

# APPRENTICESHIP ACT

North Carolina General Statutes  
Chapter 94

AND

# ADMINISTRATIVE RULES

North Carolina Administrative Code  
Title 13, Chapter 14

Code of Federal Regulations  
Title 29, Part 29

*WITH REVISIONS THROUGH DECEMBER 2009*



Apprenticeship and Training Bureau  
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Cherie K. Berry  
Commissioner of Labor

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## Introduction

The N.C. Department of Labor – Apprenticeship and Training Bureau is the administrator in North Carolina of the National Apprenticeship Act of 1937, which created the mechanism to establish uniform standards, approves apprenticeship programs which meet established criteria, is a records depository and issues completion certificates to apprentices who complete apprenticeship training.

Registered apprenticeship is a training system that produces highly skilled workers who meet the demands of employers competing in a global economy. Apprenticeship is a proven strategy that combines on-the-job training with related theoretical and practical classroom instruction furnished by the individual employer, community college, technical institute, or a four-year university to prepare exceptional workers for North Carolina and America's industry.

Apprenticeship programs in the State of North Carolina are administered by the Apprenticeship and Training Bureau with guidance from the [Apprenticeship Advisory Council](#). Apprenticeship programs are established by private employers or under the sponsorship of joint labor-management committees. Skilled consultants provide technical assistance, monitoring, and consulting services to qualified employers willing to take on the responsibilities and obligations of program sponsorship.

This publication contains the statutes governing the Apprenticeship program (Chapter 94 of the N.C. General Statutes) and the Administrative Rules contained in the N.C. Administrative Code which govern these laws (Title 13, Chapter 14 of the N.C. Administrative Code). It is intended to be used by employers covered under these laws, as well as employees, in order to inform them of their rights and responsibilities in employment discrimination matters. Our experience shows that most businesses and workers want to comply with the labor laws of the State, and will generally do so when they know what the laws provide. We hope the use of this publication will help build the spirit of cooperation and fairness which currently characterizes most workplaces in North Carolina. That gives our State a more effective and productive workforce with which to maintain our competitive national economic position.

We encourage and solicit public comments concerning these laws and regulations. Please direct your comments and questions to the Apprenticeship and Training Bureau, N.C. Department of Labor, 1101 Mail Service Center, Raleigh, North Carolina 27699-1101.

Cherie K. Berry  
Commissioner of Labor

December 2009

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**N.C. GENERAL STATUTES**  
**CHAPTER 94 – APPRENTICESHIP**

**§ 94-1. Purpose.**

The purposes of this Chapter are: to open to young people the opportunity to obtain training that will equip them for profitable employment and citizenship; to set up, as a means to this end, a program of voluntary apprenticeship under approved apprentice agreements providing facilities for their training and guidance in the arts and crafts of industry and trade, with parallel instruction in related and supplementary education; to promote employment opportunities for young people under conditions providing adequate training and reasonable earnings; to relate the supply of skilled workers to employment demands; to establish standards for apprentice training; to establish an Apprenticeship Council and apprenticeship committees and sponsors to assist in effectuating the purposes of this Chapter; to provide for a Director of Apprenticeship within the Department of Labor; to provide for reports to the legislature and to the public regarding the status of apprentice training in the State; to establish a procedure for the determination of apprentice agreement controversies; and to accomplish related ends. (1939, c. 229, s. 1; 1979, c. 673, s. 1.)

**§ 94-2. Apprenticeship Council.**

The Commissioner of Labor shall appoint an Apprenticeship Council composed of four representatives each from employer and employee organizations respectively and three representatives from the public at large. One State official designated by the Department of Public Instruction and one State official designated by the Department of Community Colleges shall be a member ex officio of said council, without vote. The terms of office of the members of the Apprenticeship Council first appointed by the Commissioner of Labor shall expire as designated by the Commissioner at the time of making the appointment: two representatives each of employers and employees, being appointed for one year and one representative of the public at large being appointed for two years; and one representative each of employers, employees, and the public at large being appointed for a term of three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term of his predecessor shall be appointed for the remainder of said term. Each member of the Council not otherwise compensated by public moneys, shall be reimbursed for transportation and shall receive such per diem compensation as is provided generally for boards and commissions under the biennial maintenance appropriation acts for each day spent in attendance at meetings of the Apprenticeship Council. The Commissioner of Labor shall annually appoint one member of the Council to act as its chairman.

The Apprenticeship Council shall meet at the call of the Commissioner of Labor and shall aid him in formulating policies for the effective administration of this Chapter. Subject to the approval of the Commissioner, the Apprenticeship Council shall establish standards for apprentice agreement which in no case shall be lower than those prescribed by this Chapter, shall issue such rules and regulations as may be necessary to carry out the intent and purposes of said Chapter, and shall perform such other functions as the Commissioner may direct. Not less than once a year the Apprenticeship Council shall make a report through the Commissioner of Labor of its activities and findings to the legislature and to the public. (1939, c. 229, s. 2; 1973, c. 476, s. 138; 1977, c. 896.)

**§ 94-3. Director of Apprenticeship.**

The Commissioner of Labor is hereby directed to appoint a Director of Apprenticeship which appointment shall be subject to the confirmation of the State Apprenticeship Council by a majority vote. The Commissioner of Labor is further authorized to appoint and employ such clerical, technical, and professional help as shall be necessary to effectuate the purposes of this Chapter. (1939, c. 229, s. 3.)

**§ 94-4. Powers and duties of Director of Apprenticeship.**

The Director, under the supervision of the Commissioner of Labor and with the advice and guidance of the Apprenticeship Council is authorized to administer the provisions of this Chapter; in cooperation with the Apprenticeship Council and apprenticeship committees and sponsors, to set up conditions and training standards for apprentice agreements, which conditions or standards shall in no case be lower than those prescribed by this Chapter; to act as secretary of the Apprenticeship Council; to approve for the Council if in his opinion approval is for the best interest of the apprenticeship any apprentice agreement which meets the standards established under this Chapter; to terminate or cancel any apprentice agreement in accordance with the provisions of such agreement; to keep a record of apprentice agreements and their disposition; to issue certificates of completion of apprenticeship; and to perform such other duties as are necessary to carry out the intent of this Chapter, including other on-job training necessary for emergency and critical civilian production: Provided, that the administration and supervision of related and supplemental instruction for apprentices, coordination of instruction with job experiences, and the selection and training of teachers and coordinators for such instruction shall be the responsibility of State and local boards responsible for vocational education. (1939, c. 229, s. 4; 1951, c. 1031, s. 1; 1979, c. 673, s. 2.)

**§ 94-5. Apprenticeship committees and program sponsors.**

(a) As used in this Chapter:

- (1) "Apprenticeship program" means a plan containing all terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices, including such matters as the requirement for a written apprenticeship agreement.
- (2) "Apprenticeship agreement" means a written agreement between an apprentice and either his employer or an apprenticeship committee or sponsor acting as agent for employer(s), which agreement satisfies the requirements of G.S. 94-7.
- (3) "Sponsor" means any person, firm, corporation, organization, association or committee operating an apprenticeship program and in whose name the apprenticeship program is approved.
- (4) "Employer" means any person, firm, corporation or organization employing an apprentice whether or not such person, firm, corporation or organization is a party to an apprenticeship agreement with the apprentice.
- (5) "Apprenticeship committee" means those persons designated by the sponsor, and approved by the Apprenticeship Council, to act for it in the administration of the apprenticeship program. A committee may be "joint," i.e., it is composed of an equal number of representatives of the employer(s) and of the employees represented by a bona fide collective bargaining agent(s) and has

been established to conduct, operate or administer an apprenticeship program and enter into apprenticeship agreements with apprentices. A committee may be "unilateral" or "nonjoint" which shall mean a program sponsor in which employees or a bona fide collective bargaining agent is not a party.

(b) An apprenticeship committee may be appointed by the Apprenticeship Council in any trade or group of trades in a city or trade area, whenever the apprentice training needs of such trade or group of trades justifies such establishment.

(c) The function of the apprenticeship committee, or sponsor when there is no apprenticeship committee, shall be: to cooperate with school authorities in regard to the education of apprentices; in accordance with the standards set up by the apprenticeship committee for the same trade or group of trades, where such committee has been appointed, to work in an advisory capacity with employers and employees in matters regarding schedule of operations, application of wage rates, and working conditions for apprentices and to specify the number of apprentices which shall be employed locally in the trade under the apprenticeship agreements under this Chapter; and to adjust apprenticeship disputes, subject to the approval of the director; to ascertain the prevailing rate for journeymen in the city or trade area and specify the graduated scale of wages applicable to apprentices in such trade in such area; to ascertain employment needs in such trade or group of trades and specify the appropriate current ratio of apprentices to journeymen; and to make recommendations for the general good of apprentices engaged in the trade or trades represented by the committee. An apprenticeship committee may appoint a representative and delegate to such representative the authority for implementation and performance of any standards adopted by the committee pursuant to any of the aforementioned functions. (1939, c. 229, s. 5; 1979, c. 673, s. 3.)

#### **§ 94-6. Definition of an apprentice.**

The term "apprentice," as used herein, shall mean a person at least 16 years of age who is covered by a written apprenticeship agreement approved by the Apprenticeship Council, which apprenticeship agreement provides for not less than 2,000 hours of reasonably continuous employment for such person for his participation in an approved schedule of work experience and for organized, related supplemental instruction in technical subjects related to the trade. A minimum of 144 hours of related supplemental instruction for each year of apprenticeship is recommended. The required hours for apprenticeship agreements and the recommended hours for related supplemental instruction may be decreased or increased in accordance with standards adopted by the apprenticeship committee or sponsor, subject to approval of the Commissioner of Labor. (1939, c. 229, s. 6; 1979, c. 479, ss. 1, 2; c. 673, s. 4.)

#### **§ 94-7. Contents of agreement.**

Every apprentice agreement entered into under this Chapter shall contain:

- (1) The names of the contracting parties.
- (2) The date of birth of the apprentice.
- (3) A statement of the trade, craft, or business which the apprentice is to be taught, and the time at which the apprenticeship will begin and end.
- (4) A statement showing (i) the number of hours to be spent by the apprentice in work on the job, and (ii) the number of hours to be spent in related and supplemental instruction, which is recommended to be not less than 144 hours per year: Provided, that in no case shall the combined weekly hours of work

and of required related and supplemental instruction of the apprentice exceed the maximum number of hours of work prescribed by law for a person of the age of the apprentice.

- (5) A statement setting forth a schedule of the processes in the trade or industry division in which the apprentice is to be taught and the approximate time to be spent at each process.
- (6) A statement of the graduated scale of wages to be paid the apprentice and whether the required school time shall be compensated.
- (7) A statement providing for a period of probation of not more than 500 hours of employment and instruction extending over not more than four months, during which time the apprentice agreement shall be terminated by the Director at the request in writing of either party, and providing that after such probationary period the apprentice agreement may be terminated by the Director by mutual agreement of all parties thereto, or canceled by the Director for good and sufficient reason. The Council at the request of a joint apprentice committee may lengthen the period of probation.
- (8) A provision that all controversies or differences concerning the apprentice agreement which cannot be adjusted locally in accordance with G.S. 94-5 shall be submitted to the Director for determination.
- (9) A provision that an employer who is unable to fulfill his obligation under the apprentice agreement may with the approval of the Director transfer such contract to any other employer: Provided, that the apprentice consents and that such other employer agrees to assume the obligations of said apprentice agreement.
- (10) Such additional terms and conditions as may be prescribed or approved by the Director not inconsistent with the provisions of this Chapter. (1939, c. 229, s. 7; 1945, c. 729, s. 1; 1977, c. 550, s. 1; 1979, c. 673, s. 5.)

#### **§ 94-8. Approval of apprentice agreements; signatures.**

No apprentice agreement under this Chapter shall be effective until approved by the Director. Every apprentice agreement shall be signed by the employer, or by an association of employers or an organization of employees as provided in G.S. 94-9, and by the apprentice, and if the apprentice is a minor, by either of the minor's lawful parents, or by any person, agency, organization or institution standing in loco parentis. Where a minor enters into an apprentice agreement under this Chapter for a period of training extending into his majority, the apprentice agreement shall likewise be binding for such a period as may be covered during the apprentice's majority. (1939, c. 229, s. 8; 1977, c. 550, s. 2.)

#### **§ 94-9. Rotation of employment.**

For the purpose of providing greater diversity of training or continuity of employment, any apprentice agreement made under this Chapter may in the discretion of the Director of Apprenticeship be signed by an association of employers or an organization of employees instead of by an individual employer. In such a case, the apprentice agreement shall expressly provide that the association of employers or organization of employees does not assume the obligation of an employer but agrees to use its best endeavors to procure employment and training for such apprentice with one or more employers who will accept full responsibility, as

herein provided, for all the terms and conditions of employment and training set forth in said agreement between the apprentice and employer association or employee organization during the period of each such employment. The apprentice agreement in such a case shall also expressly provide for the transfer of the apprentice, subject to the approval of the Director, to such employer or employers who shall sign in written agreement with the apprentice, and if the apprentice is a minor with his parent or guardian, as specified in G.S. 94-8, contracting to employ said apprentice for the whole or a definite part of the total period of apprenticeship under the terms and conditions of employment and training set forth in the said agreement entered into between the apprentice and employer association or employee organization. (1939, c. 229, s. 9.)

