

I MINA'TRENTAI DOS NA LIHESLATURAN GUAHAN
2014 (Second) Regular Session

Bill No. 425-82 (LS)

Introduced by:

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Rory Respicio *RR*

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AN ACT TO ADDING A NEW CHAPTER 10,
ARTICLE 1, TO TITLE 22 OF THE GUAM CODE
ANNOTATED RELATIVE TO THE
ESTABLISHMENT OF THE APPRENTICESHIP
ACT OF GUAM, TO ADD ARTICLE 2 TO
CHAPTER 10 OF TITLE 22 OF THE GUAM CODE
ANNOTATED RELATIVE TO ESTABLISHMENT
OF THE LABOR STANDARDS FOR THE
REGISTRATION OF APPRENTICESHIP
PROGRAMS, AND TO ADD ARTICLE 3 TO
CHAPTER 10 OF TITLE 22 OF THE GUAM CODE
ANNOTATED RELATIVE TO THE
ESTABLISHMENT OF A STATE PLAN FOR
EQUAL EMPLOYMENT OPPORTUNITY IN THE
GUAM APPRENTICESHIP ACT

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **§10101. Citation.**

3 **§10102. Statement of Public Policy.**

4 **§10103. Definitions.**

5 **§10104. Guam State Apprenticeship Council.**

6 **§10105. Powers and Duties of Director.**

7 **§10106. Territorial-Federal cooperation.**

8 **§10107. Severability.**

9 **§10108. Enactment.**

10 **§10101. Citation.**

11 A new Chapter 10 is *added* to Title 22, Guam Code Annotated, to read: *The*
12 *Apprenticeship Act of Guam.*

13 **§10102. Statement of Public Policy.**

14 (a) Skilled manpower constitutes a great resource on Guam. Registered
15 Apprenticeship programs, through supervised training and education, develop
16 skilled journeyworkers and help meet the increasing needs for such workers in the
17 traditional labor force. The continuing development of skilled manpower is
18 essential for individual self-realization and for an expanding industrial economy.
19 To these ends, it is the declared public policy of Guam to develop sound
20 apprenticeship training standards and to encourage industry and labor to institute
21 training programs.

22 (b) This chapter shall apply to a person, firm, corporation, or craft only after
23 such person, firm, corporation, or craft has voluntarily elected to conform with its
24 provisions, for the purpose of participating in Registered Apprenticeship.

25 **§10103. Definitions.**

26 *Agency* means the Guam Department of Labor, Division of Apprenticeship.

1 *Department* means the U.S. Department of Labor, Employment and Training
2 Administration, Office of Apprenticeship.

3 *Director* means the Director, Guam Department of Labor.

4 *Apprentice* means a worker at least 16 years of age, except where a higher
5 minimum age standard is otherwise fixed by law, who is employed to learn an
6 apprenticeable occupation as provided in §10204 under standards of apprenticeship
7 fulfilling the requirements of §10205.

8 *Apprenticeship Agreement* means a written agreement, complying with §10207,
9 Apprenticeship Agreement, between an apprentice and either the apprentice's
10 program sponsor, or an apprenticeship committee acting as agent for the program
11 sponsor(s), which contains the terms and conditions of the employment and
12 training of the apprentice.

13 **§10104. Guam State Apprenticeship Council.**

14 (a) The Governor shall establish the Guam State Apprenticeship Council
15 (GSAC) and, upon recommendation of the Director, will appoint all members. The
16 GSAC shall be composed of persons familiar with apprenticeable occupations with
17 an equal number of representatives of employer and of employee organizations and
18 one public member. Each representative so named shall have one vote. Ex officio
19 members may be added to the GSAC, but shall have no vote. The Director shall be
20 a member of the GSAC and may have the tie-breaking vote.

21 (b) The GSAC: (a) shall advise the Director or his designee on apprentice
22 training matters, including the matters of related and supplemental instruction; (b)
23 may recommend suggested standards for apprenticeship agreements; (c) shall
24 maintain a close and effective liaison with governmental and non governmental
25 agencies which are concerned with skilled manpower development and problems;
26 and (d) may recommend research projects on facts and trends relating to
27 apprenticeship training and the supply of and needs for skilled manpower.

1 **§10105. Powers and Duties of Director.**

2 The Director shall:

3 (a) Establish standards for Apprenticeship Agreements in conformity with this
4 chapter;

5 (b) Provide assistance for the development of on-the-job learning programs in
6 apprenticeable occupations or local apprenticeable occupations;

7 (c) Encourage and promote the making of Apprenticeship Agreements
8 conforming to the standards established by this chapter;

9 (d) Register such Apprenticeship Agreements as are in the best interest of
10 apprenticeship and which conform to the standards established by this chapter;

11 (e) Keep a record of Apprenticeship Agreements and upon determination
12 thereof issue either an Interim Credential or a Certificate of Completion of
13 Apprenticeship;

14 (f) Terminate or cancel any Apprenticeship Agreements in accordance with the
15 agreements;

16 (g) Bring about the settlement of difference arising out of the Apprenticeship
17 Agreement where the differences cannot be otherwise adjusted locally;

18 (h) Issue such rules and regulations as may be necessary to carry out the intent
19 and purpose of this chapter;

20 (i) Appoint personnel as are necessary to execute the functions required under
21 this chapter; and

22 (j) Perform other duties as are necessary to carry out the intent and purpose of
23 this chapter.

24 (k) Submit all proposed modifications in legislation, regulations, policies and/or
25 operation procedures planned or anticipated by the Agency, either at the time of
26 application for recognition or subsequently, to the Department for review and
27 obtain the Department's concurrence prior to implementation.

1 **§10106. Territorial-Federal cooperation.**

2 The Agency may promote the administration of this chapter by accepting and
3 utilizing information, services, and facilities made available to it by the
4 Department.

5 **§10107. Severability.**

6 If any provision of this Law or its application to any person or circumstance is
7 found to be invalid or contrary to law, such invalidity shall *not* affect other
8 provisions or applications of this Law which can be given effect without the
9 invalid provisions or application, and to this end the provisions of this Law are
10 severable.

11 **§10108. Enactment.**

12 This act shall become effective upon enactment.

13 **Division 1**

14 **Labor Regulations**

15 **CHAPTER 10**

16 **THE APPRENTICESHIP ACT OF GUAM**

17 **ARTICLE 2**

18 **GUAM LABOR STANDARDS FOR THE REGISTRATION OF**
19 **APPRENTICESHIP PROGRAMS**

- 20 10201. Purpose and scope.
- 21 10202. Definitions.
- 22 10203. Eligibility and procedure for registration of an apprenticeship
23 program.
- 24 10204. Criteria for apprenticeable occupations.
- 25 10205. Standards of apprenticeship.
- 26 10206. Program performance standards.
- 27 10207. Apprenticeship agreement.

- 1 10208. Deregistration of a registered program.
- 2 10209. Reinstatement of program registration.
- 3 10210. Hearings for deregistration.
- 4 10211. Limitations.
- 5 10212. Complaints.
- 6 10213. Reciprocity.

7 **§10201. Purpose and scope.**

8 (a) The Guam Apprenticeship Act, Title 22, Guam Code Annotated (GCA),
9 Chapter 10, authorizes and directs the Guam Department of Labor as the Guam
10 State Apprenticeship Agency, to formulate and promote the furtherance of labor
11 standards necessary to safeguard the welfare of apprentices, to extend the
12 application of such standards by encouraging the inclusion thereof in contracts of
13 apprenticeship, to bring together employers and labor for the formulation of
14 programs of apprenticeship.

15 (b) The purpose of this part is to set forth labor standards to safeguard the welfare
16 of apprentices, promote apprenticeship opportunity, and to extend the application
17 of such standards by prescribing policies and procedures concerning the
18 registration, for certain Federal purposes, of acceptable apprenticeship programs
19 with the Guam Department of Labor. These labor standards, policies and
20 procedures cover the registration, cancellation and deregistration of apprenticeship
21 programs and of apprenticeship agreements; the recognition of the Guam
22 Department of Labor as an authorized agency for registering apprenticeship
23 programs for certain Federal purposes; and matters relating thereto.

24 **§10202. Definitions.**

25 *Administrator* means the Administrator of the Office of Apprenticeship, U.S.
26 Department of Labor, or any person specifically designated by the Administrator.

1 *Agency* means the Guam Department of Labor, Division of Apprenticeship which
2 is the State Registration Agency for the purposes of 29 CFR 29.

3 *Apprentice* means a worker at least 16 years of age, except where a higher
4 minimum age standard is otherwise fixed by law, who is employed to learn an
5 apprenticeable occupation as provided in §10204 under standards of apprenticeship
6 fulfilling the requirements of §10205.

7 *Apprenticeship Agreement* means a written agreement, complying with §10207,
8 Apprenticeship Agreement, between an apprentice and either the apprentice's
9 program sponsor, or an apprenticeship committee acting as agent for the program
10 sponsor(s), which contains the terms and conditions of the employment and
11 training of the apprentice.

12 *Apprenticeship Committee (Committee)* means those persons designated by the
13 sponsor to administer the program. A committee may be either joint or non-joint,
14 as follows:

15 (1) A joint committee is composed of an equal number of representatives of the
16 employer(s) and of the employees represented by a bona fide collective bargaining
17 agent(s).

18 (2) A non-joint committee, which may also be known as a unilateral or group
19 non-joint (which may include employees) committee, has employer representatives
20 but does not have a bona fide collective bargaining agent as a participant.

21 *Apprenticeship Program* means a plan containing all terms and conditions for the
22 qualification, recruitment, selection, employment and training of apprentices, as
23 required under 22 GCA 10, Article 2, Guam Labor Standards for the Registration
24 of Apprenticeship Programs, and Article 3, Guam State Plan for Equal
25 Employment Opportunity in Apprenticeship Programs, including such matters as
26 the requirement for a written apprenticeship agreement.

