DISTRICT OF COLUMBIA
DEPARTMENT OF EMPLOYMENT SERVICES

APPRENTICESHIP COUNCIL

Rules and Regulations for Apprenticeship Programs

GOVERNMENT OF DISTRICT OF COLUMBIA
ADRIAN M. FENTY, MAYOR

DEPARTMENT OF EMPLOYMENT SERVICES

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DISTRICT OF COLUMBIA APPRENTICESHIP COUNCIL

NOTICE OF FINAL RULEMAKING

The District of Columbia Apprenticeship Council, pursuant to D.C. Code § 36-404 (1988), at its meeting on July 17, 1990, took final action to adopt a new Chapter 11 of Title 7 DCMR. The purpose of these final rules is to set forth labor standards, policies, and procedures relative to the registration and deregistration of apprenticeship programs and to the registration of apprenticeship agreements and to the resolution of disputes thereunder by the Apprenticeship Council and the Department of Employment Services. No changes were made to the text of the proposed rules as published with the Notice of Proposed Rulemaking in the D.C. Register on March 23, 1990 at 37 DCR 1942. comments were received during the review period. These final rules will be effective upon publication of this notice in the D.C. Register.

CHAPTER 11 APPRENTICESHIP

1100 PURPOSE AND SCOPE

1100.1 The purpose of these rules is to set forth labor standards, policies and procedures relative to the registration and deregistration of apprenticeship program and to the registration of apprenticeship agreements and the resolution of disputes thereunder by the Apprenticeship Council and the Director.

1100.2 The authority for the adoption of these standards policies, and procedures affecting the apprenticeship programs and agreements is the District of Columbia Apprenticeship Act of 1946, as amended, D.C. Code, Title 36, Chapter 4 (1988).

1101 MANDATORY REGISTRATION OF APPRENTICESHIP PROGRAMS

1101.1 No prime contractor or subcontractor shall contract with the District government within any twelve (12) month period to perform construction or renovation work in the cumulative amount of five hundred thousand dollars ($500,000) or more, unless such prime contractor or sub-contractor registers or has registered an apprenticeship program with the Apprenticeship Council.

1101.2 No person or organization shall apply to register an individual apprenticeship agreement with the Director, unless such person or

organization has registered an apprenticeship program with the Apprenticeship Council before applying to register the agreement.

1102 PROCEDURES FOR REGISTERING APPRENTICESHIP PROGRAMS

1102.1 Any person or organization seeking to register an apprenticeship program shall submit four copies of all required documents to the Apprenticeship Council for approval.

1102.2 Each application for registration shall set forth in writing: a certified copy of the company's payroll identifying the existing workforce; an organized plan for meeting each of the program standards required by section 1103; a copy of the apprenticeship agreement required by section 1106; and the applicant's commitment to operate the apprenticeship program as registered by the Apprenticeship Council.

1102.3 If the person or organization applying for registration is an employer or employers' association, and the program standards, a collective bargaining agreement, or other instrument provides for participation by a union in the operation of the apprenticeship program, the application shall include written acknowledgement of union agreement or "no objection" to registration of the program.

1102.4 If no such union participation is provided for, the application shall include evidence that the applicant has by certified mail furnished to any union local that is recognized as the collective bargaining agent for employees in those positions for which apprentices are to be trained, a complete copy of the application for registration together with a notice that the Apprenticeship Council will accept union comments for thirty (30) calendar days after the date of the application.

1102.5 If employees in the positions for which apprentices are to be trained have no collective bargaining agent, the application shall so state.

1102.6 The Director shall conduct a worksite analysis before registering any apprenticeship program and the results of such analysis shall be reported to the Apprenticeship Council prior to any decision to approve a plan.

1102.7 The Apprenticeship Council shall register an apprenticeship program if the application for registration meets the requirements of this Chapter.

1102.8 Registration shall be evidenced by a certificate of registration issued by the Apprenticeship Council for a term of four (4) years in the name of the sponsoring person or organization.

1102.9 Each registration shall state that an apprenticeship program for any occupation is subject to deregistration by the Apprenticeship Council if, as certified by the Director, no active on-the-job training of apprentices has occurred within a period of two (2) years from the date of the last such active training.