**§ 94-10. Repealed by Session Laws 1945, c. 729, s. 2.**

**§ 94-11. Limitation.**

Nothing in this Chapter or in any apprentice agreement approved under this Chapter shall operate to invalidate any apprenticeship provision in any collective agreement between employers and employees, setting up higher apprenticeship standards; provided, that none of the terms or provisions of this Chapter shall apply to any person, firm, corporation or crafts unless, until, and only so long as such person, firm, corporation or crafts voluntarily elects that the terms and provisions of this Chapter shall apply. Any person, firm, corporation or crafts terminating an apprenticeship agreement shall notify the Director of Apprenticeship. (1939, c. 229, s. 11; 1945, c. 729, s. 3.)

**§ 94-12. Fees.**

The following fees are imposed on each apprentice who is covered by a written apprenticeship agreement entered into under this Chapter: (i) a new registration fee of fifty dollars (\$50.00); and (ii) an annual fee of fifty dollars (\$50.00). Each fee authorized by this section is payable as thirty dollars (\$30.00) by the sponsor and twenty dollars (\$20.00) by the apprentice. The sponsor shall collect the fees authorized by this section from the apprentice and remit the total fees owed by the sponsor and the apprentice to the Department of Labor. The fees are departmental receipts and must be applied to the costs of administering the apprenticeship program. The Commissioner may adopt rules pursuant to Chapter 150B of the General Statutes to implement this section. The provisions of this section shall not apply to the State, a department or agency of the State, or any political subdivision of the State or an apprentice of the State, a department or agency of the State, or any political subdivision of the State. (2009-139, s. 12.1.)

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**N.C. ADMINISTRATIVE CODE**  
**TITLE 13 – DEPARTMENT OF LABOR**  
**CHAPTER 14 – APPRENTICESHIP AND TRAINING DIVISION**

**SECTION .0100 - GENERAL PROVISIONS**

**13 NCAC 14 .0101 NAME: ADDRESS**

The Apprenticeship and Training Division headquarters are located in the North Carolina Department of Labor Building, Raleigh, North Carolina. The mailing address for the division and for the Director of Apprenticeship is as follows:

Apprenticeship and Training Division  
(or Director of Apprenticeship)  
North Carolina Department of Labor  
Four West Edenton Street  
Raleigh, North Carolina 27601

*History Note: Authority G.S. 94-1; 94-2;  
Eff. February 1, 1984.*

**13 NCAC 14 .0102 DEFINITIONS**

The following definitions apply throughout this Chapter:

- (1) "Commissioner" means the Commissioner of Labor for the State of North Carolina. The commissioner may authorize a representative to administer the duties and responsibilities prescribed for him by this Chapter.
- (2) "Department" means the North Carolina Department of Labor.
- (3) "Director" means the Director of Apprenticeship for the State of North Carolina. The director or commissioner may authorize a representative to administer the duties and responsibilities prescribed for the director by this Chapter.
- (4) "Division" means the Apprenticeship and Training Division within the department.
- (5) "Apprentice" means a worker at least 16 years old, except when a higher minimum age is otherwise fixed by law, who is employed to learn a skilled trade in a registered apprenticeship program.
- (6) "Apprenticeable Occupation" means an occupation having the characteristics set forth in Rule .0202 of this Chapter.
- (7) "Apprenticeship Agreement" means a written agreement between an apprentice and his sponsor, which agreement satisfies the requirements of Rule .0205 of this Chapter.
- (8) "Apprenticeship Committee" means those persons designated by a sponsor to act for the sponsor in the administration of an apprenticeship program; "Joint Apprenticeship Committee" means an apprenticeship committee composed of an equal number of representatives of the employer(s) and of the employees represented by a bona fide collective bargaining agent(s), which committee was established to operate an apprenticeship program and enter into apprenticeship

- agreements; and apprenticeship committee in which a collective bargaining agent is not a participant is "unilateral" or "non-joint."
- (9) "Apprenticeship Program" means a program providing for the qualification, recruitment, selection, employment, and training on the job or apprentices.
  - (10) "Apprenticeship Association" means an association of employers who operate or participate in apprenticeship or OJT programs where the programs are operated in a manner similar to the programs operated by other members of the association, the purpose of the association being to assist the members in designing, registering, operating, and participating in an apprenticeship or OJT program.
  - (11) "Approval" means the recognition by the director and the recording with the division of an apprenticeship or OJT program, signifying that the program is suitable for participation of veterans or other people eligible to receive training allowances from the Veteran's Administration.
  - (12) "Certification" means written acknowledgment by the director that an individual is a registered apprentice, probationary apprentice in a registered apprenticeship program, or trainee in an approved OJT program, that an employer is participating in a registered apprenticeship program or approved apprenticeship or OJT program, that a sponsor is operating a registered apprenticeship program or approved apprenticeship or OJT program, or that an apprenticeship program is registered or approved or an OJT program approved. Certification may acknowledge any combination in this Paragraph as appropriate.
  - (13) "Completer" means an individual who has completed the normal term of elementary and secondary education but has not been awarded a diploma because of not passing the state's educational competency examination.
  - (14) "Employer" means any person or organization employing an apprentice or trainee, whether or not the employer is a party to the apprenticeship or OJT agreement with the apprentice or trainee; "Participating Employer" means an employer which is not itself a sponsor, although a participating employer may be a member of an employers' group or association.
  - (15) "Employers' Group or Association" means an organization composed of employers who employ apprentices or trainees, the purpose of such group being, at least in part, to act as the sponsor of an apprenticeship or OJT program.
  - (16) "Fully Qualified Worker" means a worker who is fully qualified by experience, training, or skills to undertake the tasks necessary for his employment.
  - (17) "Group Program" means an apprenticeship or OJT program including or designed to include more than one employer.
  - (18) "Journeyman" means a fully qualified worker in an apprenticeable occupation, without regard to gender.
  - (19) "OJT Agreement" means a written agreement between a trainee and his sponsor, which agreement satisfies the requirements of Rule .0405 of this Chapter.
  - (20) "OJT Program" means a program providing for the qualification, recruitment, selection, employment, and training on the job of people other than apprentices.
  - (21) "Probationary Apprentice" or "Summer Apprentice" means an apprentice who complies with all the provisions of this Chapter except that neither the individual nor the individual's apprenticeship agreement is registered and the individual is

not employed as a probationary apprentice for more than four months in any calendar year.

- (22) "Registration" means the recognition by the director and the recording with the division of an apprenticeship program, apprenticeship agreement, or apprentice, signifying that the program, agreement, or individual complies with the rules, requirements, criteria, and standards of this Chapter regarding apprenticeship.
- (23) "Related Instruction" means an organized and systematic form of instruction designed to provide the apprentice or trainee with knowledge of the theoretical and technical subjects related to his trade or occupation.
- (24) "Revision" means any substantive modification or change of the program standards of apprenticeship (including an affirmative action plan and a written description of the selection procedure), of the program standards for OJT, or of an apprenticeship or OJT agreement.
- (25) "Sponsor" means any person or organization endeavoring to establish and operate a registered apprenticeship program or an approved OJT program, entering into an apprenticeship or OJT agreement with an apprentice or trainee, and in whose name the program is registered.

Note: A sponsor may authorize a representative, including but not limited to an apprenticeship committee, to administer the duties and responsibilities prescribed for it under this Chapter.

- (26) "Standards" means the program standards of apprenticeship as set forth in Rule .0204 of this Chapter or the program standards for OJT as set forth in Rule .0404 of this Chapter.
- (27) "Trainee" means a worker, other than an apprentice, who is employed to learn an occupation in an OJT program.
- (28) "VA" means the Veterans' Administration of the United States.
- (29) "He," "His," or "Him" means such individual as is indicated without regard to gender.

*History Note: Authority G.S. 94-1; 94-2;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0103 APPRENTICESHIP COUNCIL**

- (a) The apprenticeship council advises the commissioner and the director regarding board policy for the apprenticeship system in North Carolina.
- (b) Council members are appointed, serve their terms, vote, and are reimbursed as provided by G.S. 94-2. The director serves as secretary to the council.
- (c) The council meets at the call of the commissioner. The commissioner shall give 60 days' notice to council members of the time and place of meeting, unless circumstances require shorter notice.
- (d) Any council member may present an item for consideration by the council by submitting to the commissioner the item in brief outline form, together with any technical or statistical documents relative to the subject matter, at least 30 days prior to the scheduled meeting, unless waived by the commissioner. The commissioner or director shall issue an agenda to council members at least five days prior to a scheduled meeting.

(e) The secretary to the council shall prepare minutes of the meeting and shall provide each member of the council with a copy of the minutes.

*History Note: Authority G.S. 94-1; 94-2;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0104 DISCRETIONARY POWERS OF DIRECTOR**

Notwithstanding any other provision of this Chapter, the director, under the supervision of the commissioner, retains the power to vary, at his discretion, the requirements for an apprenticeship or OJT program or agreement in order to respond to unique or unusual circumstances, including but not limited to the operation of apprenticeship or OJT programs in penal institutions, so long as and only to the extent that the variations are not contrary to federal or state law, that they serve to further apprenticeship and on-the-job training in general and a certain apprenticeship or OJT program or agreement in particular, and that the director does not act arbitrarily or capriciously.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0105 CERTIFICATION**

Upon written request to the director by a sponsor or governmental agency or upon such occasions as agreed to by prior arrangement with a governmental agency, the director shall provide the requesting party, governmental agency, or designee of the requesting party or governmental agency an appropriate statement of certification, if the records of the division so indicate and circumstances verify the accuracy of the records.

*History Note: Authority G.S. 94-1; 94-2; 94-4; 94-8;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0106 COMPUTATION OF WAGES: BEGINNING TRAINING**

(a) In order to determine the proportion of wages of an apprentice to a journeyman or a trainee to a fully qualified worker, the total wages of the apprentice or trainee, including specifically basic wages, overtime wages, shift premiums, commissions, and production bonuses, shall be compared with the total wages a journeyman or fully qualified worker would earn under the same circumstances -- i.e., with the same amount of overtime accrued at the same rate, during the same shift, for the same amount of production. In making the determination, performance bonuses paid to an apprentice or trainee as an incentive or reward for successful completion of some aspect of the apprentice's or trainee's training or instruction and not related to the amount of production of the apprentice or trainee shall not be considered as part of the apprentice's or trainee's total wages.

(b) An apprenticeship or OJT course of training begins on the date indicated in the apprenticeship or OJT agreement, regardless of when the division receives a copy of the agreement. The apprentice's or trainee's credit toward completion of the apprenticeship or OJT course of training and his place on the progressive schedule of wages must be determined accordingly.

*History Note: Authority G.S. 94-1; 94-2; 94-5; 94-7;*

*Eff. February 1, 1984.*

### **13 NCAC 14 .0107 EMPLOYER PARTICIPATION IN GROUP PROGRAMS**

Each participating employer in a group program shall agree in writing to comply with the program standards of apprenticeship or for OJT. The sponsor shall submit to the director the participating employer's agreement either with the program standards or promptly after the employer becomes a participating employer.

*History Note: Authority G.S. 94-1; 94-2; 94-9;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0108 PUBLIC ACCESS TO RECORDS**

- (a) The director is custodian of the records of the division.
- (b) Any person wishing to inspect the public records of the division shall write to the director specifying with as much particularity as possible the records to be inspected and indicating the preferred times and dates for making inspection. The preferred times must be between 9:00 a.m. and 5:00 p.m. on a weekday not including holidays unless special arrangements are requested and approved by the director.
- (c) The director shall promptly respond to a written request, indicating the time and date the records will be available for inspection. The director shall not refuse to allow inspection of public records at a preferred time and date indicated in a written request unless the director can show good cause why the public records cannot be made available at that time and date, except that the director, at his discretion, may refuse to allow inspection of public records for a period of three working days following the director's receipt of a written request.
- (d) The inspection shall be conducted at the office of the division, or in such other place as the public records are kept, under the supervision of the director. Upon request of the person making inspection and payment of twenty-five cents (\$.25) per page, the director shall make and provide copies of the public records. If the copies are to be certified, the director shall require additional payment of one dollar (\$1.00) for each lot requiring certification. "Certification" of copies under this Rule means a statement that the copies are true copies of the public records of the division, which statement shall be personally signed by the director and embossed with the department seal.

*History Note: Authority G.S. 132-1; 132-2; 132-6;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0109 PARTICIPATION IS VOLUNTARY**

The terms and provisions of this Chapter shall apply to any person or organization only if and so long as the person or organization voluntarily elects that the terms and provisions apply, provided that any person or organization participating in an apprenticeship or OJT program notifies the director of the termination of the program or an apprenticeship or OJT agreement.

*History Note: Authority G.S. 94-1; 94-2; 94-11;  
Eff. February 1, 1984.*

## **SECTION .0200 - REQUIREMENTS AND QUALIFICATIONS FOR APPRENTICESHIP**

### **13 NCAC 14 .0201 REGISTRATION AGENCY**

The department functions as the State Apprenticeship Agency with authority to determine whether apprenticeship programs operating in this State conform to the provisions of Chapter 94 of the North Carolina General Statutes and the standards published by the U.S. Secretary of Labor, 29 C.F.R. Part 29 (February 18, 1977). The director, under the supervision of the commissioner, administers the functions of the State Apprenticeship Agency through the division and has authority to register and deregister apprentices and apprenticeship programs and agreements.

