

1 **Report From Agency**

**PROPOSED ORDER OF THE WISCONSIN  
DEPARTMENT OF WORKFORCE DEVELOPMENT  
CREATING AND ADOPTING RULES**

2 The Wisconsin department of workforce development proposes the following order *to*  
3 *amend* DWD 295.02 (2) (b) 23.; *to repeal and recreate* ch. DWD 296; and *to create* DWD 295.02  
4 (2) (b) 23. (Note) relating to federal equal employment opportunity standards for apprenticeship  
5 programs.

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**Analysis Prepared by the Department of  
Workforce Development**

***Statutes Interpreted***

Statutes interpreted: ch. 106, Stats.

***Statutory Authority***

Section 106.01 (11) (a) and (b), Stats.

***Explanation of Statutory Authority***

An apprenticeship program is a program approved by the department providing for the employment and training of apprentices in a trade, craft, or business that includes a plan containing all of the terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices. The department is authorized to promulgate rules related to provisions to be included in an apprenticeship contract and procedures for approving and for rescinding approval of apprenticeship programs.

***Related Statute or Rules***

Wis. Stats. Ch. 106 – Apprenticeship, Employment and Equal Rights Programs

***Plain Language Analysis***

Chapter DWD 296 (Federal Equal Opportunity Standards for Apprenticeship Programs) is promulgated pursuant to ch. 106, Stats. and prescribes the policies and procedures to promote equality of opportunity in apprenticeship programs registered with the department. This rule

repeals and recreates ch. DWD 296 to align with federal regulations (29 CFR 29 and 29 CFR 30) and state statute. Wisconsin is recognized as a state apprenticeship agency organized under 29 CFR 29.13 and is required by federal regulation to incorporate the changes made under 29 CFR 29 and 29 CFR 30.

The U.S. Department of Labor, Office of Apprenticeship, updated 29 CFR 29 and 29 CFR 30 to include regulations that prohibit discrimination in registered apprenticeship programs because of age (40 or older), genetic information, sexual orientation, and disability. These categories are in addition to the existing regulations that prohibit discrimination in registered apprenticeship programs because of race, color, religion, national origin, and sex. Federal regulations also require sponsors to provide equal opportunity in apprenticeship. State agencies with recognized apprenticeship programs are required to update administration rules to reflect federal regulations.

The rule differs from the current rule by:

- Creating the definitions "ADA," "affirmative action plan," "apprentice," "EEO," "ethnic group" or "ethnicity," "genetic information," "individual with a disability," "journeyworker," "major life activities," "physical or mental impairment," "pre-apprenticeship program," "qualified applicant or apprentice," "reasonable accommodation," "registered," "respondent," "UGESP," and "Wisconsin equal rights division."
- Amending the definition "affirmative action program" to align with federal regulations.
- Repealing the definitions "agency," "commission," "secretary of labor," "minority count," and "female count" because those terms are no longer used in ch. DWD 296.
- Amending the definitions "apprenticeship program," "department," "employer," and "sponsor" to reflect proper citation.

The rule also does all the following:

- Requires sponsors to invite applicants to self-identify as an individual with a disability at various times in the application and hiring process and requires sponsors to make a one-time invitation to apprentices currently in registered apprenticeship programs.
- Improves and clarifies the affirmative steps employers and sponsors shall take to ensure equal opportunity in their registered apprenticeship program.
- Requires sponsors to analyze their workforce and take affirmative actions to employ individuals with a disability.
- Establishes a utilization goal of 7% for individuals with a disability within a sponsor's registered apprenticeship programs.
- Requires sponsors to conduct a workforce analysis by occupation and availability analysis by major occupation group.
- Clarifies certain minimum outreach and recruitment efforts that are required for all sponsors, and additional efforts that sponsors with affirmative action programs will take if they find themselves to be underutilizing members of a protected class.
- Requires a sponsor to assign an individual to oversee the sponsor's equal employment opportunity efforts.

- Allows sponsors to use any method of selecting apprentices that complies with the UGES P, rather than using one of four specified methods under the current rule.
- Requires sponsors to conduct periodic orientation and information sessions for those connected with the registered apprenticeship programs, including anti-harassment training.
- Allows the department to sanction noncompliant sponsors by suspending their right to register new apprentices while they implement corrective affirmative action plans. Under current law, the department is authorized only to deregister noncompliant sponsors.
- Specifies exactly what sponsors are required to do for outreach recruitment.
- Provides more flexibility for sponsors to use any selection method for apprentices, as long as it is not discriminatory. Current rule requires the sponsor to use one of four selection methods.
- Streamlines and simplifies sponsor's obligations while maintaining broad and effective equal employment opportunity protections for applicants or apprentices in a registered apprenticeship program.

The rule provides sponsors 180 days from January 18, 2019 to comply with equal opportunity standards applicable to all sponsors; and, sponsors registering after January 18, 2019, to comply with this obligation upon registration or within 180 from January 18, 2019, whichever is later. In addition, the rule provides sponsors bring their program into compliance with the requirements under this chapter within two years of January 18, 2018 and sponsors registered after January 18, 2018 shall comply with the requirements within two years after the date of registration.

The update to ch. DWD 295.02 is technical in nature and updates cross references to the new sections in ch. DWD 296.

### *Summary of, and comparison with, existing or proposed federal regulations*

The rule reflects changes under federal regulations 29 CFR 29 (Labor Standards for the Registration of Apprenticeship) and 29 CFR 30 (Equal Employment Opportunity in Apprenticeship). Prior to an update in January 2017, the federal regulations were last revised in 1978, prohibiting discrimination based on race, sex, color, religion and national origin and requiring sponsors with more than five apprentices to develop and implement a written affirmative action plan for minorities and the inclusion of female apprentices. Currently, these regulations are intended to provide for more uniform training of apprentices and promote equal opportunity in apprenticeship.

### *Comparison with rules in adjacent states*

Minnesota operates a recognized state apprenticeship agency organized under 29 CFR 29.13 (Minn. Stat. Ch. 178). Illinois, Iowa and Michigan have not established state apprenticeship agencies and registered apprenticeship in those states operates under federal law only.

### *Summary of factual data and analytical methodologies*

The department is recognized by the U.S. Department of Labor as a state apprenticeship agency under 29 CFR 29.13. Department staff reviewed state statute and implemented the requirements under 29 CFR 29 and 29 CFR 30 to maintain this recognition.

***Analysis and supporting documents used to determine effect on small business or in preparation of an economic impact analysis***

The rule will have no significant economic impact on small businesses as defined in s. 227.114 (1), Stats.

***Anticipated costs incurred by private sector***

Not Applicable.

***Effect on small business***

The rule will have no significant economic effect on small businesses as defined in s. 227.114 (1), Stats.

***Agency contact person***

Questions and comments related to this rule may be directed to:

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***Place where comments are to be submitted and deadline for submission***

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1           **DWD 296.01 Applicability.** This chapter applies to all sponsors of registered  
2 apprenticeship programs under ch. 106, Stats.

3

4           **DWD 296.02 Definitions.** In this chapter:

5           (1) “ADA” means the Americans with Disabilities Act, as amended.

6           (2) “Affirmative action plan” means a written tool designed to assist a sponsor in detecting,  
7 diagnosing, and correcting any barriers to equal opportunity that may exist in the sponsor's  
8 registered apprenticeship program.