1103 STANDARDS FOR REGISTERING APPRENTICESHIP PROGRAMS

1103.1 Training shall be offered in one or more apprenticeable occupations, as defined by these rules.

1103.2 The term of apprenticeship shall be not less than two thousand (2,000) hours per year consistent with training requirements as established by industry practice.

1103.3 Each apprenticeship program shall set forth in writing: a statement that the program will be conducted in compliance with the District of Columbia State Plan for Equal Employment Opportunity in Apprenticeship Training, adopted pursuant to 29 CFR Part 30 (1988); an equal opportunity pledge; and, when applicable, an affirmative action plan and selection method.

1103.4 Each apprenticeship program shall describe the work processes in which apprentices will receive supervised work experience and training on-the-job, and the allocation of the approximate time to be spent in each major learning process.

1103.5 Each apprenticeship program shall provide organized, related, and supplemental instruction in technical subjects related to the trade, for which the sponsor shall bear the cost of tuition, books, and materials.

1103.6 Each apprenticeship program shall contain a progressive schedule of the minimum wage rates to be paid apprentices for each incremental period of apprenticeship, consistent with the skills acquired, with wages expressed as percentages of the established journeyperson's hourly rate.

1103.7 The entry apprentice wage rate shall be not less than the minimum wage prescribed by the District of Columbia Minimum Wage Law, appropriate Wage Order, or by the Fair Labor Standards Act, as applicable, unless a higher wage is required

by other applicable Federal or State laws, respective regulations, or by a collective bargaining agreement.

1103.8 The minimum hourly apprentice wage rate paid during the last period of apprenticeship shall be not less than eighty-five (85) percent of the established journeyperson's wage rate.

1103.9 The apprenticeship program shall provide for periodic reviews and evaluations of the apprentice's progress in job performance and related instruction.

1103.10 Each apprenticeship program shall provide that the sponsor shall maintain all records, including appropriate progress records, for not less than five (5) years, and that the sponsor shall make such records available to the Director upon request.

1103.11 Each apprenticeship program shall identify numerically the ratio of apprentices to journeypersons for the entire workforce; such ratio shall be consistent within the given trade or occupation and shall be consistent with proper supervision, training, safety, and continuity of employment as determined by the Apprenticeship Council or applicable provisions in collective bargaining agreements, except when such ratios are expressly prohibited by a collective bargaining agreement.

1103.12 The minimum numerical ratio required shall be one (1) apprentice to every three (3) journeypersons employed.

1103.13 Each apprenticeship program shall provide a probationary period not to exceed ninety (90) days with full credit for such period counting towards completion of the full apprenticeship term.

1103.14 The sponsor shall provide adequate and safe equipment and facilities for on-the-job training, and adequate supervision to promote safe working conditions; and safety training for apprentices both on-the-job and in related instruction.

1103.15 Each apprenticeship program shall state minimum qualifications for persons entering an apprenticeship program.

1103.16 Each apprenticeship program shall provide for the placement of each apprentice under a registered apprenticeship agreement.

1103.17 Each apprenticeship program shall provide that advanced credit or standing of up to one-fourth (¼) of the apprenticeship term shall be granted all applicants equally, with commensurate wages paid

according to the advanced standing granted.

1103.18 Each apprenticeship program shall require advance approval by the Director of any award of advanced standing or credit greater than one-fourth (¼) of the prescribed term.

1103.19 Each apprenticeship program shall require the use of qualified training personnel approved by the Apprenticeship Council.

1103.20 Each apprenticeship program shall provide recognition of successful completion of apprenticeship as evidenced by the appropriate certificate issued by the Apprenticeship Council.

1103.21 Each apprenticeship program shall identify the registration agency as the Apprenticeship Council.

1103.22 Each apprenticeship program shall require the sponsor to obtain the approval of the Apprenticeship Council for any modification or amendment to a registered program.

1103.23 Each apprenticeship program shall require not less than two (2) weeks written notice of any proposed adverse action including detailed specifications of the cause with written notice indicating the opportunity for corrective action during the two week period, unless such a requirement is in conflict with a collective bargaining agreement and a lesser requirement is approved by the Council.