*History Note: Authority G.S. 94-1; 94-2; 94-4; 94-8;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0202 CRITERIA FOR APPRENTICEABLE OCCUPATIONS**

An apprenticeable occupation possesses all of the following characteristics:

- (1) It is in a skilled trade;
- (2) It is customarily learned in a practical way through a structured, systematic program of on-the-job supervised training;
- (3) It is clearly identified and commonly recognized by an industry;
- (4) It involves manual, mechanical, or technical skills and knowledge which normally require not less than 2,000 hours of reasonably continuous on-the-job work experience; and
- (5) It normally requires not less than 144 hours of related instruction for every 2,000 hours of on-the-job work experience to supplement the on-the-job supervised training.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0203 MINIMUM QUALIFICATIONS OF APPRENTICES**

(a) An apprentice must have the following qualifications:

- (1) He must be at least 16 years old, except where a higher minimum age is otherwise fixed by law;
- (2) He must not be fully trained or qualified in the trade or occupation offered in the apprenticeship program in the trade or occupation offered in the apprenticeship program in which he is to be trained; and
- (3) He must be a high school "completer," high school graduate, must have passed an equivalency examination, or, with the approval of the director, he may be a high school student enrolled in a course of study leading toward graduation. A sponsor may apply to the director for waiver of this Rule for an individual apprenticeship applicant, or an individual craft or trade.

(b) Additional minimum qualifications for apprentices may be established by the sponsor so long as the additional qualifications comply with Section .0800 of this Chapter concerning equal employment opportunity.

*History Note: Authority G.S. 94-1; 94-2; 94-6;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0204 REQUIREMENTS AND STANDARDS OF APPRENTICESHIP**

(a) An apprenticeship program must conform to the following minimum requirements in order to obtain and maintain registration:

- (1) The sponsor must operate and administer the apprenticeship program in accordance with the program standards of apprenticeship, with the provisions of this Chapter, and with all applicable state and federal statutes and regulations, including but not limited to the provisions of occupational safety and health standards and regulations;
- (2) The apprentice must meet the minimum qualifications for an apprentice, as provided in Rule .0203 of this Section;
- (3) The apprenticeship program must be in an apprenticeable occupation, as provided in Rule .0202 of this Section;
- (4) Every individual to be trained in the registered program must be a registered apprentice or probationary apprentice;
- (5) The apprenticeship program must be set forth in a written document, signed by the sponsor, which includes the following provisions and is denominated the program standards of apprenticeship:
  - (A) The nature of the skilled trade for which the apprentice is to be trained;
  - (B) The term of apprenticeship consistent with training requirements commonly recognized by the industry, where the term of apprenticeship is not less than 2,000 hours of reasonably continuous on-the-job work experience, unless the commissioner expressly gives written approval for fewer hours;
  - (C) An outline of the work processes in which the apprentice will receive supervised experience and training and the approximate allocation of time to be spent in each major process;
  - (D) An outline of the related instruction to be provided the apprentice, normally not less than 144 hours for every 2,000 hours of on-the-job work experience or according to the same proportion for programs of fewer or more hours and a provision that the sponsor will promptly notify the director whenever an apprentice completes a course of study indicated in the outline of related instruction;
  - (E) A schedule of progressively increasing wages to be paid the apprentice consistent with the skill required and based upon the prevailing journeyman rate for the trade and geographic region:
    - (i) The entry wage for apprentices must be no less than the amount prescribed by the State Minimum Wage Law (G.S. 95-25.1 et seq.), unless a higher wage is required by the Fair Labor Standards Act of 1938, as amended, by other applicable federal law, or by collective bargaining agreement;
    - (ii) Unless otherwise established by collective bargaining agreement, the entry wage for apprentices shall normally be no less than 50

- percent and shall normally reach at least 85 percent of the journeyman rate by the last period of training;
- (F) A statement whether the required related instruction will be compensated;
  - (G) A statement that the apprentices will be eligible for and will be paid overtime under the same rules or policies as apply to journeymen employed in the same trade by the apprentices' employer;
  - (H) A provision requiring periodic review and evaluation of the apprentice's progress in job performance and related instruction and identifying the person(s) responsible and further requiring maintenance of appropriate progress records;
  - (I) An assurance that qualified training personnel and adequate supervision on the job will be provided;
  - (J) A provision requiring that the ratio of apprentices to journeymen will not exceed two to one at each job site, work force, department, or plant, except as follows:
    - (i) In the building and construction trades, the ratio of apprentices to journeymen shall not exceed one to one at each job site, work force, department, or plant;
    - (ii) No such specific ratios are required where expressly prohibited or otherwise provided for by an applicable collective bargaining agreement;
  - (K) A provision requiring a period of probation of not more than 500 hours of employment and instruction extending over not more than four months, unless the director approves a longer period at the request of a joint apprenticeship committee, during which probationary period either party to the apprenticeship agreement may cause the agreement to be de-registered by the director upon the request in writing of either party;
  - (L) A provision requiring that after the probationary period an apprenticeship agreement can be deregistered by the director only upon written request of the apprentice, written request showing mutual agreement of the parties, written request of the sponsor showing reasonable cause, or upon deregistration of the apprenticeship program. Where a program is deregistered, apprenticeship agreements which are therefore also subject to being deregistered shall be placed in a status of "inactive" for a period of not more than one year, during which time the party or parties that initiated the deregistration of the program will exercise due diligence in seeking to place said apprentices in employment that will reactivate such agreements and provide the apprentice with the opportunity to complete his apprenticeship training;
  - (M) An assurance that adequate and safe equipment and facilities for training and supervision will be provided and that apprentices will be provided safety training on the job and in related instruction;
  - (N) A provision that an apprentice will be given credit toward completion of on-the-job training, including a reduction of the term of the apprenticeship and placement on the schedule of wages at a commensurate level, for previously acquired experience, training, or skills, such reduction and

placement to be determined by the sponsor with the approval of the director;

- (O) A statement that an employer who is unable to fulfill its obligation under the apprenticeship agreement may, with the approval of the director, transfer the agreement to another employer under the same program who agrees to assume the obligations of the agreement, if both the apprentice and the sponsor consent to the transfer;
- (P) A provision that the sponsor will promptly submit to the director any proposed revision of the apprenticeship program or agreement for the director's approval;
- (Q) A provision that the sponsor will promptly notify the director of individuals who have signed an apprenticeship agreement, of apprentices who have left the program before completion, and of apprentices who have successfully completed an apprenticeship and that the sponsor will request from the director a certificate of completion for apprentices who have successfully completed an apprenticeship;
- (R) A provision that the sponsor will maintain all records of an apprenticeship program including but not limited to payroll records, for a period of five years and will make them available for review to department personnel or their authorized representative at the request of the department personnel or, whenever the records pertain to a program with apprentices who have received or are receiving VA training allowances, to VA personnel upon their request; the location of the records shall be specified;
- (S) A provision that the sponsor will notify in writing the director and the VA Regional Office whenever an apprentice receiving a VA training allowance is paid wages in an amount equal to or more than the amount paid to journeymen in the trade and geographic region, as established in Part (E) of (a)(5) of this Rule;
- (T) A statement of the titles or names and addresses of the appropriate people to receive, process, and resolve complaints arising under the apprenticeship program, including the person(s) or organization designated by the sponsor, if any, and the director as head of the State Apprenticeship Agency, and the appropriate person(s) or organization for complaints concerning equal employment opportunity in apprenticeship (Section .0800 of this Chapter);
- (U) A statement of the minimum qualifications for apprentices which the sponsor may require in addition to the minimum qualifications set forth in Rule .0203 of this Section. This statement may be satisfied by submission of the written description of the sponsor's selection procedure, as required under Part (W) of (a)(5) of this Rule, if the written description includes all additional minimum requirements;
- (V) The following pledge: "The recruitment, selection, employment, and training of apprentices shall be without discrimination because of race, color, religion, national origin, or sex. The sponsor will take affirmative action to provide equal opportunity in apprenticeship and will operate the apprenticeship program as required by Section .0800 of 13 NCAC 14";

- (W) The sponsor's affirmative action plan and written description of its selection procedure, unless exempted, as provided in Section .0800 of this Chapter;
- (X) An assurance that all apprentices in the program will be provided the same training and instruction and will in all respects be treated the same under the program;
- (Y) A provision that each apprentice in the apprenticeship program will be a party to a registered apprenticeship agreement meeting the requirements of Rule .0205 of this Section and each probationary apprentice will be a party to an apprenticeship agreement meeting the requirements of that rule and that the sponsor will provide each apprentice or probationary apprentice with a copy of his agreement.

(b) The program standards of apprenticeship must constitute a statement of the actual program operating or to be operated and not a statement of the goals, objectives, or aspirations of the sponsor, except for the equal opportunity goals and timetables.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984;  
Amended Eff. August 1, 1990.*

### **13 NCAC 14 .0205 APPRENTICESHIP AGREEMENT**

An apprenticeship agreement shall contain the following in order to be registered:

- (1) The names, addresses, telephone numbers, and signatures of the contracting parties and, if the apprentice is a minor, the signature of his parent or guardian;
- (2) The date of birth of the apprentice;
- (3) The name, address, and telephone number of the registration agency;
- (4) The dates on which the apprenticeship will begin and end;
- (5) The schedule of wages for the apprentice, either expressly or by specific reference to the apprentice's place on the schedule set forth in the program standards of apprenticeship;
- (6) The particular craft for which the apprentice is to be trained;
- (7) The number of hours to be spent by the apprentice in work on the job, the number of hours to be spent in related instruction, and the rate or amount of compensation, if any, for time spent in related instruction;
- (8) The number of hours of probation;
- (9) A statement that a complaint procedure is provided, that details of the procedure are set out in the program standards of apprenticeship, and that the program standards may be obtained or inspected in a certain (specified) location;
- (10) A statement that the apprentice will be afforded equal opportunity in employment and training without discrimination because of race, color, religion, national origin, or sex;
- (11) The program standards of apprenticeship, either directly or by reference, as they exist on the date the agreement is executed and as they may be revised or amended during the period of the agreement;

- (12) Such further, specific information as may be necessary to apply the relatively broad provisions of the program standards of apprenticeship to the particular situation of the apprentice in the apprenticeship program; and
- (13) Such other terms of agreement between the parties as are consistent with these Rules and the purposes of apprenticeship in general.

*History Note: Authority G.S. 94-2; 94-4; 94-7; 94-8;  
Eff. February 1, 1984.*

## **SECTION .0300 - APPRENTICESHIP REGISTRATION**

### **13 NCAC 14 .0301 REGISTRATION REQUEST PROCEDURE**

(a) Upon request by a prospective sponsor to an official of the department, a representative of the division shall arrange, or upon the initiative of an official of the department may arrange, a meeting or series of meetings between a representative of the division and the prospective sponsor for the purpose of discussing the requirements for registration and the procedures necessary to register and operate an apprenticeship program.

(b) If the prospective sponsor elects to request registration of an apprenticeship program, it shall complete and submit to the director the forms required by the director, including but not limited to the following:

- (1) A written request, signed by the prospective sponsor, for registration of an apprenticeship program meeting the requirements of Rule .0204 of this Chapter;
- (2) An original of the program standards of apprenticeship required under Rule .0204(a)(4) of this Chapter, including an affirmative action plan according to Rule .0808 of this Chapter and a written description of the selection procedure according to Rule .0809 of this Chapter, unless exempted;
- (3) Any written agreement to comply with the program standards by a participating employer as provided by Rule .0107 of this Chapter; and
- (4) One of the following:
  - (A) A written acknowledgment of union agreement or "no objection" to the registration when the program standards, collective bargaining agreement, or other instrument provides for participation by a union in any manner in the operation of the substantive matters of the apprenticeship program and such participation is exercised; or
  - (B) A written acknowledgment of a union's receipt of a copy of the completed application forms when the union represents employees in the trade which is an objective of the apprenticeship training, unless an acknowledgment under this Part preceding is required; or
  - (C) A signed statement by the sponsor that no unions represent employees of the sponsor or participating employers in the trade which is an objective of the apprenticeship training.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0302 REGISTRATION OF PROGRAM**

(a) Upon receipt by the director of the forms required from a prospective sponsor for the registration of an apprenticeship program, the director shall review the forms to determine whether they are complete and in conformance with the requirements for apprenticeship set forth in Rule .0204 of this Chapter and shall make such investigation as he deems necessary. For the purposes of this Rule, receipt by a representative of the division does not constitute receipt by the director.

(b) If the director finds that the forms are complete and the proposed apprenticeship program conforms to the requirements for apprenticeship, he shall approve the request for registration, subject to Paragraph (c) of this Rule.

(c) When a union has been furnished a copy of the request according to Part (b)(4)(B) of Rule .0301 of this Section, the director shall not approve a request for registration until 30 days after receipt of the completed application forms in order that the union may comment upon the request. When notice to a union is required but not provided, the director shall not approve the request until 30 days after notice is provided.

(d) After the director has approved a request for registration, he shall cause the apprenticeship program to be recorded by the division, which constitutes registration of the program, and shall provide the sponsor with evidence of the registration in the form of a certificate or other written indicia.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0303 REGISTRATION OF APPRENTICE AND AGREEMENT**

(a) A sponsor or an individual, or a person or organization on behalf of the individual, shall request that an apprenticeship agreement between the individual and his sponsor be registered by submitting to the director a copy of the apprenticeship agreement.

