

Chapter DWD 295

APPRENTICESHIP

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Note: Chapter Ind 95 was renumbered chapter ILHR 295 under s. 13.93 (2m) (b) 1., Stats., Register, February, 1996, No. 482. Chapter ILHR 295 was renumbered to be DWD 295 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, September, 1997, No. 501.

DWD 295.001 Definitions. In this chapter:

- (1) "Apprentice" has the meaning specified in s. 106.01, Stats.
- (2) "Department" means the department of workforce development.
- (3) "Division" means the division of apprenticeship and training of the department.
- (4) "Indenture" has the meaning specified in s. 106.01, Stats.

History: Cr. Register, May, 1981, No.305, eff. 6-1-81.

DWD 295.01 Standards. (1) The department may adopt state-wide or area apprenticeship standards covering minimum training requirements, procedure in processing indentures, qualification of applicant employers and apprentices, functions of joint apprenticeship committees, and such other matters as constitute an apprenticeship program in a particular trade.

(2) The department may recognize but will not be a party to agreements as to apprenticeship standards or similar understandings when such standards in their entirety are part of a bargaining agreement between the management and its employees.

(3) In trades for which no uniform apprenticeship courses or schedules of training have been adopted by the department, the employer may execute a special agreement with the apprentice, subject to the approval of the department.

History: Cr. Register, March, 1957, No.15, eff. 4-1-57; am. Register, November, 1978, No. 275, eff. 12-1-78; renum. from Ind 85.01, Register, April, 1981, No. 304, eff. 5-1-81.

DWD 295.02 Area joint committees. (1) The function of joint apprenticeship committees is to act in an advisory capacity to the department and to be parties to indentures as provided in s.106.01 (5i) (a), Stats. Equal employer-employee representation is a requirement. Candidates for membership are nominated by the organizations which the members are to represent. To be recognized as a joint apprenticeship committee each individual member shall be officially so designated by the department. The geographical jurisdictional area of each such joint apprenticeship committee shall be determined by the department.

(2) This rule does not apply to shop or plant sponsored apprenticeship programs or to joint apprenticeship committees created under the terms of a bargaining agreement between the management and its employees.

History: Cr. Register, March, 1957, No.15, eff. 4-1-57; am. (1), Register, November, 1978, No.275, eff. 12-1-78; renum. from Ind. 85.02, Register, April, 1981, No. 304, eff. 5-1-81.

DWD 295.03 Application forms. Where the department requires application forms to be filled out by applicant employers and apprentices, the forms shall be approved by the department.

History: Cr. Register, March, 1957, No.15, eff. 4-1-57; am. Register, November, 1978, No. 275, eff. 12-1-78; renum. from Ind 85.03, Register, April, 1981, No.304, eff. 5-1-81.

DWD 295.04 Apprentice wages. (1) An apprentice indenture wage scale is deemed adequate when, during the term of training, it averages 60% of the current journeyman rate. The indenture should provide for a graduated scale progressing in periods as approved by the department.

(2) In determining the journeyman or skilled wage rate, the following formula governs: In trades in which it is common practice to bargain collectively on a community-wide or area-wide basis, the journeyman wage is that rate received by a greater number of journeymen in the same trade and community than any other rate. The department will not normally approve a skilled rate for apprenticeship purposes more than 20% below the journeyman rate in the area. In controversial cases, growing out of the fact that the committee's jurisdictional area is so great as to extend into communities in which application of this policy proves impracticable, the department reserves the right to make exceptions.

(3) In other trades or trade groups in which collective bargaining is on the basis of an individual plan or establishment, the skilled rate is that rate specified in the bargaining agreement. In establishments not covered by bargaining agreement, the skilled rate is that rate paid the greatest number of competent journeyman mechanics in like establishments in the community, or such other rate deemed adequate by the department.

History: Cr. Register, March, 1957, No. 15, eff. 4-1-57; am. Register, November, 1978, No. 275, eff. 12-1-78; renum. from Ind 85.04, Register, April, 1981, No.304, eff. 6-1-81.

DWD 295.05 Procedure in processing indentures where there are area joint apprenticeship committees.

In trades and communities having active area joint apprenticeship committees recognized by the department, a copy of the application for approval of indentures will be referred to such committees by the department for recommendation. The department will expect applicants to appear personally before committees if and when requested to do so by the committee. If no recommendation is received by the department from the committee within 40 days after receipt of application by the committee, the department will act on the application without committee recommendation. This time limit may be extended by the department on showing of good cause. Joint apprenticeship committee recommendations on individual applications shall be subject to review and revision by the department in the event applicants are dissatisfied with committee action.

History: Cr. Register, March, 1957, No.15., eff. 4-1-67; am. Register, November, 1978, No. 276, eff. 12-1-78; renum. from Ind 85.05, Register, April, 1981, No.304, eff. 5-1-81

DWD 295.06 Effect of bargaining agreements.

