

CALIFORNIA APPRENTICESHIP COUNCIL

**CALIFORNIA CODE OF REGULATIONS, TITLE 8, CHAPTER 2, SUBCHAPTER 1,
SECTIONS 202 et seq.**

NOTICE OF PROPOSED RULEMAKING

The California Apprenticeship Council (Council) proposes to adopt the proposed regulation described below after considering all comments, objections and recommendations regarding the proposed action.

Notice is hereby given that the Council, pursuant to rulemaking authority derived from Labor Code section 1777.7, in order to implement, interpret and make specific Labor Code section 1777.5, proposes to amend Section 230.1 of Art. 10, Part I, Chapter 2 of Title 8 of the California Code of Regulations (CCR) concerning employment of apprentices on public works.

PUBLIC HEARING

The Council will hold public hearings on this proposal as follows:

- Date: Monday August 14, 2023
- Time: 10:00 a.m. until all comments have been received
- Location: Elihu Harris Oakland State Building, Room 10
1515 Clay Street
Oakland, CA 94612

- Date: Wednesday August 16, 2023
- Time: 10:00 a.m. until all comments have been received
- Location: Junipero Serra State Building, Pacific Ocean Room
320 W. Fourth Street
Los Angeles, CA 90013

At the hearings, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest below. The Council requests but does not require that a person who makes oral comments at a hearing also submit the comments in writing.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to the attention of Glen Forman at the California Apprenticeship Council, addressed as follows:

- By mail to 1515 Clay Street, Suite 1902, Oakland, CA 94612
- By electronic mail to csuggest@dir.ca.gov
- By facsimile to (510) 286-1448

The Council will only consider written comments received by 11:59 p.m., August 17, 2023.

Written and oral comments, attachments, and associated contact information (e.g., address, phone, or email) become part of the public record and can be released to the public upon request.

AUTHORITY AND REFERENCE

Labor Code section 3071 authorizes the Council to issue rules and regulations establishing minimum standards of wages, hours, and working conditions for apprentices. Labor Code section 1777.7(g) authorizes the Council to adopt regulations to interpret the provisions of Labor Code section 1777.5, which governs the employment of apprentices on public works.

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

The Council is established within the Division of Apprenticeship Standards (DAS), which in turn is within the Department of Industrial Relations. The Council assists the Director of Industrial Relations in formulating policies with respect to apprentice regulation.

California encourages contractors and subcontractors to employ registered apprentices on public works projects, including by authorizing payment of apprentice wage rates in lieu of the substantially higher journey level prevailing wages. Labor Code § 1777.5. To qualify for the lower wage rates, apprentices must be registered with the DAS, training under DAS-approved apprenticeship standards (i.e. with a DAS/Council-approved program), and working at a specified minimum ratio of apprentices to journeyworkers. Labor Code §§ 3077, 1777.5. Apprentices may only be employed at the work of the craft or trade to which they are registered.

A contractor who employs workers in an “apprenticeable craft or trade” can have apprentices dispatched to a public works project by applying “to any apprentice

program in the craft or trade that can provide apprentices to the site” or by obtaining them from an approved program that already covers the contractor’s work. The statute defines “apprenticeable craft or trade” as “a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council.” Labor Code § 1777.5(d).

Labor Code section 1777.5(e) requires contractors to send public works contract award information to apprenticeship programs that can supply apprentices to the work site. Notice requirements and time limits are currently spelled out in greater detail in California Code of Regulations, title 8, section 230. The following section, existing section 230.1 (Regulation 230.1) sets forth, among other things, requirements and time frames for requesting a program to dispatch apprentices to a job site. Contractors currently may use DAS Form 142 to request dispatches.

The proposed amendment to Regulation 230.1, subdivision (a), clarifies and standardizes the information that is required to be included in dispatch requests. The amendment specifies that dispatch requests must be made without conditions circumventing the employer’s obligation in Labor Code Section 1777.5 subdivision (b)(2) to pay for preemployment testing, training, examination and other mandatory preemployment processes and requires that certain information be included in dispatch requests.