(b) If the director finds that:

- (1) The agreement is complete and applies to a registered apprenticeship program;
- (2) The agreement meets the requirements of Rule .0205 of this Chapter; and
- (3) The individual meets the minimum qualifications for an apprentice; then

The director shall approve the apprenticeship agreement and cause it to be recorded by the division, which constitutes registration of the agreement.

(c) If the director approves the apprenticeship agreement, he shall also and simultaneously cause the name of the individual who is to be trained under the agreement to be recorded by the division, which constitutes registration of the individual.

(d) The sponsor shall submit to the director the apprenticeship agreement of a probationary apprentice, although the agreement will not be registered.

(e) All apprenticeship registrations are subject to a registration fee and an annual fee in accordance with G.S. 94-12 and Rule .0901 of this Chapter.

*History Note: Authority G.S. 94-1; 94-2; 94-4; 94-8; 94-12;  
Eff. February 1, 1984.  
Emergency Amendment Eff. August 27, 2009;  
Temporary Amendment Eff. October 29, 2009.*

### **13 NCAC 14 .0304 DENIAL OF REQUEST FOR REGISTRATION**

(a) If the director does not approve a request for registration of an apprenticeship program, apprenticeship agreement, or individual, he shall deny the request in writing to the requesting party, expressly stating the reason(s) for denial. The director shall promptly notify the person whose individual registration has been denied, when the person is not notified as the requesting party.

(b) The requesting party may resubmit the request for registration if the proposed apprenticeship program or apprenticeship agreement is revised to cure the problem(s) resulting in denial.

(c) The requesting party may appeal the denial in accordance with Chapter 150B of the North Carolina General Statutes and 13 NCAC 1B within 30 days of the requesting party's receipt of the denial. If the requesting party has resubmitted the request, the 30 days shall run from the receipt of the denial of the resubmitted request.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0305 RECIPROCITY FOR FOREIGN REGISTRATIONS**

Notwithstanding any other provision of this Chapter, an apprenticeship program jointly sponsored on a multistate basis by employers and unions in an industry other than the building and construction industry and registered pursuant to the requirements of the federal Bureau of Apprenticeship and Training by the Bureau or any recognized state apprenticeship agency or council shall be accorded registration by the director upon the sponsor's submission to the director of a written request together with satisfactory documentation of registration and a copy of the program standards of apprenticeship. An apprenticeship program registered by the division under this Rule is subject to all other requirements of this Chapter, including but not limited to the registration of apprenticeship agreements and individuals, compliance with equal opportunity provisions, procedures for processing complaints, compliance reviews, and de-registration.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0306 REVISION OF APPRENTICESHIP STANDARDS OR AGREEMENT**

(a) Any proposed revision of program standards of apprenticeship or an apprenticeship agreement shall be submitted in writing by the sponsor to the director for his approval.

(b) The revision becomes effective 90 days after the director's receipt of the sponsor's proposed revision unless the director, in writing, either approves or disallows the revision within that time, stating the reason(s) for disallowance. The director may disallow part of the proposed revision and allow part, but in such event the sponsor may withdraw the entire proposed revision.

(c) The sponsor may appeal the director's decision to disallow a proposed revision or part of a proposed revision in accordance with Chapter 150B of the North Carolina General Statutes and 13 NCAC 1B within 30 days of the sponsor's receipt of the director's decision.

(d) When a revision becomes effective, the division shall record the revision so that it amends the program standards or agreement recorded by the division.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0307 SPONSOR'S REPORTING REQUIREMENTS**

In general the sponsor of an apprenticeship program must promptly report to the director any substantive changes in the program. In particular, but without limitation, the sponsor must promptly report the following:

- (1) Proposed revisions, proposed extensions of an apprenticeship agreement, or proposed adjustments to equal employment opportunity goals and timetables;
- (2) Termination or suspension of an apprenticeship agreement and the reason(s) for such;
- (3) Beginning and completion of an apprenticeship;
- (4) Completion by an apprentice of a course of study in the related instruction curriculum;
- (5) Change in the person or organization designated to act for the sponsor in any capacity;
- (6) Change in the location of records of the program;
- (7) Membership or termination of membership in an apprenticeship association or in an employers' group or association; and
- (8) Payment of journeyman wages to an apprentice who is receiving a VA training allowance for the apprenticeship, and in such event, the sponsor must also notify the VA Regional Office.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0308 TERMINATION AND EXTENSION OF AGREEMENTS**

(a) An apprenticeship agreement terminates when the period of the apprenticeship identified by the terms of the agreement (see Rule .0205(4) of this Chapter) expires.

(b) The agreement may be extended for a specified period by agreement of the apprentice and sponsor with the approval of the director. The sponsor shall obtain the director's approval of an extension in the manner provided in Rule .0306 of this Section for revision of program standards of apprenticeship or an apprenticeship agreement, except that an extension becomes fully effective within 30 days of the director's receipt of the proposed extension unless earlier approved or disallowed.

Note: The director's approval of an extension does not indicate whether the extension will affect the apprentice's eligibility for a VA training allowance; in some cases an extension, although approved, may disqualify an apprentice for VA purposes.

(c) Nothing in this Rule shall be construed to prevent a sponsor and an individual meeting the minimum qualifications of an apprentice, as set forth in Rule .0203 of this Chapter, from executing an apprenticeship agreement.

*History Note: Authority G.S. 94-1; 94-2; 94-4; 94-6;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0309 CERTIFICATE OF COMPLETION**

(a) Upon notification from a sponsor that an individual has completed his apprenticeship in the sponsor's registered apprenticeship program, the director shall issue to the individual, or to the sponsor for the individual, a certificate of completion or other written indicia signifying that the individual has completed his training and instruction in a registered apprenticeship program in a certain, identified trade and the date the training was completed.

(b) Notwithstanding Paragraph (a) of this Rule, the director shall not issue the certificate of completion if he decides upon satisfactory evidence that the apprentice is not fully trained because he did not complete the apprenticeship or because the apprenticeship program did not comply with the rules of this Chapter. In addition, the director shall not issue the certificate of completion if he determines that the fees authorized by G.S. 94-12 and Rule .0901 of this Chapter have not been paid. The director shall promptly give written notification to the sponsor and individual of his decision not to issue the certificate of completion and the reason(s) therefor.

(c) The sponsor or individual may appeal the director's decision within 30 days or receipt of notification in accordance with Article 3 of Chapter 150B of the NC General Statutes.

(d) Upon request of a sponsor, the director may issue an honorary certificate of completion to recognize an individual who by training and experience was fully qualified as a journeyman prior to the registration of the sponsor's apprenticeship program.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.  
Emergency Amendment Eff. August 27, 2009;  
Temporary Amendment Eff. October 29, 2009.*

### **13 NCAC 14 .0310 SUSPENSION DURING UNION ACTIVITY**

(a) Whenever the director is on notice that a notice of election has been filed with the appropriate governmental agency or that a union has called a strike or is subject to a lockout, he shall order that the division shall suspend communications with any representative of the employer or the union on the subject of registration or revision of an apprenticeship program or agreement, except that the division may provide information regarding apprenticeship programs in general to the representative, until such time as the results of the election are certified by the appropriate authority or the strike or lockout is ended.

(b) The director is on notice that a notice of election has been filed whenever a copy of the notice of election has been received by the director at the address of the division. The director is on notice of a strike or lockout whenever he is provided actual notice of the strike or lockout.

(c) Notwithstanding Paragraph (a) of this Rule, the procedure for the appeal of a denial of a request for registration, as provided in Rule .0304(c) of this Section, is not suspended by the order of the director pursuant to Paragraph (a) of this Rule.

*History Note: Authority G.S. 94-1; 94-2; 94-4; 94-11;  
Eff. February 1, 1984.*

## **SECTION .0400 - APPROVAL/VETERANS' TRAINING ALLOWANCES**

### **13 NCAC 14 .0401 STATE APPROVING AGENCY**

The department has been designated, pursuant to 38 U. S. C. 1771(a), as the State Approving Agency for this state with authority to approve programs of apprenticeship and other on-the-job training, in accordance with 38 U.S.C. 1787, as suitable for the participation of people eligible to receive VA training allowances. As executive head of the department, the commissioner has appointed the director to administer the functions of the State Approving Agency.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0402 APPROVAL OF APPRENTICESHIP PROGRAMS**

The director shall approve all apprenticeship programs registered pursuant to Section .0300 of this Chapter as suitable for the participation of veterans and other people eligible to receive VA training allowances whenever the sponsor submits to the director a written request for approval and a Designation of Certifying Official(s) form.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0403 APPROVAL OF OJT PROGRAMS: CRITERIA**

The director may approve an OJT program only when:

- (1) The sponsor offering the training has submitted to the director the forms required in Rule .0406(b) of this Section; and
- (2) The director finds upon investigation that the following criteria are met:
  - (a) The occupation which is the objective of the training is one in which progression and appointment to the next higher classification are based upon skills learned through organized and supervised training on the job and not upon such factors as length of service and normal turnover;
  - (b) The training content of the program is adequate to qualify the trainee for a job in the occupation which is the objective of the training;
  - (c) The occupation which is the objective of the training normally requires full-time training for a period of not less than six months and not more than two years, which the director shall interpret as not less than 1,000 hours and not more than 4,000 hours of reasonably continuous work experience;
  - (d) The length of the program is not longer than the time customarily required by training establishments in the community -- or if there are no other training establishments in the community, then not longer than is reasonably necessary -- to provide a trainee with the skills, knowledge, technical information, and other facts which the trainee needs to learn in order to become competent in the occupation which is the objective of the training;

- (e) Related instruction is provided for the individual trainee(s) who may need it;
- (f) The sponsor provides adequate space, equipment, instructional material, and instructor personnel for safe and satisfactory on-the-job training;
- (g) The sponsor has the capacity to keep and keeps adequate records for at least three years showing the progress of each trainee in the OJT program;
- (h) The OJT program does not provide training for people already qualified by training and experience for the occupation which is the objective of the training;
- (i) Each trainee's wages are paid according to the schedule set out in the program standards for OJT but in no event are less than the applicable state or federal minimum wage;
- (j) There is a reasonable certainty that a job in the occupation which is the objective of the training will be available to the trainee at the end of the OJT course of training; and
- (k) All trainees in the OJT program, regardless of whether they receive a VA training allowance, are in all respects treated the same under the program.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0404 STANDARDS FOR OJT**

- (a) The OJT program must be set forth in a written document, signed by the sponsor, which includes the following provisions and is denominated the programs standards for OJT:
  - (1) The occupation which is the objective of the training;
  - (2) The term of the course of training consistent with the criteria for OJT programs;
  - (3) An outline of the work processes in which the trainees are to receive supervised experience and training and the approximate allocation of time to be spent in each major process, and the specific location of the training site(s);
  - (4) An outline of related instruction to be provided the trainees, if any is to be provided;
  - (5) A schedule of progressively increasing wages to be paid the trainees, established by the sponsor with the approval of the director as follows:
    - (A) The prevailing rate in the geographic area for fully qualified workers in the occupation which is the objective of the training will be determined;
    - (B) A rate for fully qualified workers applicable to the OJT program will be established based upon the determination made in Part (a)(5)(A) of this Rule;
    - (C) The trainees' wages will be no less than 50 percent of the applicable rate for fully qualified workers established in Part (a)(5)(B) of this Rule and will increase in regular periodic increments until, not later than the last full month of the training period, they are at least 85 percent of the applicable rate; provided that in any event the wages are no less than the applicable state or federal minimum wage;
  - (6) A statement whether the related instruction, if any, is to be compensated;

- (7) An assurance that all trainees in the program, regardless of whether they receive VA training allowances, will be provided the same training and instruction and will in all respects be treated the same under the program, in accordance with the criteria for OJT programs;
- (8) A provision requiring periodic review and evaluation of the trainees' progress in job performance and related instruction, if any, and identifying the person(s) responsible for evaluation;
- (9) A provision requiring that the ratio of trainees to fully qualified workers will not exceed two to one at each job site, work force, department, or plant;
- (10) A provision requiring a period of probation of not more than 500 hours of on-the-job training, during which probationary period either party to the OJT agreement may cause the agreement to be terminated by the director upon the request in writing of either party;
- (11) A provision requiring that after the probationary period an OJT agreement can be terminated by the director only upon written request of the trainee, upon mutual agreement of the parties, for reasonable cause, or upon the withdrawal of approval from the program;
- (12) An assurance that trainees will be provided safety training and instruction as needed to prevent injury to themselves and other workers;
- (13) A provision that trainees will be given credit toward the completion of on-the-job training, including a reduction of the term of the OJT course of training and placement on the schedule of wages at a commensurate level, for previously acquired experience, training, or skills, such reduction and placement to be determined by the sponsor with the approval of the director;
- (14) A statement that an employer who is unable to fulfill its obligation under the OJT agreement may, with the written approval of the director, transfer the agreement to another employer under the same program who agrees to assume the obligations of the agreement, if both the trainee and the sponsor consent to the transfer;
- (15) A provision that the sponsor will promptly submit to the director any proposed revision to the OJT program for the director's approval;
- (16) A provision that the sponsor will promptly notify the director of individuals who have signed an OJT agreement, of trainees who have left the program before completion, and of trainees who have successfully completed the OJT course of training and that the sponsor will request from the director a certificate of completion for trainees who have successfully completed the OJT course of training;
- (17) A provision that the sponsor will maintain all records of the OJT program, including but not limited to payroll records, for a period of three years and shall make them available for review to department personnel or their authorized representative upon the request of the department personnel or, whenever the records pertain to a program with trainees who have received or are receiving VA training allowances, to VA personnel upon their request; the location of the records shall be specified;
- (18) A provision that the sponsor will notify in writing the director and the VA Regional Office whenever a trainee receiving a VA training allowance is paid