1 *Cancellation* means the termination of the registration or approval status of a
2 program at the request of the sponsor, or termination of an Apprenticeship
3 Agreement at the request of the apprentice.

4 *Certification or Certificate* means documentary evidence that:

5 (1) The Agency has established that an individual is eligible for probationary
6 employment as an apprentice under a registered apprenticeship program;

7 (2) The Agency has registered an apprenticeship program as evidenced by a
8 Certificate of Registration;

9 (3) The Agency has determined that an apprentice has successfully met the
10 requirements to receive an interim credential; or

11 (4) The Agency has determined that an individual has successfully completed
12 apprenticeship.

13 *Competency* means the attainment of manual, mechanical or technical skills and
14 knowledge, as specified by an occupational standard and demonstrated by an
15 appropriate written and hands-on proficiency measurement.

16 *Completion* rate means the percentage of an apprenticeship cohort who receive a
17 certificate of apprenticeship completion within 1 year of the projected completion
18 date. An apprenticeship cohort is the group of individual apprentices registered to a
19 specific program during a 1 year time frame, except that a cohort does not include
20 the apprentices whose apprenticeship agreement has been cancelled during the
21 probationary period.

22 *Department* means U.S. Department of Labor, Employment and Training
23 Administration, Office of Apprenticeship.

24 *Electronic media* means media that utilize electronics or electromechanical energy
25 for the end user (audience) to access the content; and includes, but is not limited to,
26 electronic storage media, transmission media, the Internet, extranet, lease lines,

1 dial-up lines, private networks, and the physical movement of
2 removable/transportable electronic media and/or interactive distance learning.

3 *Employer* means any person or organization employing an apprentice whether or
4 not such person or organization is a party to an Apprenticeship Agreement with the
5 apprentice.

6 *Federal Purposes* includes any Federal contract, grant, agreement or arrangement
7 dealing with apprenticeship; and any Federal financial or other assistance, benefit,
8 privilege, contribution, allowance, exemption, preference or right pertaining to
9 apprenticeship.

10 *Guam State Apprenticeship Council* is an entity established to assist the Agency.
11 The Guam State Apprenticeship Council provides advice and guidance to the
12 Agency on the operation of the State's Apprenticeship System.

13 *Interim credential* means a credential issued by the Agency, upon request of the
14 appropriate sponsor, as certification of competency attainment by an apprentice.

15 *Journeyworker* means a worker who has attained a level of skill, abilities and
16 competencies recognized within an industry as having mastered the skills and
17 competencies required for the occupation. (Use of the term may also refer to a
18 mentor, technician, specialist or other skilled worker who has documented
19 sufficient skills and knowledge of an occupation, either through formal
20 apprenticeship or through practical on-the-job experience and formal training.)

21 *Office of Apprenticeship* means the office designated by the Employment and
22 Training Administration of the U.S. Department of Labor to administer the
23 National Apprenticeship system or its successor organization.

24 *Provisional registration* means the 1-year initial provisional approval of newly
25 registered programs that meet the required standards for program registration, after
26 which program approval may be made permanent, continued as provisional, or
27 rescinded following a review by the Agency, as provided for in the criteria

1 described in §10203(g) and (h), Eligibility and procedure for registration of an
2 apprenticeship program.

3 *Quality Assurance Assessment* means a comprehensive review conducted by the
4 Agency regarding all aspects of an apprenticeship program's performance,
5 including but not limited to, determining if apprentices are receiving: on-the-job
6 training in all phases of the apprenticeable occupation; scheduled wage increases
7 consistent with the registered standards; related instruction through appropriate
8 curriculum and delivery systems; and that the registration agency is receiving
9 notification of all new registrations, cancellations, and completions as required in
10 this part.

11 *Registration of an apprenticeship agreement* means the acceptance and recording
12 of an apprenticeship agreement by the Agency as evidence of the apprentice's
13 participation in a particular registered apprenticeship program.

14 *Registration of an apprenticeship program* means the acceptance and recording of
15 such program by the Agency as meeting the basic standards and requirements of
16 the Department for approval of such program for Federal purposes. Approval is
17 evidenced by a Certificate of Registration.

18 *Related instruction* means an organized and systematic form of instruction
19 designed to provide the apprentice with the knowledge of the theoretical and
20 technical subjects related to the apprentice's occupation. Such instruction may be
21 given in a classroom, through occupational or industrial courses, or by
22 correspondence courses of equivalent value, electronic media, or other forms of
23 self-study approved by the Agency.

24 *Secretary* means the Secretary of Labor or any person designated by the Secretary.

25 *Sponsor* means any person, association, committee, or organization operating an
26 apprenticeship program and in whose name the program is (or is to be) registered
27 or approved.

1 *State* means any of the 50 States of the United States, District of Columbia, or any
2 Territory or possession of the United States.

3 *Technical assistance* means guidance provided by the Agency staff in the
4 development, revision, amendment, or processing of a potential or current program
5 sponsor's Standards of Apprenticeship, Apprenticeship Agreements or advice or
6 consultation with a program sponsor to further compliance with part or guidance
7 from the Office of Apprenticeship, to the Agency on how to remedy
8 nonconformity with this part.

9 *Transfer* means a shift of apprenticeship registration from one program to another
10 or from one employer within a program to another employer within that same
11 program, where there is agreement between the apprentice and the affected
12 apprenticeship committees or program sponsors.

13 **§10203. Eligibility and procedure for registration of an apprenticeship**
14 **program.**

15 (a) No apprenticeship program or agreement shall be eligible for registration
16 unless it conforms with §10205, Standards of Apprenticeship.

17 (b) Only an apprenticeship program or agreement that meets the following criteria
18 is eligible for Agency registration:

19 (1) It is in conformity with the requirements of this part and the training is in
20 an apprenticeable occupation having the characteristics set forth in §10204 of this
21 part; and

22 (2) It is in conformity with the requirements of the Department's regulation on
23 Equal Employment Opportunity in Apprenticeship and Training in 22 GCA 10,
24 Article 3.

25 (c) Except as provided under paragraph (d) of this section, apprentices must be
26 individually registered under a registered program. Such individual registration
27 may be affected:

1 (1) By filing copies of each individual apprenticeship agreement with the
2 Agency; or

3 (2) Subject to prior Agency approval, by filing a master copy of such
4 agreement followed by a listing of the name, and other required data, of each
5 individual when apprenticed.

6 (d) The names of persons in probationary employment as an apprentice under an
7 apprenticeship program registered by the Agency, if not individually registered
8 under such program, must be submitted within 45 days of employment to the
9 Agency for certification to establish the apprentice as eligible for such
10 probationary employment.

11 (e) The Agency must be notified within 45 days of persons who have successfully
12 completed apprenticeship programs; and of transfers, suspensions, and
13 cancellations of apprenticeship agreements and a statement of the reasons
14 therefore.

15 (f) Apprenticeship programs approved by the Agency must be accorded
16 registration and/or approval evidenced by a Certificate of Registration.

17 (g) Applications for new programs that the Agency determines meet the required
18 standards for program registration must be given provisional approval for a period
19 of 1 year. The Agency must review all new programs for quality and for
20 conformity with the requirements of this part at the end of the first year after
21 registration. At that time:

22 (1) a program that conforms with the requirements of this part:

23 (i) may be made permanent; or

24 (ii) may continue to be provisionally approved through the first full
25 training cycle.

26 (2) a program not in operation or not conforming to the regulations during the
27 provisional approval period must be recommended for deregistration procedures.

1 (h) The Agency must review all programs for quality and for conformity with the
2 requirements of this part at the end of the first full training cycle. A satisfactory
3 review of a provisionally approved program will result in conversion of provisional
4 approval to permanent registration. Subsequent reviews must be conducted no less
5 frequently than every five years. Programs not in operation or not conforming to
6 the regulations must be recommended for deregistration procedures.

7 (i) Any sponsor proposals or applications for modification(s) or change(s) to
8 registered programs must be submitted to the Agency. The Agency must make a
9 determination on whether to approve such submissions within 90 days from the
10 date of receipt. If approved, the modification(s) or change(s) will be recorded and
11 acknowledged within 90 days of approval as an amendment to such program. If
12 not approved, the sponsor must be notified of the disapproval and the reasons
13 therefore and provided the appropriate technical assistance.

14 (j) Under a program proposed for registration by an employer or employers'
15 association, where the standards, collective bargaining agreement or other
16 instrument provides for participation by a union in any manner in the operation of
17 the substantive matters of the apprenticeship program, and such participation is
18 exercised, written acknowledgement of union agreement or no objection to the
19 registration is required. Where no such participation is evidenced and practiced, the
20 employer or employers' association must simultaneously furnish to an existing
21 union, which is the collective bargaining agent of the employees to be trained, a
22 copy of its application for registration and of the apprenticeship program. The
23 Agency must provide for receipt of union comments, if any, within 45 days before
24 final action on the application for registration and/or approval.

25 (k) Where the employees to be trained have no collective bargaining agreement, an
26 apprenticeship program may be proposed for registration by an employer or group
27 of employers, or an employer association.

1 **§10204. Criteria for apprenticeable occupations.**

2 An apprenticeable occupation is one which is specified by industry and which
3 must:

4 (a) Involve skills that are customarily learned in a practical way through a
5 structured, systematic program of on-the-job supervised learning;

6 (b) Be clearly identified and commonly recognized throughout an industry;

7 (c) Involve the progressive attainment of manual, mechanical or technical skills
8 and knowledge which, in accordance with the industry standard for the occupation,
9 would require the completion of at least 2,000 hours of on-the-job learning to
10 attain; and

11 (d) Require related instruction to supplement the on-the-job learning.

12 **§10205. Standards of apprenticeship.**

13 An apprenticeship program, to be eligible for approval and registration by the
14 Agency, must conform to the following standards:

15 (a) The program must have an organized, written plan (program standards)
16 embodying the terms and conditions of employment, training, and supervision of
17 one or more apprentices in an apprenticeable occupation, as defined in this part,
18 and subscribed to by a sponsor who has undertaken to carry out the apprentice
19 training program.