1103.24 Upon the request of the sponsor of any multistate apprenticeship program in any industry other than building and construction, the Apprenticeship Council shall register such a program, if the sponsor demonstrates that the program is registered by any recognized State Apprenticeship Agency or Council or by the U.S. Department of Labor Bureau of Apprenticeship and Training.

1103.25 Each apprenticeship sponsor shall maintain a street address in the District of Columbia for the purpose of having records of apprentices and shall make such records available for review.

1104 DEREGISTRATION OF APPRENTICESHIP PROGRAMS

1104.1 At the sponsor's request, the Apprenticeship Council may deregister an apprenticeship program by giving written notice to the sponsor, indicating that the program is voluntarily deregistered and giving the effective date of such action.

1104.2 Where an apprenticeship program is not being operated in accordance with the registered program or with the requirements of these rules, the Director shall send to the sponsor a preliminary notice of involuntary deregistration, by registered or certified mail, return receipt requested, stating the deficiency and the corrective action required, and stating that the program will be deregistered for cause unless corrective action is taken within thirty (30) days from the date of the notice.

1104.3 The Director may upon written request extend the period for corrective action for up to thirty (30) additional days.

1104.4 The Director shall assist the sponsor in correcting the deficiency.

1104.5 The Director shall send a final notice of involuntary deregistration to the sponsor by registered or certified mail, return receipt requested, where corrective actions have not been timely taken, stating that the deficiency and the remedial action required were called to the sponsor's attention, and stating that the program will be deregistered, unless the sponsor requests a hearing within fifteen (15) working days from the date of the notice.

1104.6 If the sponsor requests a hearing, the Chairperson shall convene the Apprenticeship Council, which shall hold a hearing and make a determination on the basis of the preponderance of evidence in the hearing record.

1104.7 At any such hearing, the Apprenticeship Council shall offer the sponsor the opportunity to appear with counsel, present documentary evidence and witnesses, and confront any other documentary evidence or witnesses.

1104.8 The Apprenticeship Council shall record any such hearing and make a copy or transcript of the record available at cost to the sponsor on request.

1104.9 Every order of voluntary or involuntary deregistration issued by the Apprenticeship Council shall provide that the sponsor shall, within fifteen (15) working days of the effective date of the order, notify all registered apprentices of the deregistration of the program, the effective date, and that such action automatically terminates the apprentice's individual registration.

1104.10 The Apprenticeship Council shall promptly notify all District

and Federal authorities of the deregistration of any apprenticeship program and the effective date.

1105 REINSTATEMENT OF APPRENTICESHIP PROGRAMS

1105.1 Each sponsor whose apprenticeship program has been deregistered pursuant to this Chapter may be reinstated by applying to the apprenticeship Council and demonstrating that the apprenticeship program is operating in accordance with this Chapter.

1105.2 Before denying an application for reinstatement, the Apprenticeship Council shall afford a sponsor the opportunity for a hearing in accordance with the provisions of section 1104 of this Chapter.

1106 REGISTRATION OF INDIVIDUAL APPRENTICESHIP AGREEMENTS REQUIRED

1106.1 No apprentice shall be employed under a registered apprenticeship program unless an individual apprenticeship agreement for that apprentice has been registered with the Director.

1107 STANDARDS FOR REGISTERING INDIVIDUAL APPRENTICESHIP AGREEMENTS

1107.1 The Director shall register individual apprenticeship agreements which meet the requirements of this section.

1107.2 Each Apprenticeship Agreement shall contain the names, addresses, and signatures of the contracting parties, the apprentice, the program sponsor or the employer, and the signature of a parent or guardian if the apprentice is a minor.

1107.3 Each Apprenticeship Agreement shall state the date of birth of the apprentice.

1107.4 Each Apprenticeship Agreement shall provide that the sponsor shall notify the Director in writing within ten (10) days of any modification, cancellation, suspension, or termination of the agreement, with cause for same, and of completion of the apprenticeship.