- wages in an amount equal to or more than the applicable rate for fully qualified workers as established in the program standards for OJT;
- (19) A statement of the names of titles and addresses of the appropriate people to receive, process, and resolve complaints arising under the OJT agreement, including both the person(s) or organization designated by the sponsor, if any, and the director as administrator of the State Approving Agency;
  - (20) A statement of the minimum qualifications for trainees which the sponsor may require;
  - (21) An assurance that the OJT program complies with the criteria set forth in Rule .0403 of this Section;
  - (22) A pledge that all trainees will be accorded equal opportunity in all phases of OJT employment and training without discrimination because of race, color, religion, national origin, or sex; and
  - (23) A provision that each trainee in the OJT program will be a party to an OJT agreement meeting the requirements of Rule .0405 of this Section and that the sponsor will provide each trainee with a copy of the agreement.
- (b) The program standards for OJT must constitute a statement of the actual program operating or to be operated and not a statement of the goals, objectives, or aspirations of the sponsor.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984;  
Amended Eff. August 1, 1990.*

### **13 NCAC 14 .0405 OJT AGREEMENT**

An OJT agreement shall contain the following:

- (1) The names, addresses, telephone numbers, and signatures of the contracting parties and, if the trainee is a minor, the signature of his parent or guardian;
- (2) The date of birth of the trainee;
- (3) The name, address, and telephone number of the division, as the State Approving Agency;
- (4) The dates on which the OJT course of training will begin and end;
- (5) The particular occupation which is the objective of the trainee's training;
- (6) The schedule of wages for the trainee, either expressly or by specific reference to the trainee's place on the schedule set forth in the program standards for OJT;
- (7) The number of hours to be spent by the trainee in work on the job, the number of hours to be spent in related instruction, if any, and the rate or amount of compensation, if any, for related instruction;
- (8) The number of hours of probation;
- (9) A statement that a complaint procedure is provided, that details of the procedure are set out in the program standards for OJT, and that the program standards may be obtained or inspected in a certain (specified) location;
- (10) A statement that the trainee will be afforded equal opportunity in employment and training without discrimination because of race, color, religion, national origin, or sex;

- (11) The program standards for OJT, either directly or by reference, as they exist on the date the agreement is executed and as they may be revised or amended during the period of the agreement;
- (12) Such further, specific information as may be necessary to apply the relatively broad provisions of the program standards for OJT to the particular situation of the trainee in the OJT program; and
- (13) Such other terms of agreement between the parties as are consistent with these Rules and the purposes of on-the-job training in general.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0406 APPROVAL PROCEDURE FOR OJT PROGRAMS**

(a) Upon request by a prospective sponsor to an official of the department, a representative of the division shall arrange, or on the initiative of an official of the department may arrange, a meeting or series of meetings between a representative of the division and the prospective sponsor for the purpose of discussing the relevant criteria and standards and the procedures necessary to obtain approval and to operate an approved OJT program.

(b) If the prospective sponsor elects to request that a training program be approved, it shall complete and submit to the director the following:

- (1) A written request for approval of a training program;
- (2) An original copy of the program standards for OJT;
- (3) Any written agreement to comply with the program standards by a participating employer as provided by Rule .0107 of this Chapter; and
- (4) A Designation of Certifying Official(s) form.

(c) If the director has received the completed application forms in proper form and has determined that the requirements for an OJT program, as set forth in Rule .0403 of this Section, are met, he shall approve the program, cause the approval to be recorded by the division, and acknowledge the approval in writing to the sponsor.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0407 SUBMISSION AND RECORDING OF OJT AGREEMENTS**

(a) The sponsor shall promptly submit to the director a copy of all OJT agreements under its program.

(b) If upon receiving an OJT agreement the director finds that:

- (1) The agreement is complete and applies to an approved OJT program; and
- (2) The agreement meets the requirements of Rule .0405 of this Section; then the director shall cause the OJT agreement and the trainee who is a party to it to be recorded with the division.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0408 DENIAL OF REQUEST FOR APPROVAL**

- (a) If the director does not approve a request for approval of an OJT program, he shall deny the request in writing to the requesting party, expressly stating the reason(s) for denial.
- (b) The requesting party may resubmit the request for approval if the proposed OJT program is revised to cure the problem(s) resulting in denial.
- (c) The requesting party may appeal a denial in accordance with Chapter 150B of the North Carolina General Statutes and 13 NCAC 1B within 30 days of the requesting party's receipt of the denial. If the requesting party has resubmitted the request, the 30 days shall run from the receipt of the denial of the resubmitted request.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0409 REVISION OF OJT STANDARDS OR AGREEMENT**

Any revision of program standards for OJT or an OJT agreement shall be made in the manner provided in Rule .0306 of this Chapter for revision of program standards of apprenticeship or an apprenticeship agreement.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0410 TERMINATION AND EXTENSION OF AGREEMENTS**

- (a) An OJT agreement terminates when the period of the course of training identified by the terms of the agreement [see Rule .0405(4) of this Section! expires.
- (b) The agreement may be extended for a specified period by agreement of the trainee and sponsor with the approval of the director. The sponsor shall obtain the director's approval of an extension in the manner provided in Rule .0306 of this Chapter for revision of program standards of apprenticeship or an apprenticeship agreement, except that an extension becomes fully effective within 30 days of the director's receipt of the proposed extension unless earlier approved or disallowed.

Note: The director's approval of an extension does not indicate whether the extension will affect the trainee's eligibility for a VA training allowance; in some cases an extension, although approved, may disqualify the trainee for VA purposes.

- (c) Nothing in this Rule shall be construed to prevent a sponsor and an individual who is not fully qualified by training and experience for the occupation which is the objective of the training from executing an OJT agreement.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0411 SPONSOR'S REPORTING REQUIREMENTS**

In general, the sponsor of an approved OJT program must promptly report to the director any substantive changes in the program. In particular, but without limitation, the sponsor must promptly report the following:

- (1) Proposed revisions and proposed extensions of an OJT agreement;
- (2) Termination or suspension of an OJT agreement and the reason(s) for such;

- (3) Beginning and completion of the OJT course of training by a trainee;
- (4) Change in the person or organization designated to act for the sponsor in any capacity;
- (5) Change in the location of training sites or records;
- (6) Payment to a trainee who is receiving a VA training allowance of wages in an amount equal to or greater than the applicable rate for fully qualified workers as established in the program standards for OJT, and in such a case, the sponsor must also notify the VA regional office.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0412 CERTIFICATE OF COMPLETION**

- (a) Upon notification from a sponsor that an individual has completed the course of training and instruction in the sponsor's approved OJT program, the director shall issue to the individual, or to the sponsor for the individual, a certificate of completion or other written indicia signifying that the individual has completed his training and instruction in an approved OJT program in a certain, identified occupation and the date the training was completed.
- (b) Notwithstanding Paragraph (a) of this Rule, the director shall not issue the certificate of completion if he decides upon satisfactory evidence that the trainee is not fully trained because he did not complete the course of training or because the OJT program did not comply with the rules of this Chapter. The director shall promptly give written notification to the sponsor and the individual of his decision not to issue the certificate of completion and the reason(s) therefor.
- (c) The sponsor or individual may appeal the director's decision within 30 days of receipt of notification in accordance with Chapter 150B of the North Carolina General Statutes and 13 NCAC 1B.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

## **SECTION .0500 - DE-REGISTRATION OR WITHDRAWAL OF APPROVAL**

### **13 NCAC 14 .0501 COMPLIANCE REVIEWS**

- (a) The department may conduct inspections of apprenticeship and OJT programs, including but not limited to the records of the programs, in order to determine whether the programs are being conducted in compliance with the applicable rules, requirements, criteria, or standards under this Chapter.

Note: Compliance reviews under Section .0800 of this Chapter (equal employment opportunity in apprenticeship) are made according to that Section. A single compliance review may be conducted for both Section .0500 and Section .0800 purposes, but a finding of lack of compliance may result in different procedures depending upon the nature of the deficiency.

- (b) If the sponsor or participating employer in an apprenticeship or OJT program, or any person under the supervision or control of the sponsor or employer, refuses to allow or materially hinders an inspection of the program by an authorized representative of the department, the director may find that the program is not in compliance with the applicable rules, requirements, criteria, or standards.

(c) If the director determines, upon the advice of the inspector, that an apprenticeship or OJT program is not in compliance with the applicable rules, requirements, criteria, or standards, he shall notify the program sponsor in writing by registered or certified mail, return receipt requested, of the following:

- (1) The manner in which the program fails to comply with the applicable rules, requirements, criteria, or standards;
- (2) The remedial action required to achieve compliance;
- (3) The requirement that the remedial action be effected within 30 days, except that the sponsor may request and the director approve one 30 day extension for good cause;
- (4) The policy of the department that it will cooperate with the sponsor in achieving compliance; and
- (5) The possibility that the lack of compliance will result in de-registration or withdrawal of approval or both if not remedied within the 30 or 60 day period allotted.

(d) The director, at his discretion, may postpone for a period of 90 days from the time the compliance review is made his determination that an apprenticeship or OJT program is not in compliance, provided that the program sponsor is making a good faith effort to operate its program in compliance with the applicable rules, requirements, criteria, or standards. The 90 day period is renewable at the director's discretion so long as the sponsor continues to make a good faith effort.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0502 DE-REGISTRATION OR WITHDRAWAL OF APPROVAL OF PROGRAM**

The director may de-register an apprenticeship program or withdraw approval from an apprenticeship or OJT program only:

- (1) Upon request of the sponsor, according to Rule .0503 of this Section;
- (2) For reasonable cause, according to Rule .0504 of this Section; or
- (3) For inactivity, according to Rule .0505 of this Section.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0503 VOLUNTARY DE-REGISTRATION OR WITHDRAWAL**

If a sponsor voluntarily requests de-registration of or withdrawal of approval from a program operated by the sponsor, the director may de-register or withdraw approval from the program by:

- (1) Notifying the sponsor in writing that the registration is cancelled or approval withdrawn or both and the effective date thereof;
- (2) Requiring the sponsor, within 15 days of receipt of the notice of de-registration or withdrawal of approval:
  - (a) To notify each apprentice in the program that the de-registration automatically cancels the apprentice's individual registration and removes the apprentice from coverage for federal or state purposes requiring

- registration of an apprenticeship program or to notify each trainee in the program that the program is no longer approved; and
- (b) To notify each apprentice or trainee in the program who is receiving VA training allowances that the program is no longer approved for participation for people eligible to receive training allowances;
  - (3) If applicable, notifying the VA Regional Office that approval for the program is withdrawn and the effective date thereof; and
  - (4) Causing the de-registration or withdrawal of approval to be recorded by the division and publishing or posting public notice of the de-registration.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0504 DE-REGISTRATION OR WITHDRAWAL**

(a) If the director has notified a sponsor of a lack of compliance in accordance with Rule .0501 of this Section and the sponsor has failed to remedy the lack of compliance within the time allotted, the director shall send a notice to the sponsor by registered or certified mail, return receipt requested, stating the following:

- (1) The notice is sent pursuant to this Rule;
- (2) The sponsor was notified of certain deficiencies (identifying them) resulting in a lack of compliance with the applicable rules, requirements, criteria, or standards and was advised of the remedial action required, with the date(s) such notice was given;
- (3) The sponsor has failed to remedy the lack of compliance within the time allotted;
- (4) The director has therefore found reasonable cause that the sponsor's program should be de-registered or that approval for the program should be withdrawn or both; and
- (5) The director may de-register the sponsor's program or withdraw approval from the program or both unless the sponsor requests a hearing in accordance with Paragraph (b) of this Rule.

(b) If the sponsor desires a hearing regarding the de-registration of or withdrawal of approval from the sponsor's apprenticeship or OJT program, it shall file a petition for a hearing as provided in Chapter 150B of the North Carolina General Statutes and the hearing process shall be conducted as therein provided.

(c) If the sponsor does not request a hearing, the director may de-register the program or withdraw approval from the program or both or, at his discretion, allow the sponsor a further reasonable and specific time to take remedial action.

(d) Whenever the director decides to de-register or withdraw approval from a program for reasonable cause, he shall follow the procedure provided in Rule .0503 of this Section for voluntary de-registration and withdrawal of approval and in addition shall notify apprentices and trainees as provided in Rule .0503 of this Section if the director has reason to believe that the sponsor may not do so or if, at his discretion, the director chooses so to do. The director shall publish or post public notice of the de-registration.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984;*

*Amended Eff. August 1, 1988.*

**13 NCAC 14 .0505 DE-REGISTRATION OR WITHDRAWAL FOR INACTIVITY**

(a) Whenever an apprenticeship or OJT program registered or approved or both by the division has failed to enroll any apprentices or trainees for a period of at least two years, the director may send a notice to the sponsor stating the following:

- (1) The notice is sent pursuant to this Rule;
- (2) The sponsor's program has failed to enroll any apprentices or trainees, as applicable, for a period of at least two years; and
- (3) The director may de-register the sponsor's program or withdraw approval from the program or both unless the sponsor protests in writing within 15 days of receipt of the notice, stating the reasons why the program should not be de-registered or have its approval withdrawn.