20 (b) The program standards must contain provisions that address:

21 (1) The employment and training of the apprentice in a skilled occupation.

22 (2) The term of apprenticeship, which for an individual apprentice may be
23 measured either through the completion of the industry standard for on-the-job
24 learning (at least 2,000 hours) (time-based approach), the attainment of
25 competency (competency-based approach), or a blend of the time-based and
26 competency-based approaches (hybrid approach).

1 (i) The time-based approach measures skill acquisition through the
2 individual apprentice's completion of at least 2,000 hours of on-the-job learning as
3 described in a work process schedule.

4 (ii) The competency-based approach measures skill acquisition through the
5 individual apprentice's successful demonstration of acquired skills and knowledge,
6 as verified by the program sponsor. Programs utilizing this approach must still
7 require apprentices to complete an on-the-job learning component of Registered
8 Apprenticeship. The program standards must address how on-the-job learning will
9 be integrated into the program, describe competencies, and identify an appropriate
10 means of testing and evaluation for such competencies.

11 (iii) The hybrid approach measures the individual apprentice's skill
12 acquisition through a combination of specified minimum number of hours of on-
13 the-job learning and the successful demonstration of competency as described in a
14 work process schedule.

15 (iv) The determination of the appropriate approach for the program
16 standards is made by the program sponsor, subject to approval by the Agency of
17 the determination as appropriate to the apprenticeable occupation for which the
18 program standards are registered.

19 (3) An outline of the work processes in which the apprentice will receive
20 supervised work experience and training on the job, and the allocation of the
21 approximate amount of time to be spent in each major process.

22 (4) Provision for organized, related instruction in technical subjects related to
23 the occupation. A minimum of 144 hours for each year of apprenticeship is
24 recommended. This instruction in technical subjects may be accomplished through
25 media such as classroom, occupational or industry courses, electronic media, or
26 other instruction approved by the Agency. Every apprenticeship instructor must:

1 (i) Meet the Guam Department of Education's requirements for a
2 vocational-technical instructor, or be a subject matter expert, which is an
3 individual, such as a journeyworker, who is recognized within an industry as
4 having expertise in a specific occupation; and

5 (ii) Have training in teaching techniques and adult learning styles, which
6 may occur before or after the apprenticeship instructor has started to provide the
7 related technical instruction.

8 (5) A progressively increasing schedule of wages to be paid to the apprentice
9 consistent with the skill acquired. The entry wage must not be less than the
10 minimum wage prescribed by the Fair Labor Standards Act, where applicable,
11 unless a higher wage is required by other applicable Federal law, State law,
12 respective regulations, or by collective bargaining agreement.

13 (6) Periodic review and evaluation of the apprentice's performance on the job
14 and in related instruction; and the maintenance of appropriate progress records.

15 (7) A numeric ratio of apprentices to journeyworkers consistent with proper
16 supervision, training, safety, and continuity of employment, and applicable
17 provisions in collective bargaining agreements, except where such ratios are
18 expressly prohibited by the collective bargaining agreements. The ratio language
19 must be specific and clearly described as to its application to the job site,
20 workforce, department or plant.

21 (8) A probationary period reasonable in relation to the full apprenticeship term,
22 with full credit given for such period toward completion of apprenticeship. The
23 probationary period cannot exceed 25 percent of the length of the program, or 1
24 year, whichever is shorter.

25 (9) Adequate and safe equipment and facilities for training and supervision,
26 and safety training for apprentices on the job and in related instruction.

1 (10)The minimum qualifications required by a sponsor for persons entering the
2 apprenticeship program, with an eligible starting age not less than 16 years.

3 (11)The placement of an apprentice under a written Apprenticeship Agreement
4 that meets the requirements of §10207. The agreement must directly, or by
5 reference, incorporate the standards of the program as part of the agreement.

6 (12)The granting of advanced standing or credit for demonstrated competency,
7 acquired experience, training, or skills for all applicants equally, with
8 commensurate wages for any progression step so granted.

9 (13)The transfer of an apprentice between apprenticeship programs and within
10 an apprenticeship program must be based on agreement between the apprentice and
11 the affected apprenticeship committees or program sponsors, and must comply
12 with the following requirements:

13 (i) The transferring apprentice must be provided a transcript of related
14 instruction and on-the-job learning by the committee or program sponsor;

15 (ii) Transfer must be to the same occupation; and

16 (iii) A new apprenticeship agreement must be executed when the transfer
17 occurs between program sponsors.

18 (14)Assurance of qualified training personnel and adequate supervision on the
19 job.

20 (15)Recognition for successful completion of apprenticeship evidenced by an
21 appropriate certificate issued by the Agency.

22 (16)Program standards that utilize the competency-based or hybrid approach for
23 progression through an apprenticeship and that choose to issue interim credentials
24 must clearly identify the interim credentials, demonstrate how these credentials
25 link to the components of the apprenticeable occupation, and establish the process
26 for assessing an individual apprentice's demonstration of competency associated
27 with the particular interim credential. Further, interim credentials must only be

1 issued for recognized components of an apprenticeable occupation, thereby linking
2 interim credentials specifically to the knowledge, skills, and abilities associated
3 with those components of the apprenticeable occupation.

4 (17) Identification of the Agency.

5 (18) Provision for the registration, cancellation and deregistration of the
6 program; and for the prompt submission of any program standard modification or
7 amendment to the Agency for approval.

8 (19) Provision for registration of apprenticeship agreements, modifications, and
9 amendments; notice to the Agency of persons who have successfully completed
10 apprenticeship programs; and notice of transfers, suspensions, and cancellations of
11 apprenticeship agreements and a statement of the reasons therefore.

12 (20) Authority for the cancellation of an apprenticeship agreement during the
13 probationary period by either party without stated cause; cancellation during the
14 probationary period will not have an adverse impact on the sponsor's completion
15 rate.

16 (21) Compliance with 22 GCA 10, Article 3, including the equal opportunity
17 pledge prescribed in 22 GCA §10303(b); an affirmative action plan complying
18 with 22 GCA §10304; and a method for the selection of apprentices authorized by
19 22 GCA §10306. The apprenticeship standards must also include a statement that
20 the program will be conducted, operated and administered in conformity with
21 applicable provisions of 22 GCA 10, Article 3.

22 (22) Contact information (name, address, telephone number, and e-mail address
23 if appropriate) for the appropriate individual with authority under the program to
24 receive, process and make disposition of complaints.

25 (23) Recording and maintenance of all records concerning apprenticeship as
26 may be required by the Agency and other applicable law.

27 **§10206. Program performance standards.**

1 (a) Every registered apprenticeship program must have at least one registered
2 apprentice, except for the following specified periods of time, which may not
3 exceed 1 year:

4 (1) Between the date when a program is registered and the date of registration
5 for its first apprentice(s); or

6 (2) Between the date that a program graduates an apprentice and the date of
7 registration for the next apprentice(s) in the program.

8 (b) The Agency must evaluate performance of registered apprenticeship programs.

9 (1) The tools and factors to be used must include, but are not limited to:

10 (i) Quality assurance assessments;

11 (ii) Equal Employment Opportunity (EEO) Compliance Reviews; and

12 (iii) Completion rates.

13 (2) Any additional tools and factors used by the Agency in evaluating program
14 performance must adhere to the goals and policies of the Department articulated in
15 this part and in guidance issued by the Office of Apprenticeship.

16 (c) In order to evaluate completion rates, the Agency must review a program's
17 completion rates in comparison to the national average for completion rates. Based
18 on the review, the Agency must provide technical assistance to programs with
19 completion rates lower than the national average.

20 (d) Cancellation of apprenticeship agreements during the probationary period will
21 not have an adverse impact on a sponsor's completion rate.

22 **§10207. Apprenticeship agreement.**

23 The apprenticeship agreement must contain, explicitly or by reference:

24 (a) Names and signatures of the contracting parties (apprentice, and the program
25 sponsor or employer), and the signature of a parent or guardian if the apprentice is
26 a minor.

1 (b) The date of birth and, on a voluntary basis, Social Security number of the
2 apprentice.

3 (c) Contact information of the Program Sponsor and Agency.

4 (d) A statement of the occupation in which the apprentice is to be trained, and the
5 beginning date and term (duration) of apprenticeship.

6 (e) A statement showing:

7 (1) The number of hours to be spent by the apprentice in work on the job in a
8 time-based program; or a description of the skill sets to be attained by completion
9 of a competency-based program, including the on-the-job learning component; or
10 the minimum number of hours to be spent by the apprentice and a description of
11 the skill sets to be attained by completion of hybrid program; and

12 (2) The number of hours to be spent in related instruction in technical subjects
13 related to the occupation, which is recommended to be not less than 144 hours per
14 year.

15 (f) A statement setting forth a schedule of the work processes in the occupation or
16 industry divisions in which the apprentice is to be trained and the approximate time
17 to be spent at each process.

18 (g) A statement of the graduated scale of wages to be paid to the apprentice and
19 whether or not the required related instruction is compensated.

20 (h) Statements providing:

21 (1) For a specific period of probation during which the apprenticeship
22 agreement may be cancelled by either party to the agreement upon written notice to
23 the Agency, without adverse impact on the sponsor.

24 (2) That, after the probationary period, the agreement may be:

25 (i) Cancelled at the request of the apprentice, or

1 (ii) Suspended or cancelled by the sponsor, for good cause, with due notice
2 to the apprentice and a reasonable opportunity for corrective action, and with
3 written notice to the apprentice and to the Agency of the final action taken.

4 (i) A reference incorporating as part of the agreement the standards of the
5 apprenticeship program as they exist on the date of the agreement and as they may
6 be amended during the period of the agreement.

7 (j) A statement that the apprentice will be accorded equal opportunity in all phases
8 of apprenticeship employment and training, without discrimination because of
9 race, color, religion, national origin, or sex.

