

8 CCR § 212.2

§ 212.2. Eligibility and Procedure for DAS Approval of an Apprenticeship Program.

(a) To be eligible for approval, a program must comply with all applicable federal and state law and regulations. A revision to **program standards to change the program's occupation, add new occupations, add new work processes or revise existing work processes**, or to change the program's geographic area of operation to include a different **new** labor market areas is subject to the same application and approval process set out in (a)-(j) of this section for approval of a program, including providing notice of the proposed revision and an opportunity for comment to existing programs in the same apprenticeable occupation in the labor market area. The program sponsor shall submit to the Chief DAS, an application for approval of the program and shall provide the program standards and, either with the application or during the application review process, evidence of:

(1) commitment to provide safe work site facilities and safe equipment sufficient to train the apprentices;

(2) commitment to provide skilled workers as trainers at the work site who meet the criteria for journeyworker or instructor as defined in Section 205(a) or (b);

(3) adequate arrangements for related and supplemental instruction pursuant to Labor Code section 3074;

(4) ability to offer training and supervision in all work processes of the apprenticeable occupation;

(5) the program sponsor's ability, including financial ability, and commitment to meet and carry out its responsibility under the federal and state law and regulations applicable to the apprenticeable occupation and for the welfare of the apprentice.

(6) apprenticeship programs in the building and construction trades industry shall also submit the following as a condition for approval by the Chief DAS:

(A) a written plan that sets out the number of new apprentices the applicant seeks to enroll during the next five years in the new or expanded program, the number of employers that have agreed to participate, and the number of journeyworkers that each employer employed in the past 12 months;

(B) financial information consisting of

(i) a budget for training that covers income and proposed funding sources, expenses, including personnel, instruction, facilities, and insurance (including workers' compensation);

(ii) a detailed explanation of how sufficient funding will be provided to meet the budget; and

(iii) if the program will rely on member participation, the number of participants and the required financial obligation for each participant;

(C) a written plan providing a reasonable timetable to obtain sufficient additional employer participation during the first five years after approval to employ the new apprentices.

(D) evidence that the applicant has or will obtain adequate classroom facilities for related and supplemental instruction before it begins operation, subject to the following.

(i) If the curriculum provides for hands-on instruction, the facilities must be adequate to replicate the on-the-job experience; and

(ii) No apprentice shall be enrolled in the program unless and until the Chief DAS, or the Chief's representative, has personally inspected and approved the facilities, either prior to or within six months after the approval of the program.

(E) a plan for the recruitment and selection of new apprentices that shall include advertising of the new apprenticeship opportunities within the geographic area and outreach to organizations that promote apprenticeship opportunities to women and minorities.

(b) The training must be in an apprenticeable occupation as defined in Section 205(c) and must conform to the requirements of Section 215 concerning equal opportunity in apprenticeship.

(c) Within 30 days after receipt of an application for approval of a program, or for approval of amendments to program standards, ~~including any change to~~ **add new occupations, add** new work processes, **revise existing work processes,** or to revise the program's geographic area of operation to include ~~a different~~ **new** labor market areas, the Chief DAS shall notify the sponsor in writing either that:

(1) the application is complete and accepted for filing; or (2) the application is incomplete and specified additional information is required.

(d) Where a collective bargaining agreement exists, a program shall be jointly sponsored unless either party to the agreement waives its right to representation in writing.

(e) If the standards or collective bargaining agreement of a program proposed by an employer or employers' association provide for participation by a union in the operation of the program, the sponsor shall provide evidence that the union accepts or does not oppose the program. The union may submit comments on the proposed program within thirty days after receipt of the proposed standards. The Chief DAS may, in his or her discretion, consult with such union concerning the proposed program.

(f) If the standards and collective bargaining agreement of a program proposed by an employers' association do not provide for participation by a union in the operation of the program, the sponsor shall serve a copy of the proposed standards and any supplement

thereto on the union, if any, which is the collective bargaining agent of the employees to be trained. The union may submit comments on the proposed program within thirty days after receipt of the completed standards. The Chief DAS may, in his or her discretion, consult with such union concerning the proposed program.