(b) If a sponsor protests following notice from the director, the director shall consider the protest before deciding to de-register or withdraw approval from the sponsor's program.

(c) After receiving and considering the sponsor's protest or after allowing sufficient time for the sponsor to protest, the director may notify the sponsor by registered or certified mail, return receipt requested, that the sponsor's program will be de-registered or have its approval withdrawn or both for inactivity as provided by this Rule unless the sponsor requests a hearing in accordance with Paragraph (d) of this Rule.

(d) If the sponsor desires a hearing regarding the de-registration of or withdrawal of approval from the sponsor's apprenticeship or OJT program, it shall file a petition for a hearing as provided in Chapter 150B of the North Carolina General Statutes and the hearing process shall be conducted as therein provided.

(e) If the sponsor does not request a hearing, the director may de-register the program or withdraw approval from the program or both by:

- (1) Causing the de-registration or withdrawal of approval to be recorded by the division and publishing or posting public notice of the de-registration;
- (2) Notifying the sponsor of the de-registration or withdrawal of approval and the effective date thereof; and
- (3) If applicable, notifying the VA Regional Office that approval for the program is withdrawn and the effective date thereof.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984;  
Amended Eff. August 1, 1988.*

**13 NCAC 14 .0506 EQUAL OPPORTUNITY VIOLATIONS**

Notwithstanding any other provisions of this Section, violations of equal opportunity requirements for apprenticeship shall be submitted, processed, and resolved in accordance with Section .0800 of this Chapter.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0507 REINSTATEMENT OF REGISTRATION OR APPROVAL**

- (a) Any apprenticeship or OJT program which has been de-registered or had its approval withdrawn involuntarily within the preceding year may be re-registered or re-approved by the director, at his discretion, if he finds upon investigation and presentation of adequate evidence by the sponsor that the program is capable of operating in accordance with the applicable rules, requirements, criteria, or standards under this Chapter.
- (b) Any apprenticeship or OJT program which has been de-registered or had its approval withdrawn voluntarily within the preceding year may be re-registered or re-approved by the director, at his discretion, upon request of the sponsor.
- (c) Whenever an apprenticeship program is re-registered according to Paragraph (a) or (b) of this Rule, apprenticeship agreements and individuals must be registered in accordance with Rule .0303 of this Chapter regardless of any prior registration in the de-registered program. Whenever an OJT program is re-approved, OJT agreements must be submitted in accordance with Rule .0407 of this Chapter regardless of any prior recording.
- (d) Nothing in this Rule shall be construed to prevent a sponsor who has operated a program which has been de-registered or had its approval withdrawn from requesting registration or approval of a program according to the procedures provided in this Chapter.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0508 DE-REGISTRATION OR CANCELLATION OF AGREEMENT**

- (a) The director may de-register an apprenticeship agreement or cancel the recordation of an OJT agreement only as follows:
  - (1) During a probationary period, upon request of either party to the agreement;
  - (2) After the probationary period:
    - (A) Upon mutual consent of the parties;
    - (B) Upon written request of the apprentice or trainee; or
    - (C) Upon a unilateral request of the sponsor for good and sufficient reason(s), as provided in Paragraphs (c) and (d) of this Rule; or
  - (3) At any time when the apprenticeship or OJT program in which the apprentice or trainee is to be trained has been de-registered or had its approval withdrawn in accordance with the rules of this Chapter; or
  - (4) At any time for failure to pay the registration fee or annual fee in accordance with G.S. 94-12 and Rule .0901 of this Chapter.
- (b) Whenever an apprenticeship agreement is de-registered or recordation of an OJT agreement is cancelled, the director shall:
  - (1) Cause the de-registration to be recorded with the division or cause the cancellation to be indicated in the records of the division;
  - (2) In addition and simultaneously de-register the individual by causing the individual's de-registration to be recorded with the division, in the case of an apprenticeship agreement; and
  - (3) Promptly notify the parties to the agreement that the apprenticeship agreement and apprentice have been de-registered or that recordation of the trainee's OJT agreement has been cancelled and the effective date thereof, except when the

sponsor has notified the apprentice or trainee as a result of the de-registration of or withdrawal of approval from the sponsor's program.

(c) After the probationary period, a sponsor shall give due notice to an apprentice or trainee of reasons why the apprentice's agreement should be de-registered or the recordation of the trainee's agreement should be cancelled, and the sponsor shall provide the apprentice or trainee a reasonable opportunity to take corrective action, unless the offer of the opportunity would be futile.

(d) After the apprentice or trainee has been given due notice and a reasonable opportunity to take corrective action, unless the offer of the opportunity would be futile, the sponsor may unilaterally request de-registration of the apprentice's agreement or cancellation of the recordation of the trainee's agreement. The director shall de-register or cancel recordation of the agreement upon written request of the sponsor unless the apprentice or trainee initiates a complaint as provided in either Section .0600 or .0800 of this Chapter, as applicable, within the time therein allowed. The sponsor shall have the burden of proof in any administrative hearing to show that there is good cause for de-registration or cancellation and to show that a reasonable opportunity for corrective action was provided or would have been futile.

(e) The effective date of de-registration or cancellation shall be the date of receipt by the director of the sponsor's request, although the notation will not be made in the division's records until after the period has run during which the apprentice or trainee may initiate a complaint or until resolution of the complaint when the apprentice or trainee has initiated a complaint.

(f) Prior to taking any action pursuant to Subparagraph (a)(4) of this Rule, the director shall notify the sponsor and the apprentice in writing of his intent to de-register or cancel an apprenticeship agreement for failure to pay the registration fee or annual fee. If the sponsor or apprentice fails to either pay the fee or request a review of such decision within 15 days, the director shall de-register or cancel the apprenticeship agreement and notify them of the availability of an administrative hearing and of judicial review in accordance with Article 3 of Chapter 150B of the NC General Statutes.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984  
Emergency Amendment Eff. August 27, 2009;  
Temporary Amendment Eff. October 29, 2009.*

## **SECTION .0600 - COMPLAINTS**

### **13 NCAC 14 .0601 DISPUTES TO BE RESOLVED LOCALLY**

It is the policy of the division that all disputes arising under an apprenticeship or OJT program or agreement should be resolved by the parties to the dispute. Therefore, the director will not make a decision on a complaint unless he is satisfied that the parties have attempted to adjust the dispute locally, and he will at all times cooperate with the parties in order to arrive at a mutually satisfactory resolution of the dispute.

*History Note: Authority G.S. 94-1; 94-2; 94-4; 94-7;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0602 COMPLAINANTS**

- (a) Agreement Disputes. A party to an apprenticeship or OJT agreement may submit a complaint to the director for his decision regarding a dispute arising under the agreement, after the party has tried to resolve the dispute locally, except as provided in Rule .0604 of this Section.
- (b) Applicant Disputes. An applicant for employment as an apprentice or trainee may submit a complaint to the director for his decision regarding a dispute arising from the application procedure, after the applicant has tried to resolve the dispute locally, except as provided in Rule .0604 of this Section.
- (c) Apprenticeship Association Disputes. An apprenticeship association may submit a complaint to the director, as allowed by the constitution and by-laws of the association, for the director's decision regarding a dispute between the association and a member of the association concerning the content of the training and instruction curricula of a program participated in or operated by the member, after the association has tried to resolve the dispute locally, except as provided in Rule .0604 of this Section.
- (d) Group Program Disputes. A participating employer in any group program or a union participating in the sponsorship of a joint group program may submit a complaint to the director for the director's decision regarding a dispute between the employer or union and other participating employers or unions arising from sponsorship or operation of the program, after the employer or union has tried to resolve the dispute locally, except as provided in Rule .0604 of this Section.

*History Note: Authority G.S. 94-1; 94-2; 94-4; 94-7;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0603 COMPLAINT PROCEDURE**

- (a) A complaint must:
  - (1) be in writing;
  - (2) be signed by the complainant or its authorized representative;
  - (3) set forth the specific matter(s) complained of together with a brief statement of the facts; and
  - (4) be accompanied by copies of pertinent documents and correspondence.
- (b) A complainant wishing to submit a complaint shall do so within 180 days of the incident or circumstances complained of or within 60 days of a final local decision, whichever is later.
- (c) Upon receiving the complaint, the director shall:
  - (1) promptly acknowledge receipt of the complaint;
  - (2) investigate the nature of the dispute;
  - (3) make reasonable efforts to arrive at a resolution of the dispute mutually satisfactory to the parties involved;
  - (4) render a decision regarding the dispute within 90 days of receiving the complaint, unless a mutually satisfactory resolution has been reached prior to his decision; and
  - (5) furnish the parties and other people as may be appropriate with copies of his decision, if any, and the reason(s) therefor.
- (d) A party may appeal the decision of the director in accordance with Chapter 150B of the North Carolina General Statutes.

(e) Nothing in this Rule shall be construed to require an apprentice or trainee to use the review procedure provided by this Rule.

*History Note: Authority G.S. 94-1; 94-2; 94-4; 94-7;  
Eff. February 1, 1984;  
Amended Eff. August 1, 1988.*

### **13 NCAC 14 .0604 CERTAIN DISPUTES EXCLUDED**

This Section does not apply to:

- (1) Any complaint concerning discrimination or other equal opportunity matters in regard to an apprenticeship program, which shall be submitted, processed, and resolved in accordance with Section .0800 of this Chapter; or
- (2) Any dispute arising under an apprenticeship or OJT agreement which is covered by a collective bargaining agreement.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

## **SECTION .0700 - EMERGENCY PROCEDURES**

### **13 NCAC 14 .0701 DECLARATION OF EMERGENCY**

From time to time special on-the-job training procedures may be necessary for emergency and critical civilian production. When the commissioner finds that there is a critical shortage of trained, skilled workers in an occupation or trade, that existing training programs are unable to train a sufficient number of individuals to alleviate the shortage, and that the welfare of the State of North Carolina is jeopardized by the shortage, he may declare that an emergency exists.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0702 PERFORMANCE OF DUTIES UNDER EMERGENCY**

Whenever the commissioner has declared an emergency pursuant to Rule .0701 of this Section, he may order the director to take certain specified action to alleviate the shortage, including but not limited to sponsoring on-the-job training programs, and such other action as may be appropriate.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

## **SECTION .0800 - EQUAL OPPORTUNITY IN APPRENTICESHIP**

### **13 NCAC 14 .0801 STATE PLAN**

As the State Apprenticeship Agency, the department has undertaken by adoption of a State Plan the responsibility for implementing equal opportunity standards relating to apprenticeship, which conform to the regulations published by the U.S. Secretary of Labor, 29 C.F.R. Part 30 (June 12, 1978). This Section .0800 fully sets forth the requirements of the State Plan so that compliance

with this Section constitutes compliance with the State Plan. The director, under the supervision of the commissioner, administers through the division the requirements of this Section.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0802 DEFINITIONS**

In addition to the definitions set forth in Rule .0102 of this Chapter, the following definitions apply to this Section:

- (1) "Affirmative Action" or "Affirmative Action Program" means the procedures, methods, and programs generally for the identification, positive recruitment, training, and motivation of present and potential minority and female apprentices for the purpose of establishing equal opportunity for all apprentices and applicants for apprenticeship so as to allow for full utilization of the work potential of minorities and women.
- (2) "Affirmative Action Plan" means the sponsor's written plan in accordance with the requirements of Rule .0808 of this Section, including a description of methods and procedures, the goals, outreach and positive recruitment methods.
- (3) "Female" means female gender, according to its customary usage, regardless of minority or majority status, unless otherwise indicated.
- (4) "Minority" means that portion of the population comprised of Blacks (not Hispanic), Asian or Pacific Islanders, Native Americans (American Indians), Native Alaskans, and Hispanics (including Latin Americans, Mexican Americans, and Puerto Ricans); "Minorities" means people belonging to the minority population.
- (5) "Labor Market Area" means the area from which the sponsor draws or expects to draw applicants and apprentices; the labor market area may be contiguous with a Standard Metropolitan Statistical Area, as defined by the U.S. Census Bureau.
- (6) "Underutilization" means the situation in which there are fewer minorities or women in the sponsor's program of training on the job than would be reasonably expected given the information provided by an analysis of the sponsor's labor market area according to Rule .0805 of this Section.
- (7) "Women" means female people, according to its customary usage, regardless of minority or majority status, unless otherwise indicated.
- (8) "Sponsor" means, in addition to the definition provided in Rule .0202(22), a prospective sponsor, when the context so requires.