10 (k) Contact information (name, address, phone, and e-mail if appropriate) of the
11 appropriate authority designated under the program to receive, process and make
12 disposition of controversies or differences arising out of the apprenticeship
13 agreement when the controversies or differences cannot be adjusted locally or
14 resolved in accordance with the established procedure or applicable collective
15 bargaining provisions.

16 **§10208. Deregistration of a registered program.**

17 Deregistration of a program may be effected upon the voluntary action of the
18 sponsor by submitting a request for cancellation of the registration in accordance
19 with paragraph (a) of this section, or upon reasonable cause, by the Agency
20 instituting formal deregistration proceedings in accordance with paragraph (b) of
21 this section.

22 (a) Deregistration at the request of the sponsor. The Agency may cancel the
23 registration of an apprenticeship program by written acknowledgment of such
24 request stating the following:

25 (1) The registration is cancelled at the sponsor's request, and the effective date
26 thereof;

1 (2) That, within 15 days of the date of the acknowledgment, the sponsor will
2 notify all apprentices of such cancellation and the effective date; that such
3 cancellation automatically deprives the apprentice of individual registration; that
4 the deregistration of the program removes the apprentice from coverage for Federal
5 purposes which require the Secretary's approval of an apprenticeship program, and
6 that all apprentices are referred to the Agency for information about potential
7 transfer to other registered apprenticeship programs.

8 (b) Deregistration by the Agency upon reasonable cause.

9 (1)(i) Deregistration proceedings may be undertaken when the apprenticeship
10 program is not conducted, operated, or administered in accordance with the
11 program's registered provisions or with the requirements of this part, including not
12 but limited to: failure to provide on-the-job learning; failure to provide related
13 instruction; failure to pay the apprentice a progressively increasing schedule of
14 wages consistent with the apprentices skills acquired; or persistent and significant
15 failure to perform successfully. Deregistration proceedings for violation of equal
16 opportunity requirements must be processed in accordance with the provisions
17 under 22 GCA 10, Article 3.

18 (ii) For purposes of this section, persistent and significant failure to
19 perform successfully occurs when a program sponsor consistently fails to register
20 at least one apprentice, shows a pattern of poor quality assessment results over a
21 period of several years, demonstrates an ongoing pattern of very low completion
22 rates over a period of several years, or shows no indication of improvement in the
23 areas identified by the Agency during a review process as requiring corrective
24 action.

25 (2) Where it appears the program is not being operated in accordance with the
26 registered standards or with requirements of this part, the Agency must notify the
27 program sponsor in writing.

1 (3) The notice sent to the program sponsor's contact person must:

2 (i) Be sent by registered or certified mail, with return receipt requested;

3 (ii) State the shortcoming(s) and the remedy required; and

4 (iii) State that a determination of reasonable cause for deregistration will be
5 made unless corrective action is effected within 30 days.

6 (4) Upon request by the sponsor for good cause, the 30-day term may be
7 extended for another 30 days. During the period for corrective action, the Agency
8 must assist the sponsor in every reasonable way to achieve conformity.

9 (5) If the required correction is not effected within the allotted time, the
10 Agency must send a notice to the sponsor, by registered or certified mail, return
11 receipt requested, stating the following:

12 (i) The notice is sent under this paragraph;

13 (ii) Certain deficiencies were called to the sponsor's attention (enumerating
14 them and the remedial measures requested, with the dates of such occasions and
15 letters), and that the sponsor has failed or refused to effect correction;

16 (iii) Based upon the stated deficiencies and failure to remedy them, a
17 determination has been made that there is reasonable cause to deregister the
18 program and the program may be deregistered unless, within 15 days of the receipt
19 of this notice, the sponsor requests a hearing with the Agency; and

20 (iv) If the sponsor does not request a hearing, the entire matter will be
21 submitted to the Administrator, for a decision on the record with respect to
22 deregistration.

23 (6) If the sponsor does not request a hearing, the Agency will transmit to the
24 Administrator a report containing all pertinent facts and circumstances concerning
25 the nonconformity, including the findings and recommendation for deregistration,
26 and copies of all relevant documents and records. Statements concerning
27 interviews, meetings and conferences will include the time, date, place, and

1 persons present. The Administrator will make a final order on the basis of the
2 record presented.

3 (7) If the sponsor requests a hearing, the Agency shall prepare and transmit to
4 the Administrator a report containing all the data listed in paragraph (b)(6) of this
5 section, and the Administrator will refer the matter to the Office of Administrative
6 Law Judges. An Administrative Law Judge will convene a hearing in accordance
7 with §10210, and issue a decision as required in §10210(c).

8 (8) Every order of deregistration must contain a provision that the sponsor
9 must, within 15 days of the effective date of the order, notify all registered
10 apprentices of the deregistration of the program; the effective date thereof; that
11 such cancellation automatically deprives the apprentice of individual registration;
12 that the deregistration removes the apprentice from coverage for Federal purposes
13 which require the Director's approval of an apprenticeship program; and that all
14 apprentices are referred to the Agency for information about potential transfer to
15 other registered apprenticeship programs.

16 **§10209. Reinstatement of program registration.**

17 Any apprenticeship program deregistered under §10208 may be reinstated upon
18 presentation of adequate evidence that the apprenticeship program is operating in
19 accordance with this part. Such evidence must be presented to the Agency.

20 **§10210. Hearings for deregistration.**

21 (a) Within 10 days of receipt of a request for a hearing, the Administrator of the
22 Office of Apprenticeship must contact the Office of Administrative Law Judges to
23 request the designation of an Administrative Law Judge to preside over the
24 hearing. The Administrative Law Judge shall give reasonable notice of such
25 hearing by registered mail, return receipt requested, to the appropriate sponsor.
26 Such notice will include:

27 (1) A reasonable time and place of hearing;

1 (2) A statement of the provisions of this part pursuant to which the hearing is
2 to be held; and

3 (3) A concise statement of the matters pursuant to which the action forming the
4 basis of the hearing is proposed to be taken.

5 (b) The procedures contained in 29 CFR part 18 will apply to the disposition of the
6 request for hearing except that:

7 (1) The Administrative Law Judge will receive, and make part of the record,
8 documentary evidence offered by any party and accepted at the hearing. Copies
9 thereof will be made available by the party submitting the documentary evidence
10 to any party to the hearing upon request.

11 (2) Technical rules of evidence will not apply to hearings conducted pursuant
12 to this part, but rules or principles designed to assure production of the most
13 credible evidence available and to subject testimony to test by cross-examination
14 will be applied, where reasonably necessary, by the hearing conducting the
15 hearing. The hearing officer may exclude irrelevant, immaterial, or unduly
16 repetitious evidence.

17 (c) The Administrative Law Judge should issue a written decision within 90 days
18 of the close of the hearing record. The Administrative Law Judge's decision
19 constitutes final agency action unless, within 15 days from receipt of the decision,
20 a party dissatisfied with the decision files a petition for judicial review with the
21 Administrative Review Board, specifically identifying the procedure, fact, law or
22 policy to which exception is taken. Any exception not specifically urged is
23 deemed to have been waived. A copy of the petition for judicial review must be
24 sent to the opposing party at the same time. Thereafter, the decision of the
25 Administrative Law Judge remains final agency action unless the Administrative
26 Review Board, within 30 days of the filing of the petition for review, notifies the
27 parties that it has accepted the case for review. The Administrative Review Board

1 may set a briefing schedule or decide the matter on the record. The Administrative
2 Review Board must decide any case it accepts for judicial review within 180 days
3 of the close of the record. If not so decided, the Administrative Law Judge's
4 decision constitutes final agency action.

5 **§10211. Limitations.**

6 Nothing in this part or in any apprenticeship agreement will operate to invalidate:

7 (a) Any apprenticeship provision in any collective bargaining agreement
8 between employers and employees establishing higher apprenticeship standards; or

9 (b) Any special provision for veterans, minority persons, or women in the
10 standards, apprentice qualifications or operation of the program, or in the
11 apprenticeship agreement, which is not otherwise prohibited by law, Executive
12 Order, or authorized regulation.

13 **§10212. Complaints.**

14 (a) This section is not applicable to any complaint concerning discrimination or
15 other equal opportunity matters; all such complaints must be submitted, processed
16 and resolved in accordance with applicable provisions in 22 GCA 10, Article 3.

17 (b) Except for matters described in paragraph (a) of this section, any controversy or
18 difference arising under an apprenticeship agreement which cannot be adjusted
19 locally and which is not covered by a collective bargaining agreement, may be
20 submitted by an apprentice, or the apprentice's authorized representative, to the
21 Agency, which has registered and/or approved the program in which the apprentice
22 is enrolled, for review. Matters covered by a collective bargaining agreement are
23 not subject to such review.

24 (c) The complaint must be in writing and signed by the complainant, or authorized
25 representative, and must be submitted within 60 days of the final decision. It must
26 set forth the specific matter(s) complained of, together with relevant facts and

1 circumstances. Copies of pertinent documents and correspondence must
2 accompany the complaint.

3 (d) The Agency as appropriate will render an opinion within 90 days after receipt
4 of the complaint, based upon such investigation of the matters submitted as may be
5 found necessary, and the record before it. During the 90-day period, the Agency
6 will make reasonable efforts to effect a satisfactory resolution between the parties
7 involved. If so resolved, the parties will be notified that the case is closed. Where
8 an opinion is rendered, copies will be sent to all interested parties.

9 (e) Nothing in this section precludes an apprentice from pursuing any other remedy
10 authorized under another Federal, State, or local law.

11 **§10213. Reciprocity.**

12 The Agency will accord reciprocal approval for Federal purposes to apprentices,
13 apprenticeship programs and standards that are registered in other States by the
14 Office of Apprenticeship (OA) or a State Apprenticeship Agency recognized by
15 OA, if such reciprocity is requested by the apprenticeship program sponsor.
16 Program sponsors seeking reciprocal approval must meet the wage and hour
17 provisions and apprentice ratio standards of the reciprocal State.

