

DIVISION 11

APPRENTICESHIP AND TRAINING COUNCIL

General Rules

839-011-0000

Notice of Proposed Rule

Before the permanent adoption, amendment, or repeal of any rule, the Oregon State Apprenticeship and Training Council (hereinafter, Council) will give notice of the proposed adoption, amendment or repeal:

- (1) In the Secretary of State's Bulletin, referred to in ORS chapter 183.360 at least 21 calendar days before the rule's effective date.
- (2) To persons on the Bureau of Labor and Industries (hereinafter, Bureau) mailing and e-mail lists established pursuant to ORS chapter 183.335(8) at least 28 calendar days before the rule's effective date.
- (3) To the Legislature, by mailing a copy of the notice to the legislators specified in ORS chapter 183.335(15) at least 49 days before the effective date of the rule
- (4) To the general public, by posting the notice on the Bureau's website.

Stat. Auth.: ORS chapter 660.120(1)

Stats. Implemented: ORS chapter 183.335(7) & 183.360

Hist.: BL 187, f. & ef. 2-19-76; BL 4-1985, f. & ef. 8-8-85, Renumbered from 839-011-0117; BL 1-1991, f. & cert. ef. 1-23-91; BL 3-1994, f. & cert. ef. 6-3-94; BL 6-1994, f. & cert. ef. 10-10-94; BLI 2-1999, f. & cert. ef. 4-2-99; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

839-011-0010

Model Rules of Practice and Procedure

The Attorney General's Model Rules of Procedure under the Administrative Procedures Act, are hereby adopted to govern the operations of the Bureau of Labor and Industries except to the extent they conflict with or are modified by rules in any division of chapter 839 of the Oregon Administrative Rules.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Bureau of Labor and Industries.]

Stat. Auth.: ORS chapter 183

Stats. Implemented: ORS chapter 183.341

Hist.: BL 121(Temp), f. & ef. 3-24-72; BL 127, f. 7-27-72, ef. 8-15-72; BL 130, f. 10-5-72, ef. 10-15-72; BL 163(Temp), f. 6-19-74, ef. 6-19-74; BL 167, f. 9-20-74, ef. 10-11-74; BL 188, f. & ef. 4-7-76; BL 1-1979, f. & ef. 1-23-79; BL 11-1982, f. & ef. 7-20-82; BL 4-1985, f. & ef. 8-8-85, Renumbered from 839-011-0118; BL 13-1988, f. & cert. ef. 7-1