Where conditions of employment of apprentices are stipulated by collective bargaining agreement, the department will be guided by the terms of such agreement provided such terms are not in conflict with state statutes or this chapter.

History: Cr. Register, March, 1957, No.15, eff. 4-1-57; am. Register, November, 1978, No. 275, eff. 12-1-78; renum. from Ind 85.06, Register, April, 1981, No.304, eff. 5-1-81; correction made under s. 13.93 (2m) (b) 7, Stats., Register, June, 1984; correction made under s. 13.93 (2m) (b) 7., Stats., Register, February, 1996, No. 482.

DWD 295.07 Indenture. (1) All apprenticeship indentures shall be made upon the blank forms provided by the department.

(2) No indenture shall be considered in force unless it has had the approval of the department.

(3) Proof of age must be furnished the department in all cases involving minors between the ages of 16 and 18 years before approval of indenture will be given.

(4) The indenture shall state the extent of the probationary period in hours if possible but in no case shall it exceed 6 calendar months. The probationary period shall constitute part of the apprenticeship period. During the probationary period apprenticeship agreements are voidable by either party upon written notice to the department.

(5) The department may give such time credit on the term of apprenticeship as the character of previous practical experience may warrant, which time credit shall be stated in the indenture or an amendment thereto.

(6) Upon the completion, interruption or proposed termination of any apprenticeship indenture the employer shall notify the department immediately stating the reasons therefor.

(7) Minors indentured under provisions of ch. 106, Stats., shall not be subject to the law relating to prohibited employments for minors, insofar as such minors at the time of injury, are performing service within the provisions of contracts of apprentice indenture approved by the department.

(8) The terms of an existing indenture may be modified subject to approval of the department.

History: Cr. Register, March, 1957, No. 15, eff. 4-1-57; am. Register, November, 1978, No. 275, eff. 12-1-78; renum. from Ind 85.08, Register, April, 1981, No. 304, eff. 5-1-81.

DWD 295.08 Manual. The division of apprenticeship and training shall keep on record and make available to all interested persons the apprenticeship manual as approved by the department on July 17, 1956, or as thereafter amended.

History: Cr. Register, March, 1967, No. 15, eff. 4-1-57; am. Register, November, 1978, No. 275, eff. 12-1-78; renum. from Ind 85.09, Register, 1981, No. 804, eff. 5-1-81.

DWD 295.09 Forms. The following form is listed in accordance with s. 227.23, Stats., and may be obtained by writing the department of workforce development, Madison, Wisconsin.

DWD-APT-4224 Apprentice Indenture.

History: Cr. Register, October, 1957, No. 22, eff. 11-1-57; am. Register, November, 1978, No. 275, eff. 12-1-78; renum. from Ind 85.10, Register, April, 1981, No. 304, eff. 5-1-81; correction made under s. 13.93 (2m) (b) 7., Stats., Register, February, 1996, No. 482.

DWD 295.10 Family-owned construction business.

(1) In this section, "family-owned construction business" means a construction business which is owned or a majority of whose stock is owned by one person or jointly by 2 persons who are related by blood or marriage.

(2) An owner of a family-owned construction business may select any of his or her sons or daughters or any person necessary to an affirmative action plan as an apprentice when the person has met the qualification standards for a trade and the business has met the qualification standards for training the type of apprentice involved.

(3) This section may not be used by a family-owned construction business to replace an apprentice already indentured to the business.

(4) Where conditions of employment of apprentices are stipulated by a collective bargaining agreement, the department will be guided in its actions under this section by the terms of the agreement. Such stipulated conditions may require that sons and daughters of owners receive the same treatment as all other apprenticeship applicants.

Note: The qualification standards referred to in sub. (2) are set by joint apprenticeship committees and the department. Copies are available from the division of apprenticeship and training, P.O. Box 7946, Madison, WI 53707.

History: Cr. Register, June, 1984, No. 342, eff. 7-1-84.

DWD 295.15 Criteria for apprenticeable occupations. (1) DUTIES OF THE DEPARTMENT. (a) No indenture or program may be approved pursuant to ch. 106, Stats., unless the occupation involved has been approved by the department as one suitable as an apprenticeable occupation under the criteria provided in this section.

(b) The department shall maintain a list of approved apprenticeable occupations.

(2) OCCUPATIONAL CRITERIA. In order for a new occupation to be approved by the department as an apprenticeable occupation, the department shall find that the occupation:

(a) Involves manual, mechanical or technical skills;

(b) Is customarily learned in a practical way through training and on-the-job work;

(c) Requires related instruction to supplement the on-the-job training;

(d) Is clearly identified and recognized throughout an industry; and

(e) Is not part of an occupation presently recognized as apprenticeable by the department, unless that part is practiced and recognized industrywide as a separate identifiable trade.

(3) INDUSTRYWIDE. The department shall determine whether an occupation is practiced and recognized industrywide as a separate identifiable trade by surveying employers in the industry in question.