18 **Division 1**

19 **Labor Regulations**

20 **CHAPTER 10**

21 **THE APPRENTICESHIP ACT OF GUAM**

22 **ARTICLE 3**

23 **GUAM STATE PLAN FOR EQUAL EMPLOYMENT OPPORTUNITY IN**
24 **APPRENTICESHIP AND TRAINING**

25 §10301. Scope and purpose

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- 3 §10306. Selection of apprentices
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- 17 §10319. Retaliatory acts or intimidation
- 18 §10320. Nondiscrimination
- 19 §10321. Exemptions
- 20 §10322. Hearings
- 21 **§10301. Scope and Purpose.** This plan sets forth policies and procedures to
- 22 promote equality of opportunity in apprenticeship programs registered with the
- 23 *Guam Department of Labor, Division of Apprenticeship.* These policies and
- 24 procedures apply to the recruitment and selection of apprentices, and to all
- 25 conditions of employment and training during apprenticeship. The procedures
- 26 established provide for review of apprenticeship programs, for registering
- 27 apprenticeship programs, for processing complaints, and for deregistering non-

1 complying apprenticeship programs. The purpose of this plan is to promote
2 equality of opportunity in apprenticeship by prohibiting discrimination based on
3 race, color, religion, national origin, or sex in apprenticeship programs, by
4 requiring affirmative action to provide equal opportunity in such apprenticeship
5 programs, and by coordinating this plan with other equal opportunity programs.
6 The U.S. Department of Labor has the authority to conduct compliance reviews
7 and complaint investigations to determine whether this plan is administered in
8 accordance with federal regulations.

9 **§10302. Definitions.** As used in this plan:

10 *Agency means the Guam Department of Labor, Division of Apprenticeship.*

11 *Apprenticeship Program means a plan containing all terms and conditions for the*
12 *qualification, recruitment, selection, employment and training of apprentices, as*
13 *required under 22 GCA 10, Article 2, Guam Labor Standards for the Registration*
14 *of Apprenticeship Programs, and Article 3, Guam State Plan for Equal*
15 *Employment Opportunity in Apprenticeship Programs, including such matters as*
16 *the requirement for a written apprenticeship agreement.*

17 *Department means U.S. Department of Labor, Employment and Training*
18 *Administration, Office of Apprenticeship.*

19 *Employer means any person or organization employing an apprentice whether or*
20 *not such person or organization is a party to an Apprenticeship Agreement with the*
21 *apprentice.*

22 *Guam State Apprenticeship Council (GSAC) is an entity established to assist the*
23 *Agency. The Guam State Apprenticeship Council provides advice and guidance to*
24 *the Agency on the operation of the State's apprenticeship system.*

25 *Sponsor means any person, association, committee, or organization operating an*
26 *apprenticeship program and in whose name the program is (or is to be) registered*
27 *or approved.*

1 **§10303. Equal Opportunity Standards.**

2 (a) *Obligations of sponsors.* Each sponsor of an apprenticeship program shall:

3 (1) Recruit, select, employ, and train apprentices during their apprenticeship,
4 without discrimination because of race, color, religion, national origin, or sex; and,

5 (2) Uniformly apply rules and regulations concerning apprentices,
6 including but not limited to, equality of wages, periodic advancement, promotion,
7 assignment of work, job performance, rotation among all work processes of the
8 trade, imposition of penalties or other disciplinary action, and all other aspects of
9 the apprenticeship program administration by the program sponsor; and,

10 (3) Take affirmative action to provide equal opportunity in apprenticeship,
11 including adoption of an affirmative action plan as required by this plan.

12 (4) The Sponsor will provide equal employment opportunity in
13 apprenticeship, and the apprenticeship program shall be operated as required under
14 22 Guam Code Annotated (GCA) 10, Article 2.

15 (b) *Equal opportunity pledge.* Each sponsor of an apprenticeship program shall
16 include in its standards the following equal opportunity pledge: "***The recruitment,***
17 ***selection, employment, and training of apprentices during their apprenticeship,***
18 ***shall be without discrimination because of*** race, color, religion, national origin, or
19 sex. ***The sponsor will take affirmative action to provide equal opportunity in***
20 ***apprenticeship and will operate the apprenticeship program as required under 22***
21 ***GCA 10, Article 3.***"

22 (c) *Programs presently registered.* Each sponsor of a program registered with
23 the Agency as of the effective date of this plan shall within 90 days of the effective
24 date take the following action:

25 (1) Include in the standards of its apprenticeship program the equal
26 opportunity pledge prescribed in subsection (b); of this section;

27 (2) Adopt an affirmative action plan required by §10304; and

1 (3) Adopt a selection procedure required by §10306. A sponsor adopting a
2 selection method under §10307, 10308 or 10309 shall prepare, and have available
3 for submission upon request, copies of its amended standards, affirmative action
4 plans, and selection procedure. A sponsor adopting a selection method under
5 §10310 shall submit to the Agency copies of its standards, affirmative action plan
6 and selection procedure in accordance with the requirements of that section.

7 (d) *Sponsors seeking new registration.* A sponsor of a program seeking new
8 registration with the Agency shall submit copies of its proposed standards,
9 affirmative action plan, selection procedures, under control number 1205-0224 [43
10 FR 20760, May 12, 1978, as amended at 49 FR information as may be required].
11 The program shall be registered if such standards, affirmative action plan, and
12 selection procedure meet the requirements of this plan.

13 (e) *Programs subject to approved equal employment opportunity programs.* A
14 sponsor shall not be required to adopt an affirmative action plan under §10304 or a
15 selection procedure under §10306 if it submits to the Agency satisfactory evidence
16 that it is in compliance with an equal employment opportunity program providing
17 for the selection of apprentices and for affirmative action in apprenticeship
18 including goals and timetables for women and minorities which has been approved
19 as meeting the requirements of Title VII of the Civil Rights Act of 1964, as
20 amended and its implementing regulations published in 29 CFR, Chapter XIV
21 (Equal Employment Opportunity Commission Rules and Regulations) or
22 Executive Order 11246, as amended, and its implementing regulations of 41 CFR,
23 Chapter 60. Provided, that programs approved, modified or renewed subsequent to
24 the effective date of this amendment will qualify for this exception only if the
25 goals and timetables for minorities and women for the selection of apprentices
26 provided for in such programs are equal to or greater than the goals required under
27 this plan.

1 (f) *Program with fewer than five apprentices.* A sponsor of a program in which
2 fewer than five apprentices are indentured shall not be required to adopt an
3 affirmative action plan under §10304 or a selection procedure under §10306,
4 provided that such a program was not adopted to circumvent the requirements of
5 this plan.

6 **§10304. Affirmative Action Plans.**

7 (a) *Adoption of affirmative action plans.* A sponsor's commitment to equal
8 opportunity in the recruitment, selection, employment, and training of apprentices
9 shall include the adoption of a written affirmative action plan.

10 (b) *Definition of affirmative action.* Affirmative action is not mere passive
11 nondiscrimination. It includes procedures, methods, and programs for the
12 identification, positive recruitment, training, and motivation of present and
13 potential minority and female (minority and nonminority) apprentices, including
14 the establishment of goals and timetables. It is action which will equalize
15 opportunity in apprenticeship so as to allow full utilization of the work potential of
16 minorities and women. The overall result to be sought is equal opportunity in
17 apprenticeship for all individuals participating in or seeking entrance to the
18 Nation's labor force.

19 (c) *Outreach and positive recruitment.* An acceptable affirmative action plan
20 must also include adequate provision for outreach and positive recruitment that
21 would reasonably be expected to increase minority and female participation in
22 apprenticeship by expanding the opportunity of minorities and women to become
23 eligible for apprenticeship selection. In order to achieve these objectives, sponsors
24 shall undertake activities such as those listed below. It is not contemplated that
25 each sponsor necessarily will include all the listed activities in its affirmative
26 action program. The scope of the affirmative action program will depend on all the
27 circumstances including the size and type of the program and its resources.

1 However, the sponsor shall be required to undertake a significant number of
2 appropriate activities in order to enable it to meet its obligations under this plan.
3 The affirmative action plan shall set forth the specific steps the sponsor intends to
4 take in the areas listed below. Whenever special circumstances warrant, the
5 Agency may provide such financial or other assistance as it deems necessary to
6 implement the requirements of this paragraph.

7 (1) Dissemination of information concerning the nature of the
8 apprenticeship, requirements for admission to apprenticeship, availability of
9 apprenticeship opportunities, sources of apprenticeship applications, and the equal
10 opportunity policy of the sponsor. For programs accepting applications only at
11 specific intervals, such information shall be disseminated at least 30 days in
12 advance of the earliest date for application at each interval. For programs
13 customarily receiving applications throughout the year, such information shall be
14 regularly disseminated but not less than semiannually. Such information shall be
15 given to the Agency, local schools, employment service offices, women's centers,
16 outreach programs, and community organizations which can effectively reach
17 minorities and women, and shall be published in newspapers which are circulated
18 in the minority community and among women, as well as in the general areas in
19 which the program sponsor operates.

20 (2) Participation in annual workshops conducted by the Agency's One Stop
21 Career Center and the Agency's quarterly labor clinics for the purpose of
22 familiarizing school, employment service, and other appropriate personnel with the
23 apprenticeship system and current opportunities therein;

24 (3) Cooperation with the state department of education, local school boards
25 and vocational education systems Guam Department of Education, the local school
26 board and the Guam Community College to develop programs for preparing

1 students to meet the standards and criteria required to qualify for entry into
2 apprenticeship programs.

3 (4) Internal communication of the sponsor's equal opportunity policy in
4 such a manner as to foster understanding, acceptance, and support among the
5 sponsor's various officers, supervisors, employees, and members and to encourage
6 such persons to take the necessary action to aid the sponsor in meeting its
7 obligations under this plan.

