

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

Minutes

Wednesday, July 7, 2021

9:00 a.m.

Hosted Via Teleconference

I. Call to Order/Roll Call

Meeting called to order by Commissioner Louis Ontiveros at 9:00 a.m.

Roll Call of Commissioners was taken, commissioners present:

Louis Ontiveros, Chip Martin, Frank Quintero, Richard Harris, Christopher Christophersen Sr., Derrick Kualapai, Larry Hopkins, Jack Buckhorn, and Eric Rood.

Commissioners absent: Yvonne de la Pena, Paul Von Berg.

A quorum was established.

Other commissioners present: Scott Gordon, Sheri Learmonth.

II. Review/Approve Previous Minutes.

The minutes of June 2, 2021 were approved. All were in favor. The motion carried.

III. Old Business

AB 2358 Content of Mandatory Anti-Discrimination Trainings

Glen presented the suggested changes from the June 2<sup>nd</sup> meeting, there was discussion on the document and a few changes were made

A motion and Second were made. To approve the following new Section.

**New: 8 CCR 214.4. Required training and education regarding harassment and discrimination based on race, religious creed,**

color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age for individuals over forty years of age, military or veteran status, or sexual orientation.

(a) Definitions. For purposes of this section, the following definitions apply:

(1) "Program is a building trades apprenticeship program under the jurisdiction of the California Apprenticeship Council established pursuant to Labor Code Section 3070.

(2) "Effective interactive training" includes any of the following:

(A) "Classroom" training is in-person, trainer-instruction, whose content is created by a trainer and provided to an employee by a trainer, in a setting removed from the employee's daily duties.

(B) "E-learning" training is individualized, interactive, computer-based training created by a trainer and an instructional designer. An e-learning training shall provide a link or directions on how to contact a trainer who shall be available to answer questions and to provide guidance and assistance about the training within a reasonable period of time after the employee asks the question, but no more than two business days after the question is asked.

(C) "Webinar" training is an internet-based seminar whose content is created and taught by a trainer and transmitted over the internet or intranet in real time. A Program utilizing a webinar for its employee's and apprentices must document and demonstrate that each participant who was not physically present in the same room as the trainer nonetheless attended the entire training and actively participated with the training's interactive content, discussion questions, hypothetical scenarios, polls, quizzes or tests, and activities. The webinar must provide the participants an opportunity to ask questions, to have them answered and otherwise to seek guidance and assistance.

(D) For any of the above training methods, the instruction shall include questions that assess learning, skill-building activities that assess the participant's application and understanding of content

learned, and numerous hypothetical scenarios about harassment, each with one or more discussion questions so that employees remain engaged in the training. Examples include pre- or post-training quizzes or tests, small group discussion questions, discussion questions that accompany hypothetical fact scenarios, use of brief scenarios discussed in small groups or by the entire group, or any other learning activity geared towards ensuring interactive participation as well as the ability to apply what is learned to the participant's work environment.

(3) "Employee" includes full time, part time, temporary workers of the Program and third party instructors conducting training.

(4) "Harassment" under this section refers to harassment on the bases of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age for individuals over forty years of age, military or veteran status, or sexual orientation.

(5) "Discrimination" means the treatment one person or group differently from others who are not in the same group, but are similarly situated, based on many different factors, including race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age for individuals over forty years of age, military or veteran status, or sexual orientation.

(6) "Trainers" or "Trainers or educators" qualified to provide training under this section are individuals who, through a combination of training, experience, knowledge, and expertise, have the ability to provide training about the following: 1) the definitions of abusive conduct, sexual harassment as specified in Government Code section 12940(j), gender identity, gender expression, sexual orientation, age, and the definitions of the other bases enumerated in the FEHA as specified in Government Code section 12940(a); 2) how to identify behavior that may constitute unlawful harassment, discrimination, and/or retaliation under both California and federal law; 3) what steps to take when harassing behavior occurs in the workplace; 4) how to report harassment