(g) **(1) Upon determination that an application is complete and accepted for filing pursuant to subsection (c), the DAS shall post notice of the application and a copy of the proposed standards on its website, together with information on how interested parties may submit comments on the application or standards. These items shall remain posted for a minimum of 30 days prior to any decision by the Chief DAS to approve or reject the application. *This posting requirement only applies to applications for approval of a new program, or for approval of amendments to program standards to add new occupations, add new work processes, revise existing work processes, or to revise the program's geographic area of operation to include a different new labor market areas.***

**(2) Any other amendments to the standards outside those described in subsection (g)(1) including, but not limited to, program contact information, committee changes, wage updates, changes to probationary period, applicant selection criteria, non-substantive adjustments of occupation title, O\*Net code or Standard Industrial Classification, adjustments to term approach or length, related and supplemental instruction, or local education agencies, or updated DAS document requirements, shall not require posting and shall not be subject to the approval process set out in this section but shall be reviewed and approved by the Chief DAS.**

(h) The Chief DAS may, in his or her discretion, hold a hearing on any issue relating to the compliance of a proposed program with federal and state law and regulations. The Chief shall provide notice of, and an opportunity to attend, the hearing to the sponsor, to any union described in subsection (e) or (f), and to any other interested party who has submitted comments on the application or who has requested notice and an opportunity to attend any hearing on the application. The hearing shall be conducted informally without the application of formal rules of evidence or procedure.

(i) The Chief DAS's decision whether to approve a program shall be issued within ninety days after the receipt of the completed application for approval. The decision shall be provided to the sponsor and posted on the DAS website. The decision shall be in writing and shall set forth the relevant findings of fact, a discussion of any issues raised by any comments or at any hearing, and the reasons for the decision.

(j) If an application is disapproved due to the applicant's failure to comply with subsection (a)(6) above, the Chief DAS shall also provide a detailed explanation of the deficiencies in the application and recommendations for addressing those deficiencies to obtain program approval. The applicant may then either appeal the decision pursuant to subsection (k) below or submit a new or amended application within 90 days of receipt of the Chief's recommendations. The Chief shall then have 90 days to approve

or deny a new or amended application and shall again provide a detailed explanation of the basis for the decision. If the new or amended application is again denied, the applicant may file an appeal pursuant to subsection (k).

(k)(1) For building and construction trades and firefighter programs, the Chief DAS's decision approving or disapproving a proposed program or proposed amendments to program standards shall be final and become an Order of the Council if no appeal is filed within 30 days following the posting of the decision on the DAS website. The appeal may be filed by the sponsor or by any union or other interested person who was authorized to and did submit comments under this section;

(2) For any other program, the Chief's decision approving or disapproving a proposed program or proposed amendments to program standards shall be final and not subject to further appeal to the Council unless an appeal has been filed within 30 days following the posting of the Chief's decision on the DAS website and either of the following applies:

(A) Within 30 days after posting of the notice and application pursuant to subsection (g) or such additional time as the Chief may permit, a party submitted written comments raising the objection that the program or amendment involves a work process that may be covered by a building and construction trades or firefighter program, and the Chief failed to seek and obtain the Council's consent prior to approving the program or amendment; or

(B) DAS failed to post notice as required by subsection (g).

(l) The chairperson of the Council shall refer the appeal, if any, to a three member panel which shall submit a recommendation to the full Council. The Panel's recommendation shall be submitted no later than the second regularly scheduled meeting of the Council after the filing of the appeal. The panel may, in its discretion, hold a hearing if the Chief did not hold a hearing in the consultation process. The hearing shall be conducted in compliance with Section 203.

(m) The Council may affirm, reverse, or modify the decision of the Chief or of the appeal panel. The decision of the Council on an appeal shall be final.

(n) Posting on the DAS website shall constitute the only form of notice and service required for providing notice of an application and copies of proposed standards pursuant to subsection (g) and for providing notice and a copy of the Chief DAS's decisions pursuant to subsections (i) and (j). Unless the Chief DAS has authorized a different form of notice or service, all other documents, notices and appeals filed or served under this Section shall be filed or served in accordance with Section 229.

## **Credits**

NOTE: Authority cited: Section 3071, Labor Code. Reference: Sections 3073, 3073.3, 3075, 3075.5 and 3090, Labor Code.