8 (5) Engaging in programs such as outreach for the positive recruitment and
9 preparation of potential applicants for apprenticeships; where appropriate and
10 feasible, such programs shall provide for pretesting experience and training. If no
11 such programs are in existence, the sponsor shall seek to initiate these programs,
12 or, when available, to obtain financial assistance from the Agency. In initiating
13 and conducting these programs, the sponsor may be required to work with other
14 sponsors and appropriate community organizations. The sponsor shall also initiate
15 programs to prepare women and encourage women to enter traditionally male
16 programs.

17 (6) To encourage the establishment and utilization of programs of pre-
18 apprenticeship, preparatory trade training, or others designed to afford related work
19 experience or to prepare candidates for apprenticeship, a sponsor shall make
20 appropriate provision in its affirmative action plan to assure that those who
21 complete such programs are afforded full and equal opportunity for admission into
22 the apprenticeship program.

23 (7) Utilization of journeypersons to assist in the implementation of the
24 sponsor's affirmative action program.

25 (8) Granting advance standing or credit on the basis of previously acquired
26 experience, training, skills, or aptitude for all applicants equally.

1 (9) Admitting to apprenticeship, persons whose age exceeds the maximum
2 age for admission to the program, where such action assists the sponsor in
3 achieving its affirmative action obligations.

4 (10) Other appropriate action to ensure that the recruitment, selection,
5 employment, and training of apprentices during apprenticeship shall be without
6 discrimination because of race, color, religion, national origin, and sex (e.g.,
7 general publication of apprenticeship opportunities and advantages in
8 advertisements, industry reports, articles, etc.; use of present minority and female
9 apprentices and journeypersons as recruiters; career counseling; periodic auditing
10 of affirmative action programs and activities; and development of reasonable
11 procedures between the sponsor and employers of apprentices to ensure that
12 employment opportunity is being granted, including reporting systems, on-site
13 reviews, briefing sessions, etc.). The affirmative action program shall set forth
14 the specific steps the sponsor intends to take, in the above areas, under this
15 paragraph (c). Whenever special circumstances warrant, the Agency may provide
16 such financial or other assistance as it deems necessary to implement the above
17 requirements.

18 **§10305. Goals and timetables.**

19 (a) The following shall apply in the establishment of goals and timetables:

20 (1) A sponsor adopting a selection method under §10307 or 10308, which
21 determines on the basis of the analysis described in subsection (b) that it has
22 deficiencies in terms of underutilization of minorities and/or women (minority and
23 nonminority), in the craft or crafts represented by the program shall include in its
24 affirmative action plan percentage goals and timetables for the admission of
25 minority and/or female (minority and nonminority) applicants, into the eligibility
26 pool.

1 (2) A sponsor adopting a selection method under §10309 or 10310, which
2 determines on the basis of the analysis described in subsection (b) that it has
3 deficiencies in terms of the underutilization of minorities and/or women, in the
4 craft or crafts represented by the program shall include in its affirmative action
5 plan percentage goals and timetables for the selection of minority and female
6 (minority and nonminority) applicants for the apprenticeship program.

7 (3) "Underutilization" as used in this plan refers to the situation where
8 there are fewer minorities and/or women (minority and nonminority) in the
9 particular craft or crafts represented by the program than would reasonably be
10 expected in view of an analysis of the specific factors in subsection (b). Where, on
11 the basis of the analysis, the sponsor determines that it has no deficiencies, no
12 goals and timetables need be established. However, where no goals and timetables
13 are established, the affirmative action plan shall include a detailed explanation why
14 no goals and timetables have been established.

15 (4) Where the sponsor fails to submit goals and timetables as part of its
16 affirmative action plan or submits goals and timetables which are unacceptable,
17 and the Agency determines that the sponsor has deficiencies in terms of
18 underutilization of minorities and/or women (minority and nonminority) within the
19 meaning of this section, the Agency shall establish goals and timetables applicable
20 to the sponsor for the admission of minority and female (minority and
21 nonminority) applicants into the eligibility pool or selection of apprentices, as
22 appropriate. The sponsor shall make good faith efforts to attain these goals and
23 timetables in accordance with the requirements of §10304 and 10305.

24 (b) *Analysis to determine if deficiencies exist.* The sponsor's determination as to
25 whether goals and timetables shall be established, shall be based on an analysis of
26 at least the following factors, which analysis shall be set forth in writing as part of
27 the affirmative action plan:

1 (1) The size of the working age minority and female (minority and
2 nonminority) population in the program sponsor's labor market area;

3 (2) The size of the minority and female (minority and nonminority) labor
4 force in the program sponsor's labor market area;

5 (3) The percentage of minority and female (minority and nonminority)
6 participation as apprentices in the particular craft as compared with the percentage
7 of minorities and women (minority and nonminority) in the labor force in the
8 program sponsor's labor market area;

9 (4) The percentage of minority and female (minority and nonminority)
10 participation as journeypersons employed by the employer or employers
11 participating in the program as compared with the percentage of minorities and
12 women (minority and nonminority) in the sponsor's labor market area and the
13 extent to which the sponsor should be expected to correct any deficiencies through
14 the achievement of goals and timetables for the selection of apprentices; and,

15 (5) The general availability of minorities and women (minority and
16 nonminority) with present or potential capacity for apprenticeship in the program
17 sponsor's labor market area.

18 (c) *Establishment and attainment of goals and timetables.* The goals and
19 timetables shall be established on the basis of the sponsor's analyses of its
20 underutilization of minorities and women and its entire affirmative action program.
21 A single goal for minorities and a separate single goal for women is acceptable
22 unless a particular group is employed in a substantially disparate manner in which
23 case separate goals shall be established for such group. Such separate goals would
24 be required, for example, if a specific minority group of women were underutilized
25 even though the sponsor had achieved its standards for women generally. In
26 establishing the goals, the sponsor should consider the results which could be
27 reasonably expected from its good faith efforts to make its overall affirmative

1 action program work. Compliance with these requirements shall be determined by
2 whether the sponsor has met its goals within its timetables, or failing that, whether
3 it has made good faith efforts to meet its goals and timetables. Its "good faith
4 efforts" shall be judged by whether it is following its affirmative action program
5 and attempting to make it work, including evaluation and changes in its program
6 where necessary to obtain the maximum effectiveness toward the attainment of its
7 goals.

8 (d) Data and Information. The Agency shall make available to program
9 sponsors data and information on minority and female (minority and nonminority)
10 labor force characteristics for the Territory of Guam.

11 **§10306. Selection of Apprentices.**

12 (a) *Obligations of sponsors*. In addition to the development of a written
13 affirmative action plan to ensure that minorities and women have an equal
14 opportunity for selection as apprentices and otherwise ensure the prompt
15 achievement of full and equal opportunity in apprenticeship, each sponsor shall
16 further provide in its affirmative action program that the selection of apprentices
17 shall be made under one of the methods specified in §10307, 10308, 10309, or
18 10310.

19 (b) *Selection methods*. The sponsor shall adopt one of the following methods
20 for selecting apprentices:

21 **§10307. Selection on basis of rank from pool of eligible applicants.**

22 (a) *Selection*. A sponsor may select apprentices from a pool of eligible
23 applicants created in accordance with the requirements of subsection (e) of this on
24 the basis of the rank order of scores of applicants on one or more qualification
25 standards where there is a significant statistical relationship between rank order of
26 scores and performance in the apprenticeship program. In demonstrating such

1 relationship, the sponsor shall follow the procedures set forth in Guidelines on
2 Employee Selection Procedures published in 41 CFR, Part 60-3;

3 (b) *Requirements.* The sponsor adopting this method of selecting apprentices
4 shall meet the requirements of subsections (c) through (g);

5 (c) *Creation of Pool of eligibles.* A pool of eligibles shall be created from
6 applicants who meet the qualifications of minimum legal working age; or from
7 applicants who meet qualification standards in addition to minimum legal working
8 age, provided that any additional qualification standards conform with the
9 following requirements:

10 (1) *Qualification standards.* The qualification standards, and the procedures
11 for determining such qualification standards, shall be stated in detail and shall
12 provide criteria for the specific factors and attributes to be considered in evaluating
13 applicants for admission to the pool. The score required under each qualification
14 standard for admission to the pool shall also be specified. All qualification
15 standards, and the score required on any standard for admission to the pool, shall
16 be directly related to job performance, as shown by a significant statistical
17 relationship between the score required for admission to the pool, and performance
18 in the apprenticeship program. In demonstrating such relationship, the sponsor
19 shall follow the procedures set forth in 41 CFR, Part 60-3. Qualifications shall be
20 considered as separately required so that the failure of an applicant to attain the
21 specified score under a single qualification standard shall disqualify the applicant
22 from admission to the pool.

23 (2) *Aptitude tests.* Any qualification standard for admission to the pool
24 consisting of aptitude test scores shall be directly related to job performance, as
25 shown by significant statistical relationships between the score on the aptitude tests
26 required for admission to the pool, and performance in the apprenticeship program.
27 In determining such relationship, the sponsor shall follow the procedures set forth

1 in 41 CFR, Part 60-3. The requirements of this paragraph shall also be applicable
2 to aptitude tests utilized by a program sponsor which are administered by the state
3 employment agency or any other person, agency, or organization engaged in the
4 selection or evaluation of personnel. A national test developed and administered
5 by a national joint apprenticeship committee shall not be approved by the Agency
6 unless such test meets the requirements of this paragraph.

7 (3) *Educational attainments.* All educational attainments or achievements as
8 qualifications for admission to the pool shall be directly related to job performance
9 as shown by a significant statistical relationship between the score required for
10 admission to the pool and performance in the apprenticeship program. In
11 demonstrating such relationship, the sponsor shall meet the requirements of 41
12 CFR, Part 60-3. School records or a passing grade on the general education
13 development tests recognized by the Guam Department of Education, the Guam
14 Community College or the University of Guam shall be evidence of educational
15 achievement. Education requirements shall be applied uniformly to all applicants.

