator, stated that the programs represented by NWCC do not use the employer free choice process but do use exceptions. She noted that the programs have added a condition for the use of exceptions to help ensure that women and minorities are recruited.

**M/S/C by unanimous voice vote** to table the discussion to the December 2009 pending further investigation and analysis by staff.

#### ii. Use of GED and High School Diploma as minimum qualifications and scoring criteria

Staff is still working with Community Colleges and Workforce Development (CCWD) and the Oregon Department of Education to obtain comprehensive statistics regarding GED and high school diploma rates by gender and ethnicity.

Preliminary statistics show that the percentage of students graduating with a diploma is decreasing, while the percentage of students and the general population obtaining a GED certificate has increased during the same time frame. Statistics show that more men than women pass the GED and non-minority men pass the test at a higher percentage rate than women and minorities. These statistics demonstrate a need for better evaluation tools than high school diplomas and GED certificates to determine if an individual is ready to enter into a trade, such as a validated aptitude test or something similar to the Career Readiness Certificate.

Council Member Fry noted that the Oregon Elevator and Electrical Board requires a GED or high school diploma for licensing. An Associates Degree can be allowed in lieu of either certificate. He gives more credibility to GEDs due to the increasing number of diploma mills, where a person can purchase a diploma. He also believes that high school transcripts are not necessarily equivalent since subject areas differ between schools.

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Council Member Ferguson is a proponent of aptitude tests specific to the needs of the individual trade. He noted that while an older applicant may have a diploma, they may not have the current math skills needed.

A detailed report will be given at the September 2009 meetings.

**C. Out-of-Work Apprentice Process**

An informal survey of apprenticeship programs indicates that the overall apprentice unemployment rate at the end of March was approximately 15%. The placement process for out-of-work apprentice varies widely between committees. Program participation statistics and an analysis of the placement process will be available at the June 2009 Council meeting. The goal is to ensure that apprentices are being treated fairly and consistently statewide.

**D. Electronic Distribution of Information**

In the interest of reducing costs, the division is considering implementing an electronic delivery system as its primary means of distributing information. Committees could continue to receive paper copies upon request.

Council members were asked to consider receiving submittals and other meeting items electronically as well. This would expedite getting the information to them before the meetings. Council books would still be provided at the meetings.

**E. Kliewer Request for Hearing – Status Report**

The Kliewer hearing will be held June 29, 2009.

**F. Muhoberac Request for Hearing**

Council members were provided with an investigation report regarding Mr. Muhoberac's complaint and hearing request. The division reviewed his June 2008 termination and conducted a supplemental investigation to include interviews not completed in the initial review. As the termination is almost a year old, guidance was requested on scheduling the hearing.

**M/S/C by unanimous voice** to schedule the hearing for the June 18, 2009 Council meeting, in order to resolve the year old issue. The Subcommittee withheld the right to carry the matter over to its third quarter meeting if all issued could not be disposed of at the June meeting.

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

The division has been gathering information from other states regarding their plans in implementing the 29 CFR 29 changes. Statutory changes to ORS 660 will be required in the 2011 legislative session. State apprenticeship council changes would take effect December 31, 2010.

**IX. Multi-State Reciprocal Agreement – Status Report**

A reciprocity meeting will be held July 17, 2009, in Port Angeles, Washington. Discussion items are still to be determined. Council Members Wilson and Rogers have volunteered for the Oregon delegate position that Council Member McFall has vacated.

**X. Correspondence**

**A. Area I Plumbing JATC (MA 1038) - May 19, 2009 letter – re: traveling training agent status**

Committee representative present: Rick Charriere, Chair

Tapani Plumbing representatives present: Dan Wohlgemuth, Paul Hansen, Ross Tapani

Other testifiers: Randall Tyle, Administrator, North Coast Plumbing JATC (MA 1033)

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MA 1038 requested Council guidance in the matter of traveling training agent status for Tapani Plumbing, a Washington contractor and training agent.

Under the reciprocity agreement apprentices registered in Oregon, Washington and Montana are 'recognized' and entitled to work in all three states. In licensed trades, Washington and Montana apprentices are eligible for temporary licenses in Oregon.

A two-step process applies if a Washington training agent wishes to come to Oregon and use Oregon apprentices:

1. The training agent would contact an Oregon committee and request registration as a traveling training agent.
2. Once approved, they can use apprentices from the local committee's out-of-work list or pool of eligibles, subject to the local committee's terms and conditions.