complaints; 5) supervisors' obligation to report harassing, discriminatory, or retaliatory behavior of which they become aware; 6) how to respond to a harassment complaint; 7) the employer's obligation to conduct a workplace investigation of a harassment complaint; 8) what constitutes retaliation and how to prevent it; 9) essential components of an anti-harassment policy; 10) the effect of harassment on harassed employees, co-workers, harassers and employers; and 11) practical examples in the prevention of harassment, discrimination, and retaliation based on sex, gender identity, gender expression, sexual orientation, and the prevention of abusive conduct. Nothing in this section shall preclude an employer from utilizing multiple trainers who, in combination, meet all of the qualifications required by this subsection.

(7) "Training," as used in this section, is effective interactive training as defined at section 214.4(a)(2).

(8) "Two hours" of training is two hours of classroom training or two hours of webinar training or, in the case of an e-learning training, a program that takes the Program Staff no less than two hours to complete.

(9) "One hour" of training is one hour of classroom training or one hour of webinar training or, in the case of an e-learning training, a program that takes the apprentice no less than one hour to complete.

(b) Training.

(1) Frequency of Training. An program shall provide one hour of training to apprentices and two hours of training to program staff, in the content specified in section 214.4(c), once every two years.

(2) Documentation of Training. To track compliance, an program shall keep documentation of the training it has provided its employees under this section for a minimum of five years, including but not limited to the names of the employees and apprentices trained, the date of training, the sign in sheet, a copy of all certificates of attendance or completion issued, the type of training, a copy of all written or recorded materials that comprise the training, and the name of the training provider.

**(3) Training at New Program. Programs created after January 1, 2021, must provide training to employees within two weeks of their establishment and thereafter biennially.**

**(4) Training for New Employees. New employees shall be trained within two weeks of their hire date and thereafter shall be trained once every two years, measured either from the individual or training year tracking method.**

**(5) Training for New Supervisors. New supervisors shall be trained within two weeks of assuming their supervisory position (either as a new hire or as a promoted employee) and thereafter shall be trained once every two years, measured either from the individual or training year tracking method.**

**(c) Content of training.**

**(i) That discriminatory or harassing conduct will not be tolerated.**

**(ii) The definition of discrimination and harassment and the types of conduct that constitute unlawful discrimination and harassment.**

**(iii) The complaint procedures established by the apprenticeship program pursuant to Section 212(a)(14) of Title 8 of the California Code of Regulations.**

**(iv) The procedure for filing a complaint with the Administrator of Apprenticeship pursuant to Section 201.1 of Title 8 of the California Code of Regulations.**

**(d) Compliance with section 214.4 prior to effective date of these regulations. A Program who has made a substantial, good faith effort to comply with section 214.4 by completing training of its staff and apprentices prior to the effective date of these regulations shall be deemed to be in compliance with section 214.4 regarding training as though it had been done under these regulations.**

## Suggested Changes to De-Recognition regulations.

Glen presented the suggested additions to Title 8 CCR Section 206, there was discussion on the document.

A motion and Second were made. To approve the following amendments to Section 206.

### Amended: 8 CCR 206 and 212.4.

#### (a) Agreements approved by Joint Apprenticeship Committee

- (1) An apprentice agreement in an approved joint apprenticeship program shall be approved by the joint apprenticeship committee if the agreement complies with the apprenticeship program standards and Chapter 4 of Division 3 of the Labor Code and its implementing regulations under Title 8, California Code of Regulations, Section 200 et seq; and where there are adequate related and supplemental instruction and an assurance of employment to provide on-the-job training.
- (2) After approval by the joint apprenticeship committee, the agreement shall be sent to DAS for registration within thirty (30) days of its execution by the apprentice.
- (3) DAS shall register the agreement if DAS determines that it was approved in accordance with the requirements set out above, under subsection (a)(1), and it was submitted to DAS within thirty (30) days of its execution by the apprentice.
- (4) Within thirty (30) days of receipt of the agreement, DAS shall either register the agreement or return it to the program sponsor with the reasons for non-registration. If DAS registers the agreement, the registration shall be effective as of the date of its execution by the apprentice.