16 (d) *Oral interviews.* Oral interviews shall not be used as a qualification standard
17 for admission into an eligibility pool. However, once an applicant is placed in the
18 eligibility pool, and prior to selection for apprenticeship from the pool, he or she
19 may be required to submit to an oral interview. Oral interviews shall be limited to
20 such objective questions as may be required to determine the fitness of applicants
21 to enter the apprenticeship program, but shall not include questions relating to
22 qualifications previously determined in gaining entrance to the eligibility pool.
23 When an oral interview is used, each interviewer shall record the questions and the
24 general nature of the applicant's answers, and shall prepare a summary of any
25 conclusions. Each applicant rejected from the pool of eligibles on the basis of an
26 oral interview shall be given a written statement of such rejection, the reasons
27 therefore, and the appeal rights available to the applicant;

1 (e) *Notification of applicants.* All applicants who meet the requirements for
2 admission shall be notified and placed in the eligibility pool. The program sponsor
3 shall give each rejected applicant who is not selected for the pool or the program
4 notice of his or her rejection, including the reasons for the rejection, the
5 requirements for admission to the pool of eligibles, and the appeal rights available
6 to the applicant.

7 (f) *Goals and timetables.* The sponsor shall establish where required by
8 §10305, percentage goals and timetables for the admission of minorities and
9 women (minority and nonminority) into the pool of eligibles, in accordance with
10 the provisions of §10305 (a), (b) and (c);

11 (g) *Compliance.* A sponsor shall be deemed to be in compliance with its
12 commitments under subsection (f) if it meets its goals or timetables or if it makes a
13 good faith effort to meet these goals and timetables. In the event of the failure of
14 the sponsor to meet its goals and timetables, it shall be given an opportunity to
15 demonstrate that it has made every "good faith effort" to meet its commitments
16 (see §10305 (c)). All the actions of the sponsor shall be reviewed and evaluated in
17 determining whether such good faith efforts have been made.

18 **§10308. Random selection from pool of eligible applicants.**

19 (a) *Selection.* A sponsor may select apprentices from a pool of eligible
20 applicants on a random basis. The method of random selection is subject to
21 approval by the Agency. Supervision of the random selection process shall be by
22 an impartial person or persons selected by the sponsor, but not associated with the
23 administration of the apprenticeship program. The time and place of the selection,
24 and the number of apprentices to be selected, shall be announced. The place of the
25 selection shall be open to all applicants and the public. The names of apprentices
26 drawn by this method shall be posted immediately following the selection at the
27 program sponsor's place of business.

1 (b) *Requirements.* The sponsor adopting this method of selecting apprentices
2 shall meet the requirements of §10307(c) through (e) of the plan relating to the
3 creation of pool of eligibles, oral interviews, and notification of applicants.

4 (c) *Goals and timetables.* The sponsor shall establish, where required by
5 §10305, percentage goals and timetables for the admission of minorities and
6 women (minority and nonminority) into the pool of eligibles in accordance with
7 the provisions of that §10305.

8 (d) *Compliance.* Determinations as to the sponsor's compliance with its
9 obligations under these regulations shall be in accordance with the provisions of
10 §10307(g).

11 **§10309. Selection from pool of current employees.**

12 (a) *Selection.* A sponsor may select apprentices from an eligibility pool of the
13 workers already employed by the program sponsor in a manner prescribed by a
14 collective bargaining agreement where such exists, or by the sponsor's established
15 promotion policy. The sponsor adopting this method of selecting apprentices shall
16 establish goals and timetables for the selection of minority and female apprentices,
17 unless the sponsor concludes, in accordance with the provisions of §10305 that it
18 does not have deficiencies in terms of underutilization of minorities and/or women
19 (minority and nonminority) in the apprenticeship of journeyperson crafts
20 represented by the program.

21 (b) *Compliance.* Determinations as to the sponsor's compliance with its
22 obligations under these regulations shall be in accordance with the provisions of
23 §10307(g).

24 **§10310. Alternative selection methods.**

25 (a) *Selection.* A sponsor may select apprentices by means of any other method
26 including its present selection method provided that the sponsor meets the
27 following requirements:

1 (1) *Selection method and goals and timetables.* The sponsor shall
2 *complete development of the* selection method it proposes to use along with the rest
3 of its written affirmative action program including, where required §10305 its
4 percentage goals and timetables for the selection of minority and/or female
5 (minority and nonminority) applicants for apprenticeship and its written analysis,
6 upon which such goals and timetables, or lack thereof, are based. The
7 establishment of goals and timetables shall be in accordance with the provisions of
8 §10305(a), (b) and (c). The sponsor may not implement any such selection method
9 until the Agency has approved the selection method as meeting the requirements of
10 this plan and has approved the remainder of its affirmative action program
11 including its goals and timetables. If the Agency fails to act upon the selection
12 method and the affirmative action program within thirty days (30) of its
13 submission, the sponsor then may implement the selection method.

14 (2) *Qualification standards.* Apprentices shall be selected on the basis of
15 objective and specific qualification standards. Examples of such standards are fair
16 aptitude tests, school diplomas or equivalent, occupationally essential health
17 requirements, fair interviews, school grades, and previous work experience.
18 Where interviews are used, adequate records shall be kept including a brief
19 summary of each interview and the conclusions on each of the specific factors,
20 e.g., motivation, ambition, and willingness to accept direction which are part of the
21 total judgment. In applying any such standards, the sponsor shall meet the
22 requirements of 41 CFR Part 60-3.

23 (b) *Compliance.* Determinations as to the sponsor's compliance with its
24 obligations under this plan shall be in accordance with the provisions of §10307(g).
25 Where a sponsor, despite its good faith efforts, fails to meet its goals and
26 timetables within a reasonable period of time, the sponsor may be required to make
27 appropriate changes in its affirmative action program to the extent necessary to

1 obtain maximum effectiveness toward the attainment of its goals. The sponsor
2 may also be required to develop and adopt an alternative selection method,
3 including a method prescribed by the Agency, where it is determined that the
4 failure of the sponsor to meet its goals is attributable in substantial part to the
5 selection method. Where the sponsor's failure to meet its goals is attributable in
6 substantial part to its use of a qualification standard which has adversely affected
7 the opportunities of minorities and/or women (minority and nonminority) for
8 apprenticeship, the sponsor may be required to demonstrate that such qualification
9 standard is directly related to job performance, in accordance with the provisions
10 of §10307(c) (1) of this subsection.

11 **§10311. Existing List of Eligibles and Public Notice.**

12 (a) A sponsor adopting a selection method under §10307 or §10308 and a
13 sponsor adopting a selection method under §10310 who determines that there are
14 fewer minorities and/or women (minority and nonminority) on its existing lists of
15 eligibles than would reasonably be expected in view of the analysis described in
16 §10304 shall discard all existing eligibility lists upon adoption of the selection
17 methods required by this plan. New eligibility pools shall be established and lists
18 of eligibility pools shall be posted at the sponsor's place of business. Sponsors
19 shall establish a reasonable period of not less than two (2) weeks for accepting
20 applications for admission to an apprenticeship program. There shall be at least
21 thirty (30) days of public notice in advance of the earliest date for application for
22 admission to the apprenticeship program (see §10304(c) on affirmative action with
23 respect to dissemination of information).

24 (b) Applicants who have been placed in a pool of eligibles shall be retained on
25 lists of eligibles subject to selection for a period of two (2) years. Applicants may
26 be removed from the list at an earlier date by their request or following their failure

1 to respond to an apprentice job opportunity given by certified mail, return receipt
2 requested.

3 (c) Applicants who have been accepted in the program shall be afforded a
4 reasonable period of time in light of the customs and practices of the industry for
5 reporting for work. All applicants shall be treated equally in determining such
6 period of time. It shall be the responsibility of the applicant to keep the sponsor
7 informed of his or her current mailing address. Upon request, a sponsor may
8 restore to the list of eligible applicants who have been removed from the list or
9 who have failed to respond to an apprenticeship job opportunity.

10 **§10312. Records.**

11 (a) Obligations of sponsors. Each sponsor shall keep adequate records for a
12 period of five (5) years, including:

- 13 (1) A summary of the qualifications of each applicant;
- 14 (2) Basis for evaluation and for selection or rejection of each applicant;
- 15 (3) Records pertaining to interviews of applicants;
- 16 (4) The original application for each applicant;
- 17 (5) Information relative to the operation of the apprenticeship program,
18 including but not limited to job assignment, promotion, demotion, layoff,
19 termination, rates of pay, or other forms of compensation or conditions of work,
20 hours including hours of work, and, separately, hours of training provided; and,
- 21 (6) Any other records pertinent to a determination of compliance with this
22 plan, as may be required by the Agency.
- 23 (7) The records pertaining to individual applicants, selected or rejected,
24 shall be maintained in such manner as to permit identification of minority and
25 female (minority and nonminority) participants.

26 (b) *Affirmative action plans.* Each sponsor must retain a statement of its
27 affirmative action plan required by §10304 for the prompt achievement of full and

1 equal opportunity in apprenticeship, including all data and analyses made pursuant
2 to the requirements of §10304. Sponsors shall review their affirmative action plans
3 annually and update them where necessary, including the goals and timetables.

4 (c) *Qualification standards.* Each sponsor shall maintain evidence that its
5 qualification standards have been validated in accordance with the requirements set
6 forth in §10306(b).

7 (d) *Records.* The Agency shall keep adequate records, including registration
8 requirements, individual program standards and registration records, program
9 compliance reviews and investigations, and any other records pertinent to a
10 determination of compliance with this plan.

11 (e) *Maintenance of records.* The records required by this plan and any other
12 information relevant to compliance with these regulations shall be maintained for
13 five (5) years and made available upon request to the Agency or other authorized
14 representative.