*History Note: Authority G.S. 94-1; 94-2;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0803 GENERAL EQUAL OPPORTUNITY REQUIREMENTS**

Every sponsor of an apprenticeship program, regardless of exemption, shall:

- (1) Recruit, select, employ, and train apprentices without discrimination because of race, color, religion, national origin, or sex;
- (2) Uniformly apply all rules concerning apprentices, including but not limited to equality of wages, periodic advancement, promotion, assignment of work, job

- performance, rotation among work processes, and imposition of disciplinary action; and
- (3) Take affirmative action to provide equal opportunity in apprenticeship.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0804 EXEMPTIONS FROM SPECIFIC REQUIREMENTS**

(a) The following exemptions from some requirements of this Section may apply to certain apprenticeship programs:

- (1) Fewer Than Five Apprentices.
  - (A) Apprenticeship programs containing fewer than five apprentices are exempt from the requirements for an affirmative action plan, including an analysis for underutilization and goals, and for a selection procedure, so long as the size of the program is not limited for the purpose of circumventing the requirements of this Section.
  - (B) The number of apprentices in a program is determined by the number registered under the sponsor's program, regardless of the number of employers, the method of apprenticeship selection, or the manner of program operation.
  - (C) The exemption applies without submission of a request. Whenever a sponsor's program previously exempt under this Subparagraph contains five or more apprentices, the sponsor shall submit, within 90 days of the selection of the fifth apprentice, an affirmative action plan and a selection procedure conforming to the requirements of this Section.
- (2) Approved Compliance.
  - (A) Apprenticeship programs in compliance with an approved equal opportunity program providing for the selection of apprentices and for affirmative action in apprenticeship (including goals for women and minorities which are equal to or greater than such goals as would be required under this Section) in accordance with Title VII of the Civil Rights Act of 1964, as amended, may be exempted from the requirements for an affirmative action plan and for a selection procedure.
  - (B) The equal opportunity program is "approved" if the Equal Employment Opportunity Commission, the Office of Federal Compliance Programs, the U.S. Department of Justice, or a federal court has approved the program as complying with Title VII.
  - (C) The director shall grant an exemption under this Subparagraph to the extent appropriate upon the sponsor's submission to the director of a written request together with satisfactory evidence (including documentation of approval) that its apprenticeship program is in compliance with an approved equal opportunity program. If the equal opportunity program has goals for either minorities or women only, the exemption shall not be granted for the group not included but may be granted for the group included.
- (3) Good Cause.

- (A) Apprenticeship programs may be exempted from some specified requirements of this Section for good cause shown.
- (B) The director may grant an exemption under this Subparagraph if the sponsor submits a written request to the director specifying the requirement(s) from which the sponsor seeks exemption and the reason(s) for the request and if the director determines that the exemption will not hinder the goal of equal employment opportunities for minorities and women and will assist the sponsor in the operation of its program. The director shall notify the U.S. Department of Labor of any exemptions granted under this Subparagraph which affect a substantial number of employers and the reasons why the exemptions were granted.

(b) An exemption shall apply only to the requirements specifically mentioned in the exemption; except as specifically exempted, a sponsor must comply with all requirements of this Section.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0805 ANALYSIS: UNDERUTILIZATION**

(a) Every sponsor not exempted shall analyze its training program and labor market area in order to determine if the sponsor's program of training on the job underutilizes women or minorities.

(b) The analysis shall include a consideration of the following factors:

- (1) The size of the working age minority and female population in the sponsor's labor market area;
- (2) The size of the minority and female labor force in the sponsor's labor market area;
- (3) The percentage of minority and female apprentices in the particular craft compared with the percentage of the minority and female labor force in the sponsor's labor market area;
- (4) The percentage of minority and female journeymen employed by the employer(s) participating in the program compared with the percentage of the minority and female labor force in the sponsor's labor market area; and
- (5) The general availability of minorities and women in the sponsor's labor market area with present or potential capacity for apprenticeship in the particular craft.

(c) Underutilization is deemed to exist for any sponsor's apprenticeship program when the sponsor has not previously operated a training program which could be analyzed for underutilization.

*History Note: Authority G.S. 94-1; 94-2;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0806 GOALS: ESTABLISHMENT**

(a) If a sponsor's program is determined not to underutilize minorities or women, no goals and timetables need be established. However, where no goals and timetables are established, the sponsor shall include in its affirmative action plan a detailed explanation of the findings of the program's analysis.

(b) If a sponsor's program is determined to underutilize minorities or women and the program is not otherwise exempted, the sponsor shall establish goals for the inclusion of minority and

female apprentices in the sponsor's apprenticeship program or pool of eligibles. Goals shall be expressed as a percentage, specifying benchmarks for partial attainment of those goals in terms of calendar periods or in terms of hiring dates or application acceptance periods.

(c) Single goals for women and minorities respectively are acceptable unless the analysis shows that a particular, identifiable subgroup is employed in a disparate manner. If so, the sponsor shall establish a separate goal for the subgroup.

(d) Goals shall be established by one of the following methods:

(1) The goal for minorities shall be the same as the percentage of minorities in the labor force in the sponsor's labor market area and the goal for women shall be at least 50 percent of the percentage of women in the labor force in the sponsor's labor market area; or

(2) The goals for minorities and women, or a subgroup thereof, shall be such as could be reasonably expected from a good faith effort to make the sponsor's affirmative action plan work, and the goals determined by this method shall include a reasoned explanation of the factors considered in arriving at the goals.

(e) The director shall establish goals for the sponsor if the director determines upon analysis as provided in Rule .0805(b) of this Section that the sponsor's goals are unacceptable or if the (non-exempt) sponsor fails to submit goals.

(f) The division shall make available to program sponsors data and information on minority and female labor force characteristics for each Standard Metropolitan Statistical Area and for other special areas as appropriate and available.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0807 GOALS: ATTAINMENT AND ADJUSTMENT**

(a) A sponsor who has established goals shall make a good faith effort to attain the goals within the time indicated.

(b) In order to determine if the sponsor has made a good faith effort, the director will consider the sponsor's actions to fulfill its commitment to equal opportunity in the recruitment, selection, employment, and training of apprentices and its actions to comply with the provisions of its affirmative action plan, including evaluation and changes necessary to improve progress toward the goals established.

(c) The sponsor shall review the established goals one year after their establishment and yearly thereafter, unless special circumstances indicate that subsequent reviews should be made more or less often. The sponsor shall adjust the goals after each review, but in the absence of unusual circumstances, including but not limited to a significant change in the labor force in the sponsor's labor market area, a goal shall not be a lesser percentage than the previous goal.

(d) Notwithstanding Paragraph (c) of this Rule, the sponsor may adjust the goal for women to a percentage no less than the highest percentage attained for the sponsor's program, but in no event to a percentage less than half of the original goal.

(e) The sponsor shall submit to the director any proposed adjustment to the goals, and the submission shall constitute a proposed revision subject to the procedure set forth in Rule .0307 of this Chapter.

*History Note: Authority G.S. 94-1; 94-2; 94-4;*

*Eff. February 1, 1984.*

**13 NCAC 14 .0808 AFFIRMATIVE ACTION PLAN: OUTREACH**

(a) Every sponsor not exempted shall adopt a written affirmative action plan, a copy of which must be submitted with the sponsor's request for registration under Rule .0301 of this Chapter. An affirmative action plan shall include:

- (1) Procedures and methods for the identification, positive recruitment, training, and motivation of present and potential minority and female apprentices;
- (2) Goals as provided in Rules .0806 and .0807 of this Section; and
- (3) Specific provisions for outreach and positive recruitment in order to increase the number of minorities and women eligible for apprenticeship.

(b) Provisions for outreach and positive recruitment will vary according to the size and type of program and the resources of the sponsor, but the sponsor shall undertake a significant number of appropriate activities that would reasonably be expected to increase minority and female participation in apprenticeship. Examples of appropriate activities are as follows:

- (1) Disseminating information concerning the nature of apprenticeship, requirements for admission to apprenticeship, availability of apprenticeship opportunities, sources of apprenticeship applications, and the equal opportunity policy of the sponsor: For programs accepting applications only at specified intervals, dissemination shall be at least 30 days before the earliest date for application at each interval; for programs customarily receiving applications throughout the year, dissemination shall be at regular intervals but not less than semi-annually. The information shall be given to the division, local schools, employment service offices, women's centers, outreach programs, and community organizations which can reach minorities and women and shall be published in newspapers which are circulated in the minority community and among women in the sponsor's labor market area. This activity is required of all sponsors;
- (2) Participating in annual workshops conducted by employment service agencies for the purpose of familiarizing school, employment service, and other personnel with apprenticeship and apprenticeship opportunities;
- (3) Cooperating with local school boards and vocational education systems to develop programs for preparing students to qualify for employment in apprenticeship programs;
- (4) Communicating internally the sponsor's equal opportunity policy so as to foster understanding, acceptance, and support among all the sponsor's personnel and to encourage such people to aid the sponsor in meeting its equal opportunity obligations;
- (5) Engaging in outreach programs for the positive recruitment and preparation of potential applicants for apprenticeships; if no such programs are in existence, the sponsor shall seek to initiate an outreach program or a program to prepare and encourage women to enter occupations which traditionally employ mostly or only men;
- (6) Encouraging pre-apprenticeship, preparatory trade training, and other programs designed to afford related work experience or to prepare candidates for

- apprenticeship by assuring that those who complete such programs are afforded full and equal opportunity for admission into an apprenticeship program;
- (7) Using journeymen to assist in the implementation of the sponsor's affirmative action program;
  - (8) Granting advance standing or credit for previously acquired experience, training, skills, or aptitude to all applicants on an equal basis. This activity is required of all sponsors;
  - (9) Admitting as apprentices people whose age exceeds the maximum for admission to the program when such action helps the sponsor achieve its affirmative action obligations;
  - (10) Taking such other action as will promote the recruitment, selection, employment, and training of apprentices without discrimination because of race, color, religion, national origin, or sex (e.g., publishing apprenticeship opportunities and advantages in advertisements, reports, or articles; using minority and female apprentices and journeymen as recruiters; offering career counseling; auditing affirmative action programs and activities periodically; developing procedures between the sponsor and employers to encourage and ensure equal employment opportunity, including reporting systems, on-site reviews, and briefing sessions).

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0809 SELECTION PROCEDURES**

(a) Every sponsor not exempted shall adopt one of the following procedures for selecting apprentices and shall submit a written description of the procedure with the sponsor's request for registration under Rule .0301 of this Chapter:

- (1) Validated Rank Order.
  - (A) The sponsor shall select apprentices from a pool of eligible applicants on the basis of the rank order of scores on one or more qualification standards.
  - (B) The pool of eligible applicants shall be created from all applicants who meet the minimum requirements for apprenticeship set forth in Rule .0203 of this Chapter and additional qualification standards which are directly related to job performance as shown by a significant statistical relationship between the score required for admission to the pool and performance in the apprenticeship program. "Additional Qualification Standards" include without limitation aptitude tests, regardless of who administers the test, and educational attainments or achievements (including school records or GED test results).
  - (C) In demonstrating the relationship between qualification standards scores and performance in the apprenticeship program, the sponsor shall follow the procedures set forth in 41 C.F.R. Part 60-3, "Uniform Guidelines on Employee Selection Procedure" (August 25, 1978). See Paragraph (d) of this Rule.
  - (D) The sponsor, in its written description of the selection procedure, shall state in detail the qualification standards and the procedures for

determining the standards and shall also state the criteria for the specific factors and attributes to be considered in evaluating applicants for admission to the pool. The sponsor shall specify the score required for each standard in order to gain admission to the pool. Qualification standards shall be separately required so that an applicant's failure to attain the specified score under a single standard disqualifies the applicant from admission to the pool.

- (E) The sponsor shall not use oral interviews as a qualification standard. The sponsor may interview an applicant after he is placed in the pool of eligibles and prior to selection for apprenticeship. The interview shall be limited to objective questions concerning the applicant's fitness to enter the apprenticeship program but shall not include questions concerning qualifications previously determined for entrance into the pool. The interviewer shall record the questions and the general nature of the applicant's answers and shall prepare a summary of any conclusions.
  - (F) The sponsor shall place in the pool of eligibles each applicant who qualifies for admission to the pool and shall notify the applicant. The sponsor shall notify each applicant who is rejected for admission to the pool or rejected from selection to the program following an oral interview, stating in either event the requirements for admission or selection, the reason(s) for rejection, and the appeal rights available to the applicant.
- (2) Random Selection ("Lottery System").
- (A) The sponsor shall select apprentices from a pool of eligible applicants on a random basis.
  - (B) The eligibility pool shall be established in the same manner as for the Validated Rank Order selection procedures, Subparagraph (1) of this Rule, including the validation of qualification standards, oral interviews, and notification of applicants, except that additional qualification standards are not required for admission to the pool.
  - (C) The sponsor shall obtain the director's approval for the method of random selection and shall select an impartial person or people, not associated with the administration of the apprenticeship program or the department, to supervise the random selection process.
  - (D) The sponsor shall announce the time and place of the random selection at least five days before the selection in a manner calculated to notify all applicants. The place of selection shall be open to the public at the time of the selection. Immediately after the selection, the sponsor shall post at its place of business the names of the apprentices selected.
- (3) Restricted Pool.
- (A) The sponsor shall select apprentices from a pool of eligible workers already employed by an employer participating in the program.
  - (B) The eligibility pool shall be established and selection from the pool shall be made in the manner provided by a collective bargaining agreement, if applicable, or by the sponsor's established promotion policy. The sponsor shall include a copy of the relevant portion of the collective bargaining agreement in its written description.

(4) Alternative Methods.