In discussions between MA 1038 and Tapani Plumbing it became apparent that Tapani was requesting traveling training status in order to become eligible to work on the South Waterfront Project, a private agreement that requires a contractor to be registered as a training agent in Oregon and use registered Oregon apprentices. After further discussion, it appeared that Tapani and MA 1038 did not agree on the use of Oregon registered apprentices and the committee felt there was no need to register Tapani as a traveling training agent since they were otherwise eligible to work in Oregon. Council members concurred with the committee's interpretation.

Council Member Wilson noted that the South Waterfront agreement is not a statewide Council issue, but a compliance issue regarding a private contract in the Portland Metro area.

Mr. Tyle reported that MA 1033 had agreed to register Tapani Plumbing as a traveling training agent in Oregon. Questions arose regarding traveling training agent approval and standards jurisdiction. Mr. Simms clarified the issues:

- Apprenticeship issue: Registration with MA 1033 as a traveling training agent would be valid. Apprentices registered to that committee would be able to work anywhere in Oregon.
- Reciprocity issue: Registration with MA 1033 as a traveling training agent would be valid under the terms of the reciprocal agreement.
- South Waterfront Project issue: The South Waterfront agreement itself would determine whether Tapani could use their own apprentices or would be required to hire local apprentices.

Tapani stated that they would prefer to use their own apprentices, but are willing to utilize Oregon apprentices. The original issue arose because MA 1038 did not have a traveling training agent policy in place and were not sure how to proceed.

Committees default to Council Policy 16 and the reciprocity agreement for traveling training agent situations when they do not have policies of their own in place.

Council Member Fry recommended that Tapani apply to register as a traveling training agent with committees in each area they are performing work.

Tapani representatives felt that Council had the authority to supersede the South Waterfront Project agreement and make a determination that their current apprentices could be utilized on that project. They also felt that Council could dictate that reciprocal recognition is equivalent to registration. They believe that this precedent will have a negative effect on reciprocity.

Mr. Simms responded that the South Waterfront agreement is a private agreement between the developers and the prime contractors working on the project. The Council is not a party to the agreement and cannot supersede the terms of the agreement. In this case, Council is responsible only for interpreting Oregon apprenticeship and reciprocity agreement requirements.

### XI. Council and Subcommittee Meeting Dates

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

Council meeting: June 18, 2009, 10:00 a.m., Operating Engineers Local 701 Union Hall, Gladstone.

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Council Members were asked to consider whether the September 2009 Council meeting will be held in Medford as scheduled or moved to the Portland area. Discussion will take place at the June 2009 Council meeting.

### **XII. Good of Apprenticeship**

For the second year in a row, the Jackson County Oregon Employer Council, chaired by Apprenticeship Representative Roseanna "Ree" Ayres, was presented with the International Association of Workplace Professionals Citation Award for outstanding contributions to the advancement of workforce programs.

Doug Ellis, former training director for IBEW and former executive director of the Oregon Building Congress, passed away two weeks ago.

Ed Madden, Washington State Apprenticeship Consultant, stated that the Councils, as governmental oversight entities, should take a serious look at registration versus recognition issues and how they impact gender and minority utilization. Council Member Wilson responded that the original intent of the South Waterfront Project agreement was to provide jobs to the people living in the immediate area. Council Member Rozell suggested that it made sense to recognize emerging trends that may affect apprenticeship. Even though the Council has no authority in the matter they should at least be aware of the situation and consider it.

Tiffany Kriesel, Northwest College of Construction, reported that a new event, the Willamette Valley Construction and Trades Career Day is scheduled for October 14, 2009 at Stayton Companies in Eugene. The event is designed for high school students to get hands-on experience with the trades. Training programs and contractors who would like to participate should contact Ms. Kriesel. They are also seeking sponsors for the event.

Ron Hansen, Willamette Carpenters Training Center, announced that the training center is changing its name to Pacific NW Carpenter's Institute and invited everyone to an open house on Saturday, June 6, 2009 from 1:00-3:00 p.m. He noted that there are additional questions to ask when considering registering a potential traveling training agent:

- Are apprentices being trained by journey workers?
- Are they receiving related training?
- Where will they be getting their related training?

The Standards Review Subcommittee meeting will start at 1:15 p.m. due to the late adjournment of the Rules and Policy Subcommittee meeting.

### **XIII. Adjournment**

The meeting was adjourned at 12:26 p.m.