15 **§10313. Compliance reviews.**

16 (a) *Conduct of compliance reviews.* The Agency shall regularly conduct
17 systematic reviews of apprenticeship programs in order to determine the extent to
18 which sponsors are complying with this plan and will also conduct compliance
19 reviews when circumstances, including receipt of complaints not referred to a
20 private review body pursuant to §10315(b)(1)(i), so warrant, and take appropriate
21 action regarding programs which are not in compliance with the requirements of
22 this plan. Compliance reviews will consist of comprehensive analyses and
23 evaluations of each aspect of the apprenticeship program, including on-site
24 investigations and audits.

25 (b) *Reregistration.* Sponsors seeking reregistration shall be subject to a
26 compliance review as described in subsection (a), by the Agency as part of the
27 reregistration process.

1 (c) *New Registration.* Sponsors seeking new registration shall be subject to a
2 compliance review as described in subsection (a) by the Agency as part of the new
3 registration process.

4 (d) *Voluntary compliance.* Where the compliance review indicates that the
5 sponsor is not operating in accordance with this plan, the Agency shall notify the
6 sponsor in writing of the results of the review and make a reasonable effort to
7 secure voluntary compliance on the part of the program sponsor within a
8 reasonable time before undertaking sanctions under §10317. In the case of
9 sponsors seeking new registration, the Agency will provide appropriate
10 recommendations to the sponsor to enable it to achieve compliance for registration
11 purposes.

12 **§10314. Noncompliance with Federal and State Equal Opportunity**
13 **Requirements.**

14 A pattern or practice of noncompliance by a sponsor (or where the sponsor is
15 a joint apprenticeship committee, by one of the parties represented on such
16 committee) with Federal or state laws or regulations requiring equal opportunity
17 may be grounds for the imposition of sanctions in accordance with §10317 if such
18 noncompliance is related to the equal employment opportunity of apprentices
19 and/or graduates of such an apprenticeship program under this plan. The sponsor
20 shall take affirmative steps to assist and cooperate with employers and unions in
21 fulfilling their equal employment opportunity obligations.

22 **§10315. Complaint procedure.**

23 (a) *Filing.* (1) Any apprentice or applicant for apprenticeship who believes
24 that he or she has been discriminated against on the basis of race, color, religion,
25 national origin, or sex with regard to apprenticeship or that the equal opportunity
26 standards with respect to his or her selection have not been followed in the
27 operation of an apprenticeship program may, personally or through an authorized

1 representative, file a complaint with the Director, Guam Department of Labor, 414
2 West Soledad Avenue, Hagatna, Guam, contact number 671-475-7075, fax
3 number: 671-475-7045, or, at the apprentice's or applicant's election, with a private
4 review body established pursuant to paragraph (a)(3) of this section. The
5 complaint shall be in writing and shall be signed by the complainant. It must
6 include the name, address and telephone number of the person allegedly
7 discriminated against, the program sponsor involved, and a brief description of the
8 circumstances of the failure to apply the equal opportunity standards provided for
9 in this plan.

10 (2) The complaint must be filed not later than one hundred eighty (180)
11 days from the date of the alleged discrimination or specified failure to follow the
12 equal opportunity standards; and, in the case of complaints filed directly with
13 review bodies designated by program sponsors to review such complaints, any
14 referral of such complaint by the complainant to the Agency must occur within the
15 time limitation stated above or thirty (30) days from the final decision of such
16 review body, whichever is later. The time may be extended by the Agency for
17 good cause shown.

18 (3) Sponsors are encouraged to establish fair, speedy, and effective
19 procedures for a review body to consider complaints of failure to follow the equal
20 opportunity standards. A private review body established by the program sponsor
21 for this purpose should number three or more responsible persons from the
22 community serving in this capacity without compensation. Members of the review
23 body should not be directly associated with the administration of an apprenticeship
24 program. Sponsors may join together in establishing a review body to serve the
25 needs of programs within the community.

26 (b) *Processing of complaints.*

27 (1) Review Body.

1 (i) When the sponsor has designated a review body for reviewing
2 complaints, the Agency, unless the complainant has indicated otherwise or unless
3 the Agency has determined that the review body will not effectively enforce the
4 equal opportunity standards, shall upon receiving a complaint refer it to the review
5 body.

6 (ii) The Agency shall, within thirty (30) days following the referral of a
7 complaint to the review body, obtain reports from the complainant and the review
8 body as to the disposition of the complaint. If the complaint has been satisfactorily
9 adjusted and there is no other indication of failure to apply equal opportunity
10 standards, the case shall be closed and the parties appropriately informed.

11 (iii) When a complaint has not been resolved by the review body within
12 ninety (90) days or where, despite satisfactory resolution of the particular
13 complaint by the review body, there is evidence that equal opportunity practices of
14 the apprenticeship program are not in accordance with this plan, the Agency may
15 conduct such compliance review as found necessary, and will take all necessary
16 steps to resolve the complaint.

17 (2) Where no review body exists, the Agency may conduct such
18 compliance review as found necessary in order to determine the facts of the
19 complaint, and obtain such other information relating to compliance with these
20 regulations as the circumstances warrant.

21 (3) Sponsors shall provide written notice of the above complaint procedure
22 to all applicants for apprenticeship and all apprentices.

23 **§10316. Adjustments in Schedule for Compliance Review or Complaint**
24 **Processing.**

25 If, in the judgment of the Agency, a particular situation warrants and
26 requires special processing and either expedited or extended determination, it shall

1 take the steps necessary to permit such determination if it finds that no person or
2 party affected by such determination will be prejudiced by the special processing.

3 **§10317. Sanctions.**

4 (a) Where the Agency, as a result of a compliance review or other reason,
5 determines that there is reasonable cause to believe that an apprenticeship program
6 is not operating in accordance with this plan; and, voluntary corrective action has
7 not been taken by the program sponsor, the Agency shall institute proceedings to
8 deregister the program or it shall refer the matter to the Equal Employment
9 Opportunity Commission or to the Attorney General, with recommendations for
10 the institution of a court action under Title VII of the Civil Rights Act of 1964, as
11 amended, or to the Attorney General for other court action as authorized by law.

12 (b) Deregistration proceedings shall be conducted in accordance with 22 GCA
13 §10208.

14 (1) The Agency shall notify the sponsor, in writing, that a determination of
15 reasonable cause has been made under paragraph (a) of this section and that the
16 apprenticeship program may be deregistered unless, within 15 days of the receipt
17 of the notice, the sponsor requests a hearing. The notification shall specify the facts
18 on which the determination is based.

19 (2) If within 15 days of the receipt of the notice provided for in paragraph
20 (b)(1) of this section the sponsor mails a request for a hearing, the Director shall
21 convene a hearing in accordance with §10322.

22 (3) The Director shall make a final decision on the basis of the record, which
23 shall consist of the compliance review file and other evidence presented and, if a
24 hearing was conducted pursuant to 30.16, the proposed findings and recommended
25 decision of the hearing officer. The Director may allow the sponsor a reasonable
26 time to achieve voluntary corrective action. If the Director's decision is that the
27 apprenticeship program is not operating in accordance with this plan, the

1 apprenticeship program shall be deregistered. In each case in which deregistration
2 is ordered, the Director shall make public notice of the order and shall notify the
3 sponsor and the complainant, if any.

4 Any state apprenticeship program deregistered by the State Apprenticeship Agency
5 for noncompliance with requirements of this plan may, within 15 days of the
6 receipt of a notice of deregistration, appeal to the U.S. Department of Labor, Office
7 of Apprenticeship, 200 Constitution Avenue, NW, Washington, DC 20210, to set
8 aside the determination of the *Guam Department of Labor, Division of*
9 *Apprenticeship*.

10 **§10318. Reinstatement of Program Registration.**

11 Any apprenticeship program deregistered pursuant to this plan may be
12 reinstated upon presentation of adequate evidence to the Director that the
13 apprenticeship program is operating in accordance with this plan.

14 **§10319. Retaliatory Acts or Intimidation.**

15 Any intimidation, threat, coercion, or retaliation by or with the approval of
16 any sponsor against any person for the purpose of interfering with any right or
17 privilege secured by 22 GCA 10; or Title VII of the Civil Rights Act of 1964, as
18 amended; or Executive Order 11246, as amended, or because he or she has made a
19 complaint, testified, assisted, or participated in any manner in any investigation
20 proceeding, or hearing under this plan shall be considered noncompliance with the
21 equal opportunity standards of this plan. The identity of complainants shall be
22 kept confidential except to the extent necessary to carry out the purposes of this
23 plan, including the conduct of any investigation, hearing or judicial proceeding
24 arising there from.

25 **§10320. Nondiscrimination.**

1 The commitments contained in the sponsor’s affirmative action program are
2 not intended and shall not be used to discriminate against any qualified applicant or
3 apprentice on the basis of race, color, religion, national origin, or sex.

4 **§10321. Exemptions.**

5 Requests for exemption from these regulations, or any part thereof, shall be
6 made in writing to the Director and shall contain a statement of reasons supporting
7 the request. Exemptions may be granted for good cause. The Agency shall notify
8 the Department of any such exemptions granted affecting a substantial number of
9 employers and the reasons therefore.

10 **§10322. Hearings.**

11 (a) Within 10 days after receiving a request for a hearing, the Director Guam
12 Department of Labor must contact the Office of the Attorney General to request
13 the designation of a hearing officer to preside over the hearing. The hearing officer
14 shall give reasonable notice of such hearing by certified mail, return receipt
15 requested, to the appropriate sponsor (Federal or state registered), the Guam State
16 Apprenticeship Council, or both, as the case may be. Such notice will include:

17 (1) A reasonable time and place of hearing;

18 (2) A statement of the provisions of this plan pursuant to which the hearing is
19 to be held; and

20 (3) A concise statement of the matters pursuant to which the action forming the
21 basis of the hearing is proposed to be taken.

22 (b) The hearing officer shall regulate the course of the hearing. Hearings shall be
23 informally conducted. Every party shall have the right to counsel, and a fair
24 opportunity to present his or her case including such cross-examination as may be
25 appropriate in the circumstances. Hearing officers shall make their proposed
26 findings and recommended decisions to the Director upon the basis of the record
27 before them.