- (A) The sponsor shall select apprentices according to a method approved by the director which meets the requirements set out in (B) and (C) of this Subparagraph (4). If the director does not notify the sponsor of approval within 30 days of its submission, the sponsor may implement its alternative method of selection.
- (B) The method of selection shall provide for the selection of apprentices on the basis of objective and specific qualification standards, including but not limited to fair aptitude tests, school diplomas or the equivalent, occupationally essential health requirements, fair interviews, school grades, and previous work experience. The sponsor shall apply the standards according to the requirements of 41 C.F.R. Part 60-3, as adopted in this Rule. See Paragraph (d), in this Rule. The sponsor shall keep records of each interview, including a brief summary and the conclusions on each specific factor (e.g., motivation, ambition, willingness to accept direction, etc.) forming the total judgment.
- (C) Before apprentices are selected from the applicants, the sponsor shall review the minority and female distribution among the apprentices who would be selected on the basis of the sponsor's method of selection. If it appears that the sponsor's goals will not be met by such selection, the sponsor shall review each factor of its qualification standards to determine which, if any, appear unfairly to screen out minority and female applicants and shall make such adjustments as the review indicates.
- (D) If the sponsor fails to meet its goals within a reasonable period of time, despite its good faith efforts, the director may require the sponsor to change its affirmative action program to the extent necessary to obtain maximum effectiveness toward attaining its goals, including changing its selection procedure or demonstrating that the qualification standards are directly related to job performance, in the manner provided under Subparagraph (1) of this Rule.

(b) Revisions of a selection procedure shall be made in the manner provided in Rule .0306 of this Chapter, except that an Alternative Method becomes effective 30 days after the director's receipt of the proposed selection procedure unless the director, in writing, either approves or disallows the proposed selection procedure within that time, stating the reason(s) for the disallowance.

(c) The provisions of 41 C.F.R. Part 60-3, "Uniform Guidelines on Employee Selection Procedures" (August 25, 1978), are hereby adopted by reference. Copies of 41 C.F.R. Part 60-3 may be obtained from the office of the division.

(d) The provisions of 41 C.F.R. Part 60-3 are complicated and may be difficult to apply to the sponsor's actual situation. The sponsor is encouraged, whenever it will be helpful to the sponsor in setting up a selection procedure, to apply to the division for assistance and instruction in complying with the provisions of 41 C.F.R. Part 60-3.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0810 LIST OF ELIGIBLES: PUBLIC NOTICE**

(a) For apprenticeship programs accepting applications only at specified intervals, the sponsor shall provide a reasonable period of not less than two weeks for accepting applications; public notice shall be provided at least 30 days before the earliest date for accepting applications, in the manner provided in Rule .0808 (b) (1) of this Section. Sponsors who have adopted a restricted pool selection procedure under Rule .0809 (3) of this Section shall provide such notice as is reasonably calculated to apprise the people who are eligible to apply for the apprenticeship program.

(b) When an applicant's name has been placed on a list of eligible applicants, the sponsor shall not remove the name from the list for a period of two years unless at an earlier date the applicant requests in writing to the sponsor that his name be removed or fails to respond to an apprentice job opportunity tendered by certified mail, return receipt requested. Sponsors shall give applicants who have been tendered an apprentice job opportunity a reasonable time in light of the customs and practices of the industry to report to work. Upon request from the applicant, the sponsor may restore the applicant's name to the list. If a new list of eligible applicants is established before the termination of two years, the names of applicants on the preceding list(s) shall be retained until the end of the two-year period without any further action by the applicant. The applicant is responsible for notifying the sponsor of his current address.

(c) The sponsor shall post the list of eligible applicants at its place of business.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0811 RECORDS**

(a) The sponsor shall keep all records required by this Rule and any other information relevant to compliance with this Section for a period of five years and shall make the records and information available to employees of the department or employees of the U.S. Department of Labor or its authorized representative upon their request.

(b) The sponsor's records shall include the following:

- (1) A summary of the qualifications of each applicant;
- (2) The basis for evaluation and selection or rejection of each applicant;
- (3) The records of interviews of applicants;
- (4) The original application of each applicant;
- (5) A statement of the sponsor's affirmative action plan, including all facts and analyses upon which the plan is based;
- (6) Evidence that the sponsor's qualification standards have been validated as required; and
- (7) Such other records or information pertinent to the determination of compliance as may be required by the director.

(c) The sponsor shall maintain records pertaining to individual applicants, whether selected or rejected, in a manner which permits identification of minority and female applicants.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0812 COMPLIANCE REVIEWS**

(a) The division shall annually conduct systematic reviews of apprenticeship programs in order to determine the extent to which sponsors are complying with the rules of this Section and shall also conduct compliance reviews when special circumstances, including receipt of a complaint, so warrant. Compliance reviews include but are not limited to interviews, audits, and reviews of records. Apprenticeship programs with fewer than five apprentices may be reviewed less frequently than annually.

(b) If the sponsor of or participating employer in an apprenticeship program, or any person under the supervision or control of the sponsor or employer, refuses to allow or materially hinders an inspection and review of the program by an authorized representative of the department, the director may find that the program is not in compliance with the rules of this Section.

(c) If the director determines, upon the advice of the inspector, that an apprenticeship program is not in compliance with the rules of this Section, he shall notify the sponsor in writing by registered or certified mail, return receipt requested, of the following:

- (1) The manner in which the program fails to comply with this Section;
- (2) Recommendations for achieving compliance;
- (3) The requirement that compliance must be achieved within a reasonable time or sanctions must be imposed; and
- (4) The policy of the department that it will cooperate with the sponsor in achieving compliance.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0813 SANCTIONS**

(a) If a sponsor who has been notified by the director of a lack of compliance fails to effect compliance within a reasonable time, or if the director determines that a sponsor has established a pattern or practice of noncompliance, the director shall impose sanctions, including one or more of the following:

- (1) De-registration of the sponsor's program;
- (2) Referral to the Equal Employment Opportunity Commission or the U.S. Attorney General with recommendations for the institution of a court action under Title VII of the Civil Rights Act of 1964, as amended; or
- (3) Referral to the U.S. Attorney General for other court action as authorized by law.

(b) If the director decides to impose the sanction of de-registration, he shall send a notice to the sponsor by registered or certified mail, return receipt requested, stating the following:

- (1) The notice is sent pursuant to this Rule;
- (2) The sponsor was notified of certain deficiencies (identifying them) resulting in a lack of compliance with the rules of this Section, with the date(s) such notice was given;
- (3) The sponsor has failed to effect compliance within a reasonable time, or the director has determined that the sponsor has established a pattern or practice of noncompliance; and
- (4) The director will de-register the sponsor's program unless the sponsor requests a hearing, in accordance with Paragraph (c) of this Rule.

(c) If the sponsor desires a hearing, it shall file a petition for a hearing as provided in Chapter 150B of the North Carolina General Statutes and the hearing process shall be conducted as therein provided.

(d) If the sponsor does not request a hearing or if de-registration has been ordered following a hearing or judicial proceeding, the director shall de-register the program by:

- (1) Notifying the sponsor in writing that the registration is cancelled and that approval for VA purposes is withdrawn, if applicable, and the effective date thereof;
- (2) Requiring the sponsor, within 15 days of receipt of the notice:
  - (A) To notify each apprentice in the program that the de-registration automatically cancels the apprentice's individual registration and removes the apprentice from coverage for federal and state purposes requiring registration in an apprenticeship program; and
  - (B) To notify each apprentice in the program who is receiving a VA training allowance that the program is no longer approved for participation for people eligible to receive training allowances;
- (3) Notifying the apprentices in Subparagraph (d)(2) of this Rule, if the director has reason to believe that the sponsor may not do so or if the director, at his discretion, chooses so to do;
- (4) If applicable, notifying the Veterans' Administration Regional Office that approval for the program is withdrawn and the effective date thereof; and
- (5) Causing the de-registration and withdrawal of approval, if any, to be recorded by the division and publishing or posting public notice of the de-registration.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984;  
Amended Eff. August 1, 1988.*

### **13 NCAC 14 .0814 PRIVATE REVIEW BODIES**

(a) It is the policy of the division to encourage the use of private review bodies to consider complaints of failure to follow the rules of this Section, and the division will offer assistance to sponsors who wish to establish review bodies.

(b) A private review body shall consist of at least three people, all of whom are responsible people from the community with a commitment to equal opportunity in employment and not directly associated with the administration of an apprenticeship program. Members of the review body shall serve without compensation.

(c) Sponsors may join together to establish a single review body serving several programs in the community.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

### **13 NCAC 14 .0815 COMPLAINT PROCEDURE**

(a) Any apprentice or applicant for apprenticeship who believes that he has been discriminated against on the basis of race, color, religion, national origin, or sex with regard to apprenticeship or believes that the rules of this Section have not been followed in regard to his selection or

rejection may, personally or through an authorized representative, file a complaint with the director or a private review body established for the apprenticeship program, whichever he elects. The complainant must file the complaint not later than 180 days from the time of the incident or circumstances complained of.

(b) The complaint shall be in writing, shall be signed, and shall include the following:

- (1) The name, address, and telephone number of the complainant;
- (2) The name, address, and telephone number of the sponsor; and
- (3) A brief description of the circumstances giving rise to the complaint.

(c) When the sponsor has established a private review body, the director shall refer any complaint he has received relating to this Section to the review body, unless the complainant expressly requests that the director should not or unless the director determines that the review body will not adequately enforce the rules of this Section. The director shall promptly acknowledge receipt of the complaint and, if applicable, shall inform the complainant of referral to the review body. The director shall obtain reports from the complainant and the review body within 30 days of the referral. If the complaint is not resolved within 90 days of the referral or if the director is not satisfied that the practices of the apprenticeship program comply with the rules of this Section despite resolution of the complaint by the review body, he may order a compliance review to be made. If the complaint is resolved by the review body within 90 days and if there is no other indication of failure to comply with the rules of this Section, the director shall close the file and notify the parties.

(d) Upon receiving a complaint, the private review body shall:

- (1) Promptly acknowledge receipt of the complaint, if received directly from the complainant;
- (2) Provide the division with a copy of the complaint, if received directly from the complainant;
- (3) Notify the sponsor and any specific people named and complained of in the complaint and provide the sponsor and such people with copies of the complaint;
- (4) Review and investigate the matter complained of and hold a hearing for oral testimony, if helpful;
- (5) Attempt to obtain voluntary corrective action and agreement;
- (6) Issue a report of its findings and conclusions within 30 days of receipt of the complaint; and
- (7) Furnish all interested parties and the director with a copy of its report.

(e) A complainant who wishes to challenge the final determination of the review body shall refer the complaint, together with a brief statement of the deficiencies of the review body's determination, to the director. The referral must be made within 30 days of the complainant's receipt of the review body's report or within 180 days of the incident or circumstances complained of, whichever is later.

(f) When the sponsor has not established a review body, when the director will not refer a complaint to a review body, or when the complainant has referred a complaint following a final determination by a review body, the director shall, upon receiving a complaint or complaint referral:

- (1) Promptly acknowledge receipt of the complaint or complaint referral;
- (2) Notify the sponsor and any specific people named and complained of in the complaint that the complaint or complaint referral was received and provide the sponsor and such people copies of the complaint or complaint referral;

- (3) Cause a compliance review and investigation to be made, including, in the case of a complaint referral, a review of the review body's proceedings;
  - (4) Attempt to obtain voluntary corrective action and agreement;
  - (5) Render a decision regarding the issues with 60 days of receiving the complaint or complaint referral; and
  - (6) Furnish all interested parties with a copy of the decision and the reasons therefor.
- (g) A party may appeal the decision of the director, or a sponsor may appeal the determination of the director that the private review body will not adequately enforce the rules of this Section, in accordance with Chapter 150B of the North Carolina General Statutes.
- (h) If the director determines that a particular situation requires either an expedited or extended procedure and that no person will be adversely affected by such procedure, he shall take steps to expedite the process or shall grant an extension of the times provided in this Rule. The director may extend the time limitations for filing or referring a complaint upon a showing of good cause.
- (i) The sponsor shall provide written notice of the complaint procedure to all applicants and apprentices.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984;  
Amended Eff. August 1, 1988.*

### **13 NCAC 14 .0816 INTIMIDATION OR RETALIATION**

Any intimidation, threat, coercion, or retaliation by or with the approval of any sponsor or participating employer against any person for the purpose of interfering with any right or privilege secured by Title VII of the Civil Rights Act of 1964, as amended, or Executive Order 11246, as amended, or against any person because he has made a complaint, testified, assisted, or participated in any manner in any investigation, review, hearing, or judicial proceeding under this Section shall be considered noncompliance with the rules of this Section. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this Section, including the conduct of any investigation, review, hearing, or judicial proceeding arising under this Section.

*History Note: Authority G.S. 94-1; 94-2; 94-4;  
Eff. February 1, 1984.*

## **SECTION .0900 – APPRENTICESHIP FEES**

### **13 NCAC 14 .0901 APPRENTICESHIP REGISTRATION AND ANNUAL FEES**

- (a) For all new apprenticeship registrations, the director shall send an invoice for the registration fee required by G.S. 94-12 to the sponsor after the agreement is approved in accordance with Rule .0303 of this Chapter. In subsequent years, the annual fee required by G.S. 94-12 shall be paid to the Department in accordance with Paragraph (b) of this Rule.
- (b) The annual fee required by G.S. 94-12 shall be submitted on or before September 30th of each year until the apprenticeship is completed or the agreement is de-registered or cancelled in accordance with the Rules of this Chapter, whichever is earlier.
- (c) Failure to pay the fees required by G.S. 94-12 shall result in the de-registration or cancellation of the apprenticeship agreement in accordance with Rule .0508 of this Chapter. In

addition, a certificate of completion shall not be issued pursuant to Rule .0309 of this Chapter if the fees required by G.S. 94-12 have not been paid.

*History Note: Authority G.S. 94-1; 94-2; 94-4; 94-12;  
Emergency Adoption Eff. August 27, 2009.*