1107.5 Each Apprenticeship Agreement shall state the craft or occupation in which the apprentice is to be trained, and the beginning date and term (duration) of the apprenticeship; a schedule of work processes in the trade or occupation in which the apprentice is to be trained and the approximate time to be spent at each process; the total number of hours to be spent by the apprentice in work on the job;

1108 COMPLAINTS UNDER INDIVIDUAL APPRENTICESHIP AGREEMENTS

1108.1 Any controversy or difference arising under an Apprenticeship Agreement which cannot be resolved by the sponsor, or which is not covered by a collective bargaining agreement, may be submitted by an apprentice or the apprentice's authorized representative to the Director for review.

1108.2 All matters covered by a collective bargaining agreement shall be submitted and processed in accordance with the procedures therein provided.

1108.3 A complaint shall be in writing, shall be signed by the complainant, shall be submitted by the apprentice or the apprentice's authorized representative within sixty (60) days of receipt of sponsor's decision, shall set forth the specific problem, including all relevant facts, and shall include copies of all pertinent documents and correspondence.

1108.4 The Director shall make every effort to informally resolve the complaint.

1108.5 The Director shall report all unresolved complaints with recommendation for resolution to the Council within sixty (60) days.

1108.6 If necessary to resolve disputed questions of material fact, the Apprenticeship Council shall hold a hearing in accordance with the provisions of section 1104 of this Chapter. Otherwise, the Council shall make a decision based on the Director's recommendation within ten (10) days.

1108.7 The Council shall notify all parties of the decision which shall be a final administrative action.

1109 DEFINITIONS

1109.1 The definitions contained with the Act (D.C. Code § 36-401 et seq. (1988)) shall apply to this Chapter. In addition, the following terms shall have the meaning ascribed:

Apprenticeable Occupation - a skilled occupation which possesses all of the following characteristics:

(a) The occupation is customarily learned in a practical way through both training and work experience obtained on-the-job.

(b) The occupation is clearly identified and commonly recognized throughout an industry.

(c) The occupation involves manual, mechanical, or technical skills and knowledge which require a minimum of two thousand (2,000) hours per year of on-the-job work experience not including the time spent in related instruction.

(d) The occupation requires instruction to supplement on-the-job training.

Apprentice - a person at least 16 years of age who has entered into an apprenticeship agreement with an employer, an association of employers, or an organization of employees, which provides for reasonably continuous employment for the person and for participation in an approved apprenticeship program.

Apprenticeship Agreement - a written agreement between an apprentice and either the apprentice's employer, or an apprenticeship committee acting as agent for employers, which agreement contains the terms and conditions of the employment and training of the apprentice and must be registered with the Director.

Apprenticeship Council - the District of Columbia State Apprenticeship Council.

Apprenticeship Program - a program registered with the Apprenticeship Council, evidenced by a Certificate of Registration or other appropriate documents as meeting the apprenticeship standards of the Apprenticeship Council.

Cancellation - the termination of an apprenticeship agreement at the request of either the sponsor or the apprentice.

Certification - the written approval by the District of Columbia Apprenticeship Council of a set of apprenticeship standards or of an individual for employment as an apprentice in an apprenticeship program.

D.C. Apprenticeship Act - D.C. Apprenticeship Act of May 21, 1946 (D.C. Code § 36-401 et seq. (1988)).

Deregistration of Programs - the termination of the registration or approval status of an apprenticeship program upon written request of the sponsor or upon cause by the Apprenticeship Council instituting formal deregistration proceedings in accordance with the provisions of this Chapter.

Director - the Director of the District of Columbia Department of Employment Services or any person designated by the Director to supervise the administration of the provisions of the Act.

District of Columbia State Plan for Equal Opportunity in Apprenticeship Training - a plan outlining policies and procedures for promoting equality of opportunity in the recruiting and selection of apprentices and in all conditions of employment and training during the term of apprenticeship, adopted in accordance with 29 CFR Part 30 (1988).

Registration Agency - the District of Columbia Apprenticeship Council.

Related Instruction - an organized and systematic form of instruction designed to provide the apprentice with knowledge of the theoretical and technical subjects related to the apprentice's trade. The sponsor shall be responsible for the administration and supervision of related and supplemental instruction for apprentices and coordination of the instruction with job experience; [redacted].

Sponsor - any person or organization operating an apprenticeship program, irrespective of whether such person or organization is an employer.

Workforce - all employees paid by the employer.