9           (3) “Affirmative action program” has the meaning given in 29 CFR 30.4 (a).  
10

11           **Note:** 29 CFR 30.4 (a) reads: (1) An affirmative action program is designed to ensure equal  
12 opportunity and prevent discrimination in apprenticeship programs. An affirmative  
13 action program is more than mere passive nondiscrimination. Such a program requires  
14 the sponsor to take affirmative steps to encourage and promote equal opportunity, to  
15 create an environment free from discrimination, and to address any barriers to equal  
16 opportunity in apprenticeship. An affirmative action program is more than a paperwork  
17 exercise. It includes those policies, practices, and procedures, including self-analyses,  
18 that the sponsor implements to ensure that all qualified applicants and apprentices are  
19 receiving an equal opportunity for recruitment, selection, advancement, retention and  
20 every other term and privilege associated with apprenticeship. An affirmative action  
21 program should be a part of the way the sponsor regularly conducts its apprenticeship  
22 program.

23           (2) A central premise underlying affirmative action is that, absent discrimination, over  
24 time a sponsor's apprenticeship program, generally, will reflect the sex, race, ethnicity,  
25 and disability profile of the labor pools from which the sponsor recruits and selects.  
26 Consistent with this premise, affirmative action programs contain a diagnostic  
27 component which includes quantitative analyses designed to evaluate the composition of  
28 the sponsor's apprenticeship program and compare it to the composition of the relevant  
29 labor pools. If women, individuals with disabilities, or individuals from a particular  
30 minority group, for example, are not being admitted into apprenticeship at a rate to be  
31 expected given their availability in the relevant labor pool, the sponsor's affirmative  
32 action program must include specific, practical steps designed to address any barriers to  
33 equal opportunity that may be contributing to this underutilization.

34           (3) Effective affirmative action programs include internal auditing and reporting  
35 systems as a means of measuring the sponsor's progress toward achieving an  
36 apprenticeship program that would be expected absent discrimination.

37           (4) An affirmative action program also ensures equal opportunity in apprenticeship by  
38 incorporating the sponsor's commitment to equality in every aspect of the apprenticeship

1 program. Therefore, as part of its affirmative action program, a sponsor must monitor  
2 and examine its employment practices, policies and decisions and evaluate the impact  
3 such practices, policies and decisions have on the recruitment, selection and advancement  
4 of apprentices. It must evaluate the impact of its employment and personnel policies on  
5 minorities, women, and persons with disabilities, and revise such policies accordingly  
6 where such policies or practices are found to create a barrier to equal opportunity.

7 (5) The commitments contained in an affirmative action program are not intended and  
8 must not be used to discriminate against any qualified applicant or apprentice on the basis  
9 of race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic  
10 information, or disability.

11 (4) “Apprentice” has the meaning prescribed under s. 106.001(1), Stats.

12 (5) “Department” means the department of workforce development.

13 (6) “EEO” means equal employment opportunity.

14 (7) “Employer” has the meaning prescribed under s. 106.001 (5), Stats.

15 (8) “Apprenticeship program” has the meaning prescribed under s. 106.001 (4), Stats.

16 (9) “Deregistration” means the voluntary or involuntary cancellation of an apprenticeship  
17 program by the department.

18 (10) “Ethnic group” or “Ethnicity” means any of the following:

19 (a) Hispanic or Latino - An individual of Cuban, Mexican, Puerto Rican, South or Central  
20 American, or other Spanish culture or origin, regardless of race.

21 (b) Not Hispanic or Latino.

22 (11) “Genetic information” means any of the following:

23 (a) An individual's genetic tests.

24 (b) The genetic tests of an individual's family members.

25 (c) The manifestation of disease or disorder in family members of an individual.

26 (d) An individual's request for, or receipt of, genetic services, or participation in clinical  
27 research that includes genetic services by an individual or a family member of an individual.

28 (e) The genetic information of a fetus carried by an individual or by a pregnant woman

1 who is a family member of the individual and the genetic information of any embryo legally held  
2 by the individual or family member using an assisted reproductive technology.

3 (f) Genetic information does not include information about the sex or age of an individual,  
4 the sex or age of family members, or information about the race or ethnicity of an individual or  
5 family members, or information about the race or ethnicity of an individual or family members  
6 that is not derived from a genetic test.

7 (12) “Individual with a disability” means any of the following:

8 (a) An individual who has a physical or mental impairment that substantially limits one or  
9 more major life activities or limits the capacity to work.

10 (b) An individual who has a record of such impairment.

11 (c) An individual who is perceived as having such an impairment.

12 (13) “Journeyworker” means an individual who has attained a level of skill, abilities and  
13 competencies recognized within an industry as having mastered the skills and competencies  
14 required for the occupation.

15 (14) “Major life activities” includes caring for oneself, performing manual tasks, seeing,  
16 hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing,  
17 learning, reading, concentrating, thinking, communication, interacting with others, and working.

18 A major life activity also includes the operation of a major bodily function, including functions of  
19 the immune system, special sense organs and skin; normal cell growth, and digestive,

20 genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular,

21 endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a

22 major bodily function includes the operation of an individual organ within a body system.

23 (15) “Physical or mental impairment” means any of the following:

1 (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss  
2 affecting one or more body systems, such as neurological, musculoskeletal, special sense organs,  
3 respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary,  
4 immune, circulatory, hemic, lymphatic, skin, and endocrine.

5 (b) Any mental or psychological disorder, such as intellectual disability, organic brain  
6 syndrome, emotional or mental illness, and specific learning disabilities.

7 **(16)** “Pre-apprenticeship program” means a training model designed to assist individuals  
8 who do not possess the minimum selection criteria established in a program sponsor's  
9 apprenticeship standards, as required under this chapter; and, which maintains at least one  
10 documented partnership with an apprenticeship program. It involves a form of structured  
11 workplace education and training in which an employer, employer group, industry association,  
12 labor union, community-based organization, or educational institution collaborates to provide  
13 formal instruction that introduces participants to the competencies, skills, and materials used in  
14 one or more apprenticeable occupations.

15 **(17)** “Qualified applicant or apprentice” means an individual who, with or without  
16 reasonable accommodation, can perform the duties of the apprenticeship program for which the  
17 individual applied or is enrolled.

18 **(18)** “Reasonable accommodation” means any of the following:

19 (a) Modifications or adjustments to a job application process that enable a qualified  
20 applicant or apprentice with a disability to be considered for the position a qualified applicant or  
21 apprentice desires.

22 (b) Modifications or adjustments to the work environment, or to the manner or  
23 circumstances under which the position held or desired is customarily performed, that enable a

1 qualified applicant or apprentice with a disability to perform the duties of that position.

2 (c) Modifications or adjustments that enable a sponsor's apprentice with a disability to  
3 enjoy equal benefits and privileges of apprenticeship as are enjoyed by its other similarly situated  
4 apprentices without disabilities.

5 **Note:** Examples of reasonable accommodations include:

- 6
- 7 1. Making existing facilities used by apprentices readily accessible to and usable by  
8 individuals with disabilities.
  - 9
  - 10 2. Job restructuring; part-time or modified work schedule; reassignment to a vacant  
11 position; acquisition or modification of equipment or devices; appropriate adjustment or  
12 modifications of examinations, training materials, or policies; the provision of qualified  
13 readers or interpreters; and other similar accommodations for individuals with  
14 disabilities.
  - 15
  - 16 3. To determine the appropriate reasonable accommodation, it may be necessary for the  
17 sponsor to initiate an informal, interactive process with the qualified individual in need  
18 of the accommodation. This process should identify the precise limitations resulting  
19 from the disability and potential reasonable accommodations that could overcome those  
20 limitations.
  - 21

22 (19) "Registered" or "Registration" means the approval of an apprenticeship program by  
23 the department.