The amendment will increase the opportunities for employment and training of apprentices. Without the amendment, public works contractors could impose conditions on the dispatch of apprentices that would undermine the purpose of the apprenticeship laws to provide for the training and employment of apprentices. For example, contractors could require as a condition to dispatch that apprentices already have training or skills which they should acquire from the employer through the apprenticeship program. Further, if contractors are not required to provide a specific date to report when a journeyman of the same apprenticeable craft is employed, then apprentices will not be given a sufficient opportunity to receive training.

The proposed changes to the regulation will assist the regulated public in understanding their apprenticeship obligations on public works projects. The regulation will also allow DAS to effectively and efficiently carry out its mandate in relation to apprenticeship enforcement. The proposed amendment to subdivision (a) of Regulation 230.1 will increase the opportunities for employment and training of apprentices by clarifying and standardizing the requirements for written requests by public works contractors for dispatch from applicable apprenticeship committees.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations

After evaluating other regulations, the Council has concluded that this is the only regulation that governs dispatch requirements for registered apprentices on public works projects. Therefore, the proposed regulation is neither inconsistent nor incompatible with existing state regulations. No comparable federal regulation or statute exists.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Council has made the following initial determinations:

- Costs or savings to state agencies or costs/savings in federal funding to the State: None.
- Local Mandate: None.
- Cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of the Government Code: None.
- Other nondiscretionary costs/savings imposed upon local agencies: None.
- Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.
- The effect on small businesses: Each small business will be required to provide additional information on a form that it fills out to request apprentices for a public works project. It is estimated that the amount of time required of each contractor to enter the additional information will be approximately five minutes per project.
- Significant effect on housing costs: None.
- Cost impacts on representative private person or small business: It is estimated that the cost for each small business and typical business to comply with the regulation will be \$4.30 per year in additional office work to identify and provide the information required.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT:

Because a survey of potentially-affected contractors found that providing the additional information required by amended section 230.1 would require a maximum of 5 minutes of additional office time per project, the Council concludes the following: it is unlikely that the proposed changes will (1) create or eliminate any jobs, (2) create new businesses or eliminate existing businesses in California, (3) expand businesses currently doing business in the state, or (4) benefit worker safety or the state's environment. It is likely that the proposed changes will benefit the health and welfare of California residents by increasing opportunities for employment and training of apprentices.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Council must determine that no reasonable alternative it considered or that otherwise has been identified and brought to the attention of the Council would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as the proposed action and less burdensome to affected private persons, or would be more

cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of the law. Although this proposal was presented for public comment at regular meetings of the CAC and its committee on Standards, Rules, Regulations & Operating procedures from March 3, 2021 through July 29, 2021, no commissioner or member of the regulated public proposed any alternative to the proposal under consideration.

The Council invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Glen Forman, Deputy Chief
Division of Apprenticeship Standards
California Apprenticeship Council
1515 Clay Street, Suite 1902
Oakland, CA 94612
(510) 879-3965

The backup contact person for these inquiries is:

Deneen Phillips
Division of Apprenticeship Standards
1515 Clay Street, Suite 1902
Oakland, CA 94612
(510) 879-3966

Please direct requests for copies of the proposed text (the “express terms”) of the regulation, the initial statement of reasons, the modified text of the regulation, or other information upon which the rulemaking is based to Glen Forman at the above address.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS/INTERNET ACCESS

The Council will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office located at 1515 Clay Street, Suite 1902, Oakland CA, 94612 Rulemaking records may be accessed through the agency’s Internet website at www.dir.ca.gov/das/rulemaking/cac_rulemaking_proposed.html. As of the date of this notice, the rulemaking file consists of this notice, the proposed text of the regulation, the initial statement of reasons, and the information upon which the rulemaking is based. Copies may be obtained by contacting Glen Forman at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Council may adopt the proposed regulation substantially as described in this notice. If the Council makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Council adopts the regulations as revised. Any such modifications will also be posted on the Council's website at www.dir.ca.gov/das/rulemaking/cac_rulemaking_proposed.html.

Please send requests for copies of any modified regulations to the attention of the contact person(s) identified above. The Council will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from Glen Forman at the above address, or may be accessed on the website identified above.