#### (b) Agreements approved by the Administrator

- (1) If there is no joint apprenticeship committee, the apprenticeship agreement shall be sent to DAS for approval by the Administrator within thirty (30) days of its execution, and shall be approved if the Administrator determines that it complies with the requirements set out above, under subsection (a)(1), and it was submitted to DAS within thirty (30) days of its execution by the apprentice.
- (2) If approved, the agreement shall be considered registered as of the date of its execution by the apprentice. A copy of the approved agreement shall be filed with the CAC for its review. If the Administrator does not approve the agreement, it shall not be registered and shall be returned to the program sponsor within 30 days of the date of receipt with the reasons for non-approval.

#### **(c) (1) DAS may suspend registrations of new agreements by providing written notice of the reasons for the suspension. DAS shall provide such**

**notice at least 10 days before the suspension is effective and serve the notice on the program sponsor by electronic mail, or by mail if the program sponsor does not have an electronic mail address on file.**

- (2) If DAS does not initiate deregistration proceedings within 45 days of the effective date of the suspension, the suspension is lifted.**
- (3) If deregistration proceedings are pending when the notice of suspension is served, or DAS initiates deregistration proceedings within 45 days of the effective date of the suspension, the suspension will remain in effect until:**
- (A) A decision on the deregistration is final;**
- (B) DAS provides written notice that it has dismissed deregistration proceedings;**
- (C) DAS lifts the suspension, upon a showing of good cause.**
- (4) A program sponsor affected by a suspension under this section may appeal to the Administrator within 10 days of the effective date of the suspension. If the Administrator does not act within 30 days of the appeal, the appeal is deemed denied.**

#### §212.4. Deregistration of Programs.

The deregistration of a program cancels the approval of a program to operate.

- (a) The Chief DAS shall deregister an apprenticeship program upon the request of the sponsor as long as within fifteen days of the Chief's acknowledgment of the request for deregistration, the sponsor shall inform each apprentice in writing of the deregistration, the proposed effective date of the deregistration and the names and addresses of other programs in the area. The Chief shall not deregister the program unless the sponsor complies with this requirement.
- (b) The Chief may deregister an apprenticeship program, if the program is not conducted, operated and administered in accordance with applicable federal and state law and regulations or the program's approved apprenticeship standards, or if a program has had no active apprentices for a period of two (2) years, except that deregistration proceedings for violation of equal opportunity requirements shall be processed in accordance with Section 215:
- (1) If the Chief has information that a program is not being operated in accordance with applicable federal and state law and regulations, **including violations of Labor Code section 3073.9**, or the program's approved apprenticeship standards, the Chief shall so notify the program sponsor in writing sent by registered or certified mail, with return receipt requested. The notice shall identify the violation and the action needed to correct the violation. The notice shall state that the program will be deregistered unless corrective action is completed within thirty days. Upon a showing of good cause, the Chief may grant the sponsor a reasonable extension of time to achieve corrective action. **In conjunction with the deregistration process, the Chief may also suspend registrations of new apprentice agreements under the procedure set forth in Section 206.** Where the Chief has information that a program has

had no active apprentices for a period of two (2) years, that shall be considered grounds for deregistration and the Chief shall notify the program sponsor in writing as set forth above that the program will be deregistered unless the program can show good cause within thirty (30) days why it should not be deregistered;

#### IV. New Business

The commissioners and the apprenticeship community reviewed items that needed to be addressed at the next meeting. Glen stated that we need to review the CalPlan in regards to the proposed rulemaking thus far, Chief Rood also wants to start discussing the Economic Impact for this Rulemaking package.

#### V. Adjournment

Chief Rood stated that the next meeting is scheduled for Wednesday July 28, 2021

Commissioner Ontiveros adjourned the meeting at 9:38 p.m.