History: Cr. Register, October, 1981, No. 310, eff. 11-1-81.

DWD 295.20 Enforcement of indenture agreements.

(1) COMPLAINTS. The division may accept complaints from any person alleging that an indenture agreement entered into under ch. 106, Stats., is not being complied with by a party to the agreement.

(2) CONFERENCE, CONCILIATION, AND PERSUASION. The division may investigate the complaint and attempt to resolve it by conference, conciliation and persuasion. If the division is unable to resolve the complaint by conference, conciliation or persuasion, it shall notify the parties as provided in sub. (3).

(3) NOTICE. (a) If the complaint requested that the division cancel the indenture, and the division is unable to resolve the complaint under sub. (2), the division shall send a written notice to the complainant and to the other party or parties to the indenture stating that the indenture will be cancelled 20 days from the date of the notice, unless the complainant or any party receiving the notice makes a request to the division in writing for a hearing on the matter.

(b) If the complaint requested the division to enforce the provisions of the indenture agreement, and the division is unable to resolve the complaint under sub. (2), the division shall send a written notice to the parties stating that the division has been unable to resolve the complaint by conference, conciliation and persuasion and that the complaining party may make a request within 20 days from the date of the notice for a hearing on the matter by the division.

(4) APPROPRIATE SUBJECT MATTER. (a) The division shall hold a hearing when a timely request is made under sub. (3) on any complaint alleging that the provisions of the indenture agreement are not being complied with by a party to the agreement. The division shall not hold a hearing on complaints which consist of matters which are unrelated to the provisions of the indenture agreement.

(b) Examples of violations of the indenture agreement which may be appropriate subject matter for a hearing on a complaint to the division under this chapter include but are not limited to:

1. That the employer or other party to the indenture agreement has not provided to the apprentice the proper training as required in the indenture agreement;

2. That the employer or other party to the indenture agreement has failed to provide to the apprentice the proper schooling as required in the indenture agreement;

3. That the employer or other party to the indenture agreement has assigned the apprentice to perform job duties which do not provide the proper training as required in the indenture agreement;

4. That the employer or other party to the indenture agreement has failed to pay the wages as required in the indenture agreement;

5. That the apprentice is not satisfactorily progressing in the training or schooling required under the indenture agreement.

(c) Examples of matters which are unrelated to the provisions of the indenture agreement which are not appropriate subjects for a hearing by the division under this chapter include but are not limited to:

1. Employee absenteeism or tardiness at work or school;

2. Employee use of drugs or alcohol on the job at work or school;

3. Insubordination;

4. Refusal to perform work as assigned; or

5. Employee violations of the employer's printed work rules.

(d) Where the investigation of the division reveals that the dispute between the apprentice and the employer or other party to the indenture agreement is unrelated to the provisions of the indenture agreement, the division may cancel the indenture agreement.

(5) HEARING PROCEDURES. (a) When the division sets a date for a hearing, it shall notify each party to the indenture agreement at least 20 days prior to the date of the hearing.

(b) The person appointed by the division as the hearing examiner shall not be any person who has participated in an initial investigation of the complaint or the attempt to achieve a resolution of the complaint by conference, conciliation or persuasion.

(c) The hearing examiner shall limit the hearing to the appropriate subject matter under sub. (4).

(d) The person making the complaint shall present evidence at the hearing to support the allegations in the complaint. If the person making the complaint fails to appear at the hearing without good cause or refuses to present evidence to support the allegations in the complaint, the hearing examiner may dismiss the complaint.

(e) The hearing examiner is not bound by the strict statutory or common law rules of evidence. Evidence shall be admitted as provided in s. 227.45, Stats.

(f) The hearing shall not be transcribed unless a written request for such transcription is made by any party. If the hearing is transcribed, any party may obtain a copy of the transcript by paying a reasonable fee as prescribed by the department.

(g) At the conclusion of the hearing, the hearing examiner shall make written findings and orders and serve them upon the parties. The hearing examiner may make orders to enforce the indenture agreement, order penalties as provided in s. 106.01(8) and (9), Stats., cancel the indenture agreement or dismiss the complaint.

(h) If the hearing examiner finds that a penalty as provided in s. 106.01 (8) and (9), Stats., is appropriate, the department may request the attorney general to seek a court order directing the party to pay the penalty. If any party fails to comply with an order of the hearing examiner, the department may request the attorney general to seek enforcement of the order or penalty in the circuit court.

(i) The decision of the hearing examiner is the final order of the department. Any party may seek judicial review of an order of the hearing examiner, as provided in ch. 227, Stats.

(6) CANCELLATION. This section does not apply to the request of either party that an indenture be cancelled during the probationary period specified in the indenture agreement, except that the division may attempt to resolve disputes by conference, conciliation and persuasion.

History: Cr. Register, May, 1981, No.305, eff. 6-1-81; correction in (5) (c) made under s. 13.93 (2m) (b) 7., Stats., Register, February, 1996, No. 482.