24 (20) "Respondent" means the individual or entity identified in a complaint in which  
25 discrimination is alleged.

26 (21) "Sponsor" has the meaning prescribed under s. 106.001 (8), Stats.

27 (22) "UGESP" means the Uniform Guidelines on Employee Selection Procedures under 41  
28 CFR 60.3.

29 (23) "Wisconsin equal rights division" means the division of equal rights within the  
30 department.

31 **DWD 296.03 Equal opportunity standards applicable to all sponsors. (1)**

32 **DISCRIMINATION PROHIBITED.** A sponsor of a registered apprenticeship program shall not

1 discriminate against an apprentice or applicant for apprenticeship on the basis of race, color,  
2 religion, national origin, sex, sexual orientation, age (40 or older), genetic information, or  
3 disability as it relates to any of the following:

- 4 (a) Recruitment, outreach, and selection process.
- 5 (b) Hiring, placement, upgrading, periodic advancement, promotion, demotion, transfer,  
6 layoff, termination, right of return from layoff, and rehiring.
- 7 (c) Rotation among work processes.
- 8 (d) Imposition of penalties or other disciplinary action.
- 9 (e) Rates of pay or any other form of compensation or changes in compensation.
- 10 (f) Conditions of work.
- 11 (g) Hours of work and hours of training provided.
- 12 (h) Job assignments.
- 13 (i) Leaves of absence, sick leave, or any other leave.
- 14 (j) Any other benefit, term, condition, or privilege associated with apprenticeship.

15 **(2) GENERAL DUTY TO ENGAGE IN AFFIRMATIVE ACTION.** A sponsor of a registered  
16 apprenticeship program shall take affirmative steps to provide equal opportunity in apprenticeship  
17 that shall include all of the following:

- 18 (a) *Assignment of responsibility.* A sponsor shall designate an individual with appropriate  
19 authority in the registered apprenticeship program, to act as an apprenticeship coordinator that is  
20 responsible for and accountable for overseeing the registered apprenticeship program's  
21 commitment to equal opportunity, including the development and implementation of an  
22 affirmative action program under s. DWD 296.04. A sponsor shall provide resources, support and

1 access to leadership to ensure effective implementation. The individual designated under this  
2 section shall be responsible for all of the following:

- 3 1. Monitoring all registered apprenticeship activity to ensure compliance with the  
4 nondiscrimination and affirmative action obligations required in this chapter.
- 5 2. Maintaining records required in this section.
- 6 3. Generating and submitting reports as required by the department.

7 (b) *Internal dissemination of equal opportunity policy.* A sponsor shall inform all  
8 applicants for apprenticeship, apprentices, and individuals connected with the administration or  
9 operation of the registered apprenticeship program of its commitment to equal opportunity and  
10 affirmative action obligations. In addition, a sponsor shall require that individuals connected with  
11 the administration or operation of the apprenticeship program take the necessary action to aid the  
12 sponsor in meeting its nondiscrimination and affirmative action obligations under this section. A  
13 sponsor shall do all of the following:

14 1. Publish the equal opportunity pledge prescribed under sub. (3) in its standards of  
15 apprenticeship required in s. DWD 295.02 and in apprentice and employee handbooks, policy  
16 manuals, newsletters, or other documents circulated by the sponsor that describe the nature of the  
17 sponsorship.

18 2. Post the equal opportunity pledge required in sub. (3) on bulletin boards, including  
19 through electronic media, or any other location accessible to all apprentices and applicants for  
20 apprenticeship.

21 3. Conduct orientation and periodic information sessions for individuals connected with the  
22 administration or operation of the registered apprenticeship program, including all apprentices and  
23 journeyworkers who regularly work with apprentices, to inform and remind individuals of the

1 sponsor's equal employment opportunity policy in the apprenticeship program and provide anti-  
2 harassment training required in par. (d) 1.

3 4. Maintain records necessary to demonstrate compliance with the requirements under this  
4 section and provide a copy of these records as requested by the department.

5 (c) *Universal outreach and recruitment.* A sponsor shall implement all of the following  
6 measures to ensure the outreach and recruitment efforts for apprentices extend to all individuals  
7 available for apprenticeship within the sponsor's relevant recruitment area without regard to race,  
8 sex, ethnicity, or disability:

9 1. Develop and update on an annual basis, a list of current recruitment sources that  
10 generate referrals from all demographic groups within the relevant recruitment area.

11 **Note:** Examples of relevant recruitment sources include: local workforce investment  
12 boards and job centers, community-based organizations, community colleges, vocational,  
13 career and technical schools, pre-apprenticeship programs, and federally-funded, youth  
14 job-training programs.

15 2. Provide the name, mailing address, telephone number, and email address for each  
16 recruitment source.

17 3. Provide recruitment sources advance notice, preferably 30 days, of apprenticeship  
18 openings to allow recruitment sources the opportunity to notify and refer candidates. This notice  
19 shall include documentation of the sponsor's equal opportunity pledge prescribed under sub. (3).

20 (d) *Maintaining apprenticeship programs free from harassment, intimidation and*  
21 *retaliation.* A sponsor shall develop and implement procedures to ensure apprentices are not  
22 harassed because of race, color, religion, national origin, sex, sexual orientation, age (40 or older),  
23 genetic information, or disability and ensure the registered apprenticeship program is free from  
24 intimidation and retaliation as prescribed in s. DWD 296.17. A sponsor shall promote an  
25

1 environment in which all apprentices feel safe, welcomed, and treated fairly and ensure all of the  
2 following steps are taken:

3 1. Provide anti-harassment training to all individuals connected with the administration or  
4 operation of the registered apprenticeship program, including all apprentices and journeyworkers  
5 who regularly work with apprentices. Training shall include participation by trainees and may  
6 include attending a training session in person or completing an interactive training online. The  
7 training content shall include all of the following:

8 a. That harassing conduct shall not be tolerated.

9 b. The definition of harassment and the types of conduct that constitute unlawful  
10 harassment on the basis of race, color, religion, national origin, sex, sexual orientation, age (40 or  
11 older), genetic information and disability.

12 c. The right to file a harassment complaint as prescribed under s. DWD 296.14.

13 2. Ensure all facilities and apprenticeship activities are available without regard to race,  
14 color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, or  
15 disability, except that if a sponsor provides restrooms or changing facilities, a sponsor shall  
16 provide access to separate or single user restrooms and changing facilities to assure privacy  
17 between sexes.

18 3. Establish and implement procedures to handle and resolve complaints about harassment  
19 and intimidation on the basis of race, color, religion, national origin, sex, sexual orientation, age  
20 (40 or older), genetic information, or disability, and complaints about retaliation for engaging in  
21 protected activity under s. DWD 296.17.

22 (e) *Compliance with federal and state equal employment opportunity laws.* A sponsor shall  
23 comply with all applicable federal and state laws and regulations that require equal employment

1 opportunity without regard to race, color, religion, national origin, sex, sexual orientation, age (40  
2 or older), genetic information, or disability. Failure to comply with this chapter, if related to the  
3 equal employment opportunity of apprentices or graduates of an apprenticeship program, may  
4 result in deregistration or other enforcement actions prescribed under s. DWD 296.15.

5 (3) EQUAL OPPORTUNITY PLEDGE. A sponsor of a registered apprenticeship program shall  
6 include in its standards of apprenticeship and any apprenticeship opportunity announcements, the  
7 following equal opportunity pledge:

8 “[Enter name of sponsor] shall not discriminate against apprenticeship applicants or  
9 apprentices on the basis of race, color, religion, national origin, sex (including pregnancy and  
10 gender identity), sexual orientation, genetic information, or because they are an individual with a  
11 disability or a person 40 years old or older. [Enter name of sponsor] shall take affirmative action to  
12 provide equal opportunity in apprenticeship and operate the apprenticeship program as required  
13 under 29 CFR part 30, and the equal employment opportunity rules of the state of Wisconsin.”

14 (4) COMPLIANCE. (a) A sponsor of a registered apprenticeship program shall comply with  
15 the obligations of this subsection within 180 days of January 18, 2019.

16 (b) A sponsor registering an apprenticeship program after January 18, 2019 shall comply  
17 with the obligations under this subsection upon registration or 180 days after January 18, 2019,  
18 whichever is later.

19 (5) NOTICE ON FILING A COMPLAINT. A sponsor shall provide written notice as prescribed  
20 under s. DWD 296.14 to all applicants and apprentices on how to file a discrimination complaint.

21 **DWD 296.04 Affirmative action program. (1) ADOPTION OF AN AFFIRMATIVE ACTION**  
22 **PROGRAM.** (a) A sponsor of a registered apprenticeship program shall develop and maintain an  
23 affirmative action program in a written plan, unless any of the following apply:

1           1. A sponsor provides satisfactory evidence of compliance with an equal opportunity  
2 program providing for affirmative action in apprenticeship as prescribed in 29 CFR 30.4 (d) (2).

3           2. The registered apprenticeship program has fewer than five apprentices, unless such  
4 program was adopted to circumvent the requirements of this paragraph.

5           (b) The components of a written plan shall be developed in accordance with the respective  
6 compliance dates and made available to the department upon request.

7           **(2) CONTENTS OF AN AFFIRMATIVE ACTION PROGRAM.** An affirmative action program under  
8 sub. (1) shall include all of the following:

9           (a) Utilization analysis for race, sex, and ethnicity as prescribed under s. DWD 296.05.

10          (b) Establishment of utilization goals for race, sex, and ethnicity as prescribed under s.  
11 DWD 296.06.

12          (c) Utilization goals for individuals with disabilities as prescribed under s. DWD 296.07.

13          (d) Targeted outreach, recruitment, and retention as prescribed under s. DWD 296.08.

14          (e) Review of personnel processes as prescribed under s. DWD 296.09.

15          (f) Invitations to self-identify as prescribed under s. DWD 296.11.

16          **(3) WRITTEN AFFIRMATIVE ACTION PLANS.** (a) A sponsor that is required to adopt an  
17 affirmative action program under sub. (1), shall create and update a written affirmative action plan  
18 memorializing and discussing the contents of the program identified under sub. (2).

19          (b) The initial written affirmative action plan for registered apprenticeship programs  
20 existing as of January 18, 2018, shall be completed within 2 years of January 18, 2018. The  
21 written affirmative action plan shall be updated every time the sponsor completes workforce  
22 analysis required under ss. DWD 296.05 (2) and DWD 296.07 (2).

1 (c) The initial written affirmative action plan for apprenticeship programs registered after  
2 January 18, 2018 shall be completed within 2 years of registration. The written affirmative action  
3 plan shall be updated every time the sponsor completes workforce analysis required under ss.  
4 DWD 296.05 (2) and DWD 296.07 (2).

5 **DWD 296.05 Utilization analysis for race, sex, and ethnicity. (1) UTILIZATION**

6 ANALYSIS. A utilization analysis provides sponsors with a method for assessing whether possible  
7 barriers to apprenticeship exist for particular groups of individuals by determining whether the  
8 race, sex, and ethnicity of apprentices in a sponsor's registered apprenticeship program is reflective  
9 of individuals available for apprenticeship by race, sex, and ethnicity in the relevant recruitment  
10 area. Where significant disparity exists between availability and representation, a sponsor shall be  
11 required to establish a utilization goal under s. DWD 296.06.

12 (2) ANALYSIS OF APPRENTICESHIP PROGRAM. A sponsor shall analyze the race, sex and  
13 ethnic composition of its apprentice workforce. A sponsor shall group all apprentices in their  
14 registered apprenticeship program by occupation title, then for each occupation represented, a  
15 sponsor shall identify the race, sex and ethnicity of its apprentices within that occupation.

16 (3) SCHEDULE OF ANALYSIS. A sponsor shall conduct an apprenticeship program workforce  
17 analysis at each compliance review and again if three years have passed without a compliance  
18 review. The updated workforce analysis shall be compared to the utilization goal established at the  
19 sponsor's most recent compliance review to determine if the sponsor is underutilized as prescribed  
20 under sub. (6).

21 (4) COMPLIANCE DATE. (a) An existing sponsor of a registered apprenticeship program as  
22 of January 18, 2018 shall conduct its first workforce analysis under this section no later than 2  
23 years after January 18, 2018.

1 (b) A new sponsor registered after January 18, 2018 shall conduct its initial workforce  
2 analysis under this section, no later than 2 years after the date of registration.

3 (5) AVAILABILITY ANALYSIS. (a) An availability analysis establishes a benchmark to  
4 compare to the demographic composition of a sponsor's apprenticeship program to determine if  
5 barriers to equal opportunity may exist in a sponsor's registered apprenticeship program.

6 (b) Availability is an estimate of the number of qualified individuals available for  
7 apprenticeship by race, sex, and ethnicity expressed as a percentage of all qualified individuals  
8 available for apprenticeship in a sponsor's relevant recruitment area.

9 (c) In determining availability, all of the following factors shall be considered for each  
10 major occupation group represented in a sponsor's registered apprenticeship program standards:

11 1. The percentage of individuals who are eligible for enrollment in the registered  
12 apprenticeship program within a sponsor's relevant recruitment area broken down by race, sex, and  
13 ethnicity.

14 2. The percentage of the sponsor's employees who are eligible for enrollment in the  
15 registered apprenticeship program.

16 (d) In determining availability, the relevant recruitment area is defined as the geographical  
17 area from which the sponsor usually seeks or reasonably could seek apprentices. A sponsor shall  
18 identify the relevant recruitment area in its written affirmative action plan under s. DWD 296.04

19 (3). A sponsor may not draw its relevant recruitment area in a way that would have the effect of  
20 excluding individuals based on race, sex, or ethnicity from consideration, and shall develop a brief  
21 rationale for selection of that recruitment area.

22 (e) Availability shall be derived from the most current and discrete statistical information  
23 available.

1           **Note:** Examples of current and discrete statistical information may include census data,  
2           data from local job service offices, and data from colleges or other training institutions.

3  
4           (f) A sponsor, working with the department, shall conduct an availability analysis at each  
5 compliance review.

6           **(6) RATE OF UTILIZATION.** To determine the rate of utilization, a sponsor, working with the  
7 department, shall group each occupation title in the registered apprenticeship program by major  
8 occupation group and compare the racial, sex, and ethnic representation within each major  
9 occupation group to the racial, sex, and ethnic representation available in the relevant recruitment  
10 area, as determined in sub. (5). When a sponsor's utilization of women, Hispanics or Latinos, or a  
11 particular racial minority group is significantly less than would be reasonably expected given the  
12 availability of women, Hispanics or Latinos, or a particular racial minority group for  
13 apprenticeship, a sponsor shall establish a utilization goal for the affected group as prescribed  
14 under sub. (5). Sponsors are not required or expected to establish goals where no significant  
15 disparity in utilization rates have been found.

16           **DWD 296.06 Establishment of utilization goals for race, sex, and ethnicity. (1)** A  
17 sponsor required to establish a utilization goal under s. DWD 296.05 for a particular sex, racial  
18 group, or ethnic group in a major occupation in its registered apprenticeship program, working  
19 with the department, shall establish a percentage goal at least equal to the availability figure under  
20 s. DWD 296.05 (5), for that major occupation group.

21           **(2)** A sponsor's determination under s. DWD 296.05 that a utilization goal is required does  
22 not constitute a finding or admission of discrimination.

23           **(3)** Utilization goals shall serve as objectives or targets reasonably attainable by means of  
24 applying every good faith effort to make all aspects of the entire affirmative action program work.

1 Utilization goals are used to measure the effectiveness of a sponsor's outreach, recruitment and  
2 retention efforts. In establishing utilization goals, all of the following principles shall be applied:

3 (a) Utilization goals may not include rigid and inflexible quotas that must be met or be  
4 considered either a ceiling or a floor for the selection of particular groups as apprentices. Quotas  
5 are expressly forbidden.

6 (b) Utilization goals may not provide a sponsor with a justification to extend a preference  
7 to any individual, select an individual, or adversely affect an individual's status as an apprentice,  
8 on the basis of that individual's race, sex, or ethnicity.

9 (c) Utilization goals shall not create set-asides for specific groups and are not intended to  
10 achieve proportional representation or equal results.

11 (d) Utilization goals may not be used to supersede eligibility requirements for  
12 apprenticeship. Affirmative action programs prescribed in this chapter do not require sponsors to  
13 select an individual who lacks qualifications to participate in the registered apprenticeship program  
14 successfully or select a less-qualified person in preference to a more qualified one.

15 **DWD 296.07 Utilization goals for individuals with disabilities. (1) UTILIZATION GOAL.**

16 The department has established a utilization goal of 7 percent for employment of qualified  
17 individuals with disabilities as apprentices for each major occupation group within each sponsor's  
18 registered apprenticeship program. The utilization goal established in this paragraph shall act as a  
19 benchmark against which a sponsor shall measure the representation of individuals with  
20 disabilities in the sponsor's registered apprenticeship program by major occupation group. The  
21 goal serves as an equal opportunity objective that is attainable by complying with all of the  
22 affirmative action requirements in this chapter.

1           **(2) UTILIZATION ANALYSIS.** A utilization analysis is designed to evaluate the representation  
2 of individuals with disabilities in a sponsor's registered apprenticeship program grouped by major  
3 occupation. If individuals with disabilities are represented in a sponsor's registered apprenticeship  
4 program in any given major occupation at a rate less than the utilization goal of 7 percent, the  
5 sponsor shall take specific measures prescribed under sub. (6) and (7).

6           **(3) PROCESS.** A sponsor shall analyze the representation of individuals within their  
7 registered apprenticeship program by occupation. A sponsor shall group all apprentices according  
8 to occupational titles represented in a sponsor's registered apprenticeship program. For each  
9 occupation represented, a sponsor shall identify the number of apprentices with disabilities.

10           **(4) SCHEDULE OF EVALUATION.** A sponsor shall conduct the apprentice workforce analysis  
11 at each compliance review and again when three years have passed without a compliance review.  
12 The updated workforce analysis shall be compared to the utilization goal established under sub.  
13 (1).

14           **(5) COMPLIANCE DATE.** (a) A sponsor with a registered apprenticeship program as of  
15 January 18, 2018 shall conduct a workforce analysis under this section no later than 2 years after  
16 January 18, 2018.

17           (b) A sponsor registering an apprenticeship program after January 18, 2018 shall conduct  
18 its initial workforce analysis under this section no later than 2 years after the date of registration.

19           **(6) IDENTIFICATION OF PROBLEM AREAS.** When a sponsor, working with the department,  
20 determines the percentage of individuals under sub. (3) is less than the utilization goal established  
21 under sub. (1), the sponsor shall take steps to determine if impediments to equal opportunities exist  
22 and where impediments to equal opportunity exist. In making this determination, a sponsor shall

1 look at the results of its assessment of personnel processes required under s. DWD 296.09 and the  
2 effectiveness of its outreach and recruitment efforts required under s. DWD 296.08, if applicable.

3 (7) ACTION ORIENTED PROGRAMS. A sponsor shall undertake action-oriented programs,  
4 including targeted outreach, recruitment, and retention activities identified in s. DWD 296.08,  
5 designed to correct any problem areas that a sponsor identified pursuant to the review of personnel  
6 processes and outreach and recruitment efforts.

7 (8) UTILIZATION GOAL RELATION TO DISCRIMINATION. A determination that a sponsor has  
8 not attained the utilization goal established under sub. (1) in one or more major occupation groups  
9 does not constitute a finding or admission of discrimination in violation of this chapter.

10 (9) UTILIZATION GOAL NOT A QUOTA OR CEILING. The utilization goal established under  
11 sub. (1) shall not be used as a quota or ceiling that limits or restricts the employment of individuals  
12 with disabilities as apprentices.

13 **DWD 296.08 Targeted outreach, recruitment, and retention. (1) MINIMUM ACTIVITIES**  
14 **REQUIRED.** A sponsor that has found underutilization and established a utilization goal for a  
15 specific group under s. DWD 296.06 or 296.07 shall undertake targeted outreach, recruitment, and  
16 retention activities that are likely to generate an increase in applications for apprenticeship and  
17 improve retention of apprentices from the targeted group or from individuals with disabilities. A  
18 sponsor under this section shall conduct all of the following:

19 (a) In the written affirmative action plan, identify the specific targeted outreach,  
20 recruitment, and retention activities planned for the upcoming program year. These activities shall  
21 include all of the following:

1           1. Distribution of information to organizations serving the underutilized group regarding  
2 the nature of apprenticeship, requirements for selection for apprenticeship, availability of  
3 apprenticeship opportunities, and the equal opportunity pledge of the sponsor.

4           **Note:** Examples of these organizations include community-based organizations, local  
5 high school, local community colleges, local vocational, career and technical schools,  
6 and local workforce system partners including job centers.  
7

8           2. Advertising openings for apprenticeship opportunities by publishing advertisements in  
9 appropriate media which have wide circulation in the relevant recruitment areas.

10          3. Cooperating with local school boards and vocational education system to develop or  
11 establish relationships with pre-apprenticeship programs targeting students from the underutilized  
12 group to prepare them to meet the standards and criteria required to qualify for entry into  
13 apprenticeship programs.

14          4. Establishing linkage agreements or partnerships enlisting the assistance and support of  
15 pre-apprenticeship programs, community-based organizations, advocacy organizations, or other  
16 appropriate organizations, in recruiting qualified individuals for apprenticeship.

17          (b) Evaluate and document, after every selection cycle for registering apprentices, the  
18 overall effectiveness of the activities.

19          (c) Refine targeted outreach, recruitment, and retention activities as needed.

20          (d) Maintain records of the targeted outreach, recruitment, and retention activities and  
21 records related to the evaluation of these activities.

22          **(2) OTHER ACTIVITIES.** In addition to the activities in sub. (1), sponsors are encouraged to  
23 consider other outreach, recruitment, and retention activities that may assist sponsors in addressing  
24 any barriers to equal employment opportunity in its registered apprenticeship program. These  
25 activities may include any of the following:

1 (a) Enlisting the use of journeyworkers from the underutilized group to assist in the  
2 implementation of a sponsor's affirmative action program.

3 (b) Enlisting the use of journeyworkers from the underutilized group to mentor apprentices  
4 and to assist a sponsor's targeted outreach and recruitment activities.

5 (c) Conducting exit interviews of each apprentice who leaves the sponsor's registered  
6 apprenticeship program prior to receiving a certificate of completion to understand better why the  
7 apprentice is leaving the program and to help shape the sponsor's retention activities.

8 **DWD 296.09 Review of personnel processes. (1) ANNUAL REVIEW.** A sponsor shall  
9 engage in an annual review of its personnel processes to ensure that the sponsor is operating a  
10 registered apprenticeship program free from discrimination based on race, color, religion, national  
11 origin, sex, sexual orientation, age (40 or older), genetic information, and disability. A review  
12 under this section is required regardless of whether a sponsor is underutilized under s. DWD  
13 296.05 and shall include a review of all aspects of the registered apprenticeship program at the  
14 program, industry, and occupational level, and include all of the following:

15 (a) The qualifications for apprenticeship, application, and selection procedures.

16 (b) Wages.

17 (c) Outreach and recruitment activities.

18 (d) Advancement opportunities.

19 (e) Promotions.

20 (f) Work assignments.

21 (g) Job performance.

22 (h) Rotations among all work processes of the occupation.

23 (i) Disciplinary actions.

1 (j) Handling of requests for reasonable accommodations.

2 (k) The program's accessibility to individuals with disabilities, including the use of  
3 information and communication technology.

4 (2) COMPLIANCE DATE. (a) A sponsor that has a registered apprenticeship program as of  
5 January 18, 2018 shall comply with the obligations under sub. (1) within 2 years of January 18,  
6 2018.

7 (b) A sponsor registered with the department after January 18, 2018, shall comply with the  
8 obligations of sub. (1) within 2 years after the date of registration.

9 (3) MODIFICATIONS REQUIRED. Any necessary modifications identified under sub. (1) shall  
10 be integrated into the sponsor's written affirmative action plan to ensure that obligations under this  
11 section are met. A sponsor shall include a description of its review in the written affirmative  
12 action plan and identify in the written plan any modifications made, or the modifications to be  
13 made, to the program as a result of the review.

14 **DWD 296.10 Selection of apprentices.** (1) A sponsor's procedures for the selection of  
15 apprentices shall be included in the written plan for standards of apprenticeship submitted to and  
16 approved by the department under s. DWD 295.02.

17 (2) A sponsor may utilize any method, or combination of methods, for selection of  
18 apprentices if the selection method meets the requirements under 29 CFR 30.10 (b).

19 **Note:** 29 CFR 30.10 (b) requires sponsors to utilize any method or combination of  
20 methods for selection of apprentices, provided that the selection method used meet the  
21 following requirements:

22 (1) The selection procedures shall comply with the Uniform Guidelines on Employee  
23 Selection Procedures (UGESP) in 41 CFR 60.3, including the requirements to evaluate  
24 the impact of the selection procedures on race, sex, and ethnic groups (Hispanic/non-  
25 Hispanic or Latino) and to demonstrate job-relatedness and business necessity for those  
26 procedures that result in adverse impact in accordance with the requirements of  
27 UGESP.

1 (2) The selection procedures shall be uniformly and consistently applied to all  
2 applicants and apprentices within each selection procedure utilized.

3 (3) The selection procedures shall comply with title I of the Americans with  
4 Disabilities Act and EEOC's implementing regulations under part 1630. This procedure  
5 shall not screen out or tend to screen out an individual with a disability or a class of  
6 individuals with disabilities, on the basis of disability, unless the standard, test or other  
7 selection criteria, as used by the program sponsor, is shown to be job-related for the  
8 position in question and is consistent with business necessity.

9 (d) The selection procedure shall be facially neutral in terms of race, color, religion,  
10 national origin, sex, sexual orientation, age (40 or older), genetic information, and  
11 disability.

12  
13 **DWD 296.11 Invitation to self-identify as an individual with a disability. (1) PRE-**

14 OFFER INVITATION. A sponsor adopting an affirmative action program under s. DWD 296.04 shall  
15 invite applicants for apprenticeship to inform the sponsor whether the applicant believes they are  
16 an individual with a disability as defined in s. DWD 296.02 (12). This invitation shall be provided  
17 to each applicant when the applicant applies or is considered for apprenticeship. The invitation  
18 may be included with the application materials for apprenticeship but shall be separate from the  
19 application.

20 (2) POST-OFFER INVITATION. Any time after acceptance into the registered apprenticeship  
21 program, but before the applicant begins their apprenticeship, a sponsor shall invite the applicant  
22 to inform the sponsor whether the applicant believes they are an individual with a disability as  
23 defined under s. DWD 296.02 (12).

24 (3) APPRENTICES. Within the time frame identified under sub. (7) a sponsor shall provide a  
25 one-time invitation to each current apprentice to inform that sponsor if the apprentice is an  
26 individual with a disability as defined under s. DWD 296.02 (12). A sponsor shall make this  
27 invitation using the language and manner prescribed by the U.S. department of labor employment  
28 and training administration. A sponsor shall remind apprentices on a yearly basis that the  
29 apprentice may voluntarily update their disability status.

1           **Note:** You can access the U.S. Department of Labor Employment Training Administration  
2           resources at <https://www.doleta.gov/oa/eeo/tools/disability-self-identification.cfm> or  
3           call (866) 487-2365.  
4

5           **(4) VOLUNTARY SELF-IDENTIFICATION FOR APPRENTICES.** A sponsor shall not compel or  
6           coerce an individual to self-identify as an individual with a disability.

7           **(5) CONFIDENTIALITY.** A sponsor shall keep all information on self-identification  
8           confidential and shall maintain the information in a data analysis file and not the medical files of  
9           individual apprentices as prescribed under s. DWD 296.12 (5). A sponsor shall provide self-  
10          identification information to the department as requested and may not use the information except  
11          in accordance with this chapter.

12          **(6) OBLIGATION OF SPONSOR.** A sponsor under this section is not relieved of its obligation  
13          to take affirmative action with respect to applicants and apprentices who identified as an individual  
14          with a disability. In addition, a sponsor is not relieved of its liability for discrimination in  
15          violation of this section.

16          **(7) COMPLIANCE DATES.** (a) A sponsor with a registered apprenticeship program shall  
17          begin inviting applicants and apprentices to identify as individuals with a disability under this  
18          section no later than 2 years after January 18, 2018. A sponsor shall invite each of its current  
19          apprentices to voluntarily inform the sponsor whether the apprentice believes that they are an  
20          individual with a disability, as defined under s. DWD 296.02 (12), no later than 2 years after  
21          January 18, 2018.

22          (b) A sponsor registering with the department after January 18, 2018, shall begin inviting  
23          applicants and apprentices to identify as individuals with disabilities, as prescribed in this section,  
24          no later than 2 years after the date of registration. A sponsor under this section shall also invite  
25          each of its current apprentices to voluntarily inform the sponsor whether the apprentice believes

1 that they are an individual with a disability, as defined under s. DWD 296.02 (12), no later than 2  
2 years after the date of registration.

3 **DWD 296.12 Recordkeeping. (1) OBLIGATIONS OF SPONSORS.** A sponsor shall collect  
4 data and maintain adequate records necessary for the department to determine if a sponsor is  
5 complying with the requirements of this chapter. At a minimum, records shall include all of the  
6 following:

7 (a) Selection for apprenticeship, including applications, tests and test results, interview  
8 notes, the bases for selection or rejection, and any other records required to be maintained under  
9 UGESP.

10 (b) The invitation to self-identify as an individual with a disability provided to applicants  
11 and apprentices under s. DWD 296.11.

12 (c) Information relating to the operation of the registered apprenticeship program,  
13 including job assignments in all components of the occupation, promotion, demotion, transfer,  
14 layoff, termination, rates of pay or other forms or compensation, conditions of work, hours of  
15 work, hours of training provided, and any other personnel records relevant to complaints filed with  
16 the department under s. DWD 296.14 or filed with other enforcement agencies.

17 (d) Proof of compliance with the requirements under s. DWD 296.03.

18 (e) Requests for reasonable accommodations.

19 (f) Any other records pertinent to a determination of compliance with this chapter.

20 **(2) SPONSOR IDENTIFICATION OF RECORD.** For each record maintained under this chapter, a  
21 sponsor shall be able to identify the race, sex, ethnicity, and when known, the disability status of  
22 each apprentice. Where possible, a sponsor shall be able to identify the race, sex, ethnicity, and

1 disability status of each applicant to apprenticeship. A sponsor shall supply the information to the  
2 department upon request.

3 (3) AFFIRMATIVE ACTION PROGRAMS. A sponsor required under s. DWD 296.04 to develop  
4 and maintain an affirmative action program shall retain both the written affirmative action plan  
5 under s. DWD 296.04 (3) and documentation of its component elements under ss. DWD 296.05 to  
6 DWD 296.09 and DWD 296.11.

7 (4) MAINTENANCE OF RECORDS. All records required under this chapter and any other  
8 information relevant to compliance with this chapter, shall be maintained for 5 years from the date  
9 of making the record or the date of the personnel action involved, whichever occurs later, and shall  
10 be made available as requested by the department or other authorized representative in a form  
11 determined by the department, as necessary to determine compliance. Failure to maintain records  
12 under this chapter constitutes noncompliance.

13 (5) CONFIDENTIALITY AND USE OF MEDICAL INFORMATION. Any information obtained  
14 under this chapter regarding the medical condition or history of an applicant or apprentice shall be  
15 collected and maintained on separate forms and in separate medical files, and treated as a  
16 confidential medical record, except when any of the following apply:

17 (a) Supervisors and managers may be informed regarding necessary restrictions on the  
18 work or duties of the applicant or apprentice and necessary accommodations.

19 (b) First aid and safety personnel may be informed if the disability might require  
20 emergency treatment.

21 (c) Government officials engaged in enforcement of this chapter, of the laws administered  
22 by the U.S. department of labor's office of federal contract compliance programs, or of the ADA,  
23 shall be provided relevant information on request.

1           **(6) ACCESS TO RECORDS.** A sponsor shall allow the department access, during normal  
2 business hours, to its places of business for the purpose of conducting on-site EEO compliance  
3 reviews, complaint investigations, and inspecting and copying books, accounts and records,  
4 including electronic records, and any other material the department deems relevant to the matter  
5 under investigation and pertinent to compliance with this chapter. A sponsor shall also provide the  
6 department access to these materials, including electronic records, off-site for purposes of  
7 conducting EEO compliance reviews and complaint investigations. A sponsor shall provide the  
8 department information about all formats, including specific electronic formats, in which the  
9 records and other information are available.

10           **DWD 296.13 Equal employment opportunity compliance review. (1) DEPARTMENT**  
11 **REVIEW.** The department shall conduct EEO compliance reviews to determine if a sponsor is in  
12 compliance with this chapter regularly, or when circumstances warrant a review.

13           **(2) CONDUCT OF COMPLIANCE REVIEWS.** An EEO compliance review may include any of  
14 the following:

15           (a) A comprehensive analysis and evaluation of each aspect of the registered  
16 apprenticeship program through off-site reviews.

17           **Note:** An example of an off-site review may include desk audits of records submitted to the  
18 department.

19           (b) On-site reviews conducted at the sponsor's establishment that may involve examination  
20 of records, inspection and copying of documents related to recordkeeping requirements, and  
21 interviews with employees, apprentices, journeyworkers, supervisors, managers, and hiring  
22 officials.

23           **(3) NOTIFICATION OF COMPLIANCE REVIEW FINDINGS.** Within 45 business days of  
24 completing an EEO compliance review, the department shall present a written notice of

1 compliance review findings to the sponsor. If the compliance review indicates a failure to comply  
2 with this chapter, the department shall inform the sponsor in writing and include in the notice all of  
3 the following:

- 4 (a) The deficiencies identified.
- 5 (b) How to remedy the deficiencies.
- 6 (c) The timeframe within which the deficiencies must be corrected.
- 7 (d) Enforcement actions that may be taken if compliance is not achieved within the  
8 required timeframe.

9 **(4) COMPLIANCE.** (a) Within 30 days of a sponsor receiving a notice of compliance review  
10 with findings that indicate a failure to comply with this chapter, the sponsor shall implement a  
11 compliance action plan and notify the department of the plan, or submit a written rebuttal to the  
12 findings to the department. A sponsor may request a one-time, 30-day extension.

13 (b) If the sponsor submits a written rebuttal to the notice of compliance review findings to  
14 the department under par. (a), the department may do any of the following:

- 15 1. Uphold the notice of compliance review findings.
- 16 2. Modify the notice of compliance review findings in whole or in part.

17 (c) If the department upholds the notice of compliance review findings after receiving a  
18 written rebuttal from the sponsor, the sponsor shall implement a compliance action plan within 30  
19 days of receiving the notice from the department upholding the findings.

20 (d) A compliance action plan required under par. (a) or (c) shall include, at a minimum, all  
21 of the following:

- 22 1. A specific commitment, in writing, to correct or remediate the identified deficiencies  
23 and areas of noncompliance.

- 1           2. The precise actions to be taken for each deficiency identified.
- 2           3. The time period within which the cited deficiencies shall be remedied and any corrective
- 3 program changes implemented.
- 4           4. The name of the individual responsible for correcting each deficiency identified.

5           (e) Upon the department's approval of the compliance action plan, a sponsor may be  
6 considered in compliance under this chapter provided that the compliance plan is implemented.

7           **(5) ENFORCEMENT ACTIONS.** A sponsor that fails to implement a compliance action plan  
8 within the specified timeframes may be subject to an enforcement action under s. DWD 296.15.

9           **DWD 296.14 Complaints. (1) REQUIREMENTS FOR INDIVIDUALS FILING COMPLAINTS. (a)**

10 If an applicant or apprentice of a registered apprenticeship program believes they have been  
11 discriminated against on the basis of race, color, religion, national origin, sex, sexual orientation,  
12 age (40 or older), genetic information, or disability with regard to apprenticeship, or been  
13 retaliated against in violation of s. DWD 296.17, the applicant or apprentice of a registered  
14 apprenticeship program, or the applicant's or apprentice's authorized representative, may file a  
15 written complaint with the department.

16           (b) A complaint under par. (a) shall be filed within 300 days of the alleged discrimination  
17 or failure to follow the equal opportunity standards. The department may extend the filing time for  
18 good cause shown. The time period for filing is for the administrative convenience of the  
19 department and does not create a defense for the respondent.

20           (c) Each complaint filed under par. (a) shall be made in writing and contain all of the  
21 following information:

- 22           1. The applicant's or apprentice of a registered apprenticeship program's name, address, and
- 23 telephone number, including best method of contact.

1           2. All available information to identify the respondent including name, address, and  
2 telephone number.

3           3. A short description of the events that the applicant or apprentice of a registered  
4 apprenticeship program believes are discriminatory or a failure to follow equal opportunity  
5 standards. The description shall include the date and location the events took place, and why the  
6 applicant or apprentice believes the actions were discriminatory or a failure to follow equal  
7 opportunity standards.

8           4. The applicant's or apprentice's signature, or the signature of the applicant's or  
9 apprentice's authorized representative.

10           **(2) REQUIREMENTS OF SPONSORS.** A sponsor of a registered apprenticeship program shall  
11 provide written notice to all applicants and apprentices of a registered apprenticeship program of  
12 their right to file a complaint and identify the procedures to file. The notice shall include the  
13 name, address, and telephone number of the department and shall be provided in the application  
14 for apprenticeship and displayed in a prominent, publicly available location where all apprentices  
15 can see the notice. The notice shall include the following specific wording:

16           **Your Right to Equal Opportunity.** It is against the law for a sponsor of an  
17 apprenticeship program registered for Federal purposes to discriminate against an apprenticeship  
18 applicant or apprentice based on race, color, religion, national origin, sex, sexual orientation, age  
19 (40 years or older), genetic information, or disability. The sponsor must ensure equal opportunity  
20 with regard to all terms, conditions, and privileges associated with apprenticeship. If you think that  
21 you have been subjected to discrimination, you may file a complaint within 300 days from the date  
22 of the alleged discrimination or failure to follow the equal opportunity standards with [INSERT  
23 NAME OF REGISTRATION AGENCY, ADDRESS, PHONE NUMBER, EMAIL ADDRESS,  
24 AND CONTACT NAME OF INDIVIDUAL AT THE REGISTRATION AGENCY WHO IS  
25 RESPONSIBLE FOR RECEIVING COMPLAINTS]. You may also be able to file complaints  
26 directly with the EEOC, or the Wisconsin equal rights division. If those offices have jurisdiction  
27 over the sponsor/employer, their contact information is listed below. [INSERT CONTACT  
28 INFORMATION FOR EEOC AS PROVIDED ON "EEO IS THE LAW POSTER," AND  
29 CONTACT INFORMATION FOR THE WISCONSIN EQUAL RIGHTS DIVISION AS  
30 PROVIDED ON THE WISCONSIN EQUAL RIGHTS DIVISION POSTER, AS APPLICABLE]  
31

1 Each complaint filed must be made in writing and include the following information:

- 2
- 3 1. Complainant's name, address and telephone number, or other means for contacting the
- 4 complainant;
- 5
- 6 2. The identity of the respondent (*i.e.* the name, address, and telephone number of the individual or
- 7 entity that the complainant alleges is responsible for the discrimination);
- 8
- 9 3. A short description of the events that the complainant believes were discriminatory, including
- 10 but not limited to when the events took place, what occurred, and why the complainant believes
- 11 the actions were discriminatory (for example, because of his/her race, color, religion, sex, sexual
- 12 orientation, national origin, age (40 or older), genetic information, or disability);
- 13
- 14 4. The complainant's signature or the signature of the complainant's authorized representative.
- 15

16 (3) REQUIREMENTS OF THE DEPARTMENT. (a) Complaints received by the department under

17 sub. (1) shall be processed as expeditiously as possible. When conducting complaint

18 investigations, the department shall do all of the following:

19 1. Provide written notice to the applicant or apprentice of a registered apprenticeship

20 program, acknowledging receipt of the complaint.

21 2. Contact the applicant or apprentice of a registered apprenticeship program to obtain

22 additional information, if necessary to initiate an investigation.

23 3. Initiate an investigation upon receiving a complete complaint.

24 4. Conduct a thorough investigation of the allegations in the complaint and document, at a

25 minimum, all of the following:

26 a. Name, address, and telephone number of each individual interviewed.

27 b. Interview statements.

28 c. Copies, transcripts, or summaries of pertinent documents.

29 d. A narrative report of the investigation with references to exhibits and other evidence

30 related to the alleged violations.

1           5. Provide written notification of the department's findings to both the respondent and  
2 applicant or apprentice of a registered apprenticeship program.

3           (b) If the department finds a violation of the nondiscrimination requirements under this  
4 chapter, the department shall attempt to resolve the matter as quickly as possible at the department  
5 level. If a complaint of discrimination cannot be resolved to the satisfaction of the applicant or  
6 apprentice, the department shall refer the complaint to other federal, state, or local EEO agencies.

7           (c) At its own discretion, the department may refer a complaint to any of the following:

8           1. The United States equal employment opportunity commission.

9           2. The United States attorney general.

10          3. The department of labor's office of federal contract compliance programs.

11          4. The Wisconsin equal rights division.

12          **DWD 296.15 Enforcement actions.** (1) If the department determines that a sponsor is not  
13 operating its registered apprenticeship program as specified under this chapter because of a  
14 compliance review, complaint investigation or other reason, the department shall notify the  
15 sponsor in writing and identify the specific violations.

16          (2) The department may take enforcement action if a violation under sub. (1) occurs,  
17 including any of the following:

18          (a) Offering the sponsor technical assistance to promote compliance.

19          (b) 1. Suspending the sponsor's right to register new apprentices if the sponsor fails to  
20 implement a compliance action plan to correct the violation identified within 30 business days  
21 from the date the sponsor is notified, or if the sponsor submits a written response to the findings of  
22 noncompliance and fails to implement a compliance action plan within 30 days of receiving the  
23 department notice upholding the initial noncompliance findings.

1           2. If a sponsor has not implemented a compliance action plan within 30 business days of  
2 notification of suspension, the department may begin proceedings to deregister the sponsor's  
3 registered apprenticeship program as prescribed under s. DWD 295.21. If the department does not  
4 begin proceedings to deregister the sponsor's program under this paragraph within 45 days of the  
5 start of the suspension, the suspension is lifted.

6           (c) Taking other action authorized by law that may include referral to any of the following:

- 7           1. The United States equal employment opportunity commission.
- 8           2. Wisconsin equal rights division.
- 9           3. The U.S. department of labor's office of federal contract compliance programs.

10           **DWD 296.16 Appeal procedure.** A sponsor that is deregistered by the department under  
11 s. DWD 296.15 (2) (b) 2., may request a hearing as prescribed under s. DWD 295.23.

12           **DWD 296.17 Intimidation and retaliation prohibited.** (1) An applicant or apprentice in  
13 a registered apprenticeship program shall not be intimidated, threatened, coerced, retaliated  
14 against, or discriminated against because the individual has done any of the following:

- 15           (a) Filed a complaint under s. DWD 296.14.
- 16           (b) Opposed a practice prohibited by this chapter or any other federal or state equal  
17 opportunity law.
- 18           (c) Furnished information to, assisted or participated in any investigation, compliance  
19 review, proceeding, or hearing under this chapter or any federal or state equal opportunity law.
- 20           (d) Exercised any rights and privileges under the provisions of this chapter.

21           **(2)** A sponsor that permits the intimidation of or retaliation against an applicant or  
22 apprentice in a registered apprenticeship program, including intimidation or retaliation by

1 participating employers, is subject to enforcement action under s. DWD 296.15 if the sponsor fails  
2 to take appropriate steps to prevent the intimidation or retaliation.

3 **DWD 296.18 Reinstatement of program registration.** An apprenticeship program that  
4 has been deregistered for failure to comply with this chapter may be reinstated if the sponsor  
5 provides evidence to the department that the apprenticeship program is operating as prescribed in  
6 this chapter.

7 **DWD 296.19 Exemptions.** A sponsor may request an exemption from any part of this  
8 chapter by providing the department with a written statement that identifies the reasons to support  
9 the request. With approval from the U.S. department of labor's office of apprenticeship, the  
10 department may grant an exemption in writing for good cause.

11 **SECTION 4. EFFECTIVE DATE.** This rule shall take effect on the first day of the  
12 month following publication in the Wisconsin administrative register, as provided under s.  
13 227.22 (2) (intro.), Stats.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Caleb Frostman, Secretary - Designee