

CALIFORNIA APPRENTICESHIP COUNCIL
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STANDARDS, RULES, REGULATIONS & OPERATING
PROCEDURES COMMITTEE
Minutes

Chairperson Jim Hussey
Hilton Los Angeles North/Glendale
Wednesday, January 22, 2020
3:00 p.m. – 4:30 p.m.

I. Call to Order/Roll Call

Chairperson Jim Hussey was not in attendance. Commissioner Susan Anderson chaired the meeting on his behalf. The meeting at 3:00 p.m.

The following Commissioners were present: Jack Buckhorn, Dick Zampa, Derrik Kualapai, Susan Anderson, Frank Schetter, Chip Martin, Yvonne De La Pena and DAS Chief Eric Rood

Members absent: Larry Hopkins, Paul Von Berg and Christopher Christophersen,

II. Review/Approve Previous Minutes.

A motion and a second were made to approve the minutes of November 6, 2019 meeting. All were in favor. The motion carried.

III. Old Business

- *AB235, Receive comments / suggestions for defining "substantially similar".*

To facilitate the approval process for new programs, the Rules and Regulations Committee is seeking public comment and input regarding a definition for the term "Substantial Overlap". Susan Anderson stated that Jim Hussey and Jack Buckhorn had helped prepared notes and food for thought questions.

AB235 CHAPTER 704 Article 2 Section 32 Amended Labor Code Section 3075 (c): For purposes of subdivision (b), an existing apprenticeship program serves the "same craft or trade" as a proposed apprenticeship program when there would be *substantial overlap* in the work processes covered by the programs or when graduates of the existing program would be qualified to perform a *substantial portion of the work* that would be performed by graduates of the new program.

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- Is “substantial overlap” a simple mathematical calculation? Based on comparable work processes? If yes, what percentage represents “substantial overlap?”
- Is “substantial overlap” a qualitative measurement? Based upon the importance of a work process to the existing program. If yes, how do you measure the importance of a work process to determine “substantial overlap?”
- Is “substantial overlap” a process calculation? Does teaching a work process already covered by an existing program constitute “substantial overlap?”
- Does the claim or statement that a program “is not a building trades program” exempt the program from the “substantial overlap” rule?
- Does the issuing of a “Journey person” certificate have an impact on the application of the “substantial overlap” review?
- Does the “substantial overlap” rule apply to programs that might dispatch apprentices to “private work” as opposed to “public work” building / construction projects?
- Can we use the same parameters that define “substantial overlap” in work processes to also determine if the graduates of an existing program would be qualified to perform a “substantial portion of the work” that would be performed by graduates of the new program?
- The committee seeks public comment on these questions and welcomes comments in general as they relate to the application of the “substantial overlap” and “substantial portion of the work” tests.

After reading these notes Susan opened up comments from the commissioner.

Jack Buckhorn stated that this issue has been discussed for a long time and that the statute has had this language in there and it is up for interpretation. But we felt that it was important for the IACA programs and the Traditional trades programs to shed some light on what the CAC is looking at when we make these decisions regarding "substantially similar". We have had the IACA programs in existence for about a year. We have had comments filed on less than a dozen programs. We have had some drawn. We have had four hearings scheduled and we have had 3 hearings that did move forward and they were denied by the CAC due to substantial overlap. The guidance of AB235 to protect the existing programs. Jack Stated that they wanted to see if this could be better defined. And make it clear that any new program knows if they should go thru the IACA process or the Traditional process for a new program. Also it was noted that just

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because a program is denied through the IACA process does not mean that they will not be approved through the CAC.

Jack stated they want to hear ideas from the apprenticeship community and get thoughts see if this is something that needs to move forward, if we need to come up with language or not.

Jack stated that a comment have been received from the building trades council.

Eileen Goldsmith from the California State Pipe trades stated that they would like to encourage you not to adopt a quantitative type definition. We believe that this is really a qualitative type assessment. The purposes of these terms that we are discussing the substantial overlap is coming out of California Labor Code Section 3075(c) CA which is expressly about the need standards for approving new programs in the building trades and firefighters.

That is the legislative purpose which has to do with avoiding the proliferation of program that would be to the detriment of apprentices in existing programs. So how you interpret it would have to be informed by that purpose. The plain meaning of the term substantial is important material essential. It is not something that you can count. It is what is essential to that craft or trade. If you try to turn it into a counting exercise first it is going to be very difficult to do for many reason. But you may have ne skill that has the essence of what a particular craft or trade does but it is one skill. A new program or trade would like to train in many skills including that one and that would be considered overlap.

The other part of California Labor Code Section 3075(c) is that it is not new it is from 2015 and we have been applying this for many years. I don't think that the system is broken and needs to be fixed.

Concerned that if a formula is put into place that it would be open to manipulation and programs would try to craft their programs to that formula. Written comments were given to Deputy Chief with Glen Forman.

Jack stated that this will not be the last time that this item will be discussed. We would like to hear all sides on this topic from the public.

Comments from the apprenticeship community stating that the Western Electrical Contractors Association stated that they are in support of some of the comments that were made from the building trades and believe attempting to define the overlap is going to be extremely difficult.

Lots of comments from the apprenticeship community and suggestion of holding off on the defining substantial overlap and see if there is really a need.

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Comments were made that the CAC should focus its attention on efficiently conducting a review on the proposed Non-Building Trade programs when requested by the Chief or members of the public to ensure that they will not undermine the building trades' apprenticeship system. The CAC should interpret the phrase substantial number of work processes to call for a qualitative judgment not the application of a formula.

Jack Buckhorn thanked everyone for their time and comments. There is no timeline on the comment period for this item currently. If anyone would like to send comments in to the apprenticeship council we would be happy to receive them.

Jack Buckhorn asked if there has been an update to the rulemaking packages. He stated that we have a year to get this completed.

DAS Chief Eric Rood stated that we are working on SB 56 which goes back to legislation from 2011. He stated that we are getting some follow up questions from the Department of Finance and the Workforce Development Agency on signatures on a secretary's action request. We don't foresee that being an issue or causing a significant delay.

Eric states that public meetings were held on our public works rule making package. We held public meetings in Oakland and Los Angeles. Eric stated that we are working on getting the auto transcribed for the hearings. The legal team will then work with us to make sure that comments are responded to.

Jack Buckhorn stated that we have until the first week in August for the SB 56 and we have until the second week in December for the public works rulemaking package. There are exceptions to get extensions.

IV. New Business

No new business

V. Adjournment

Meeting was adjourned at 3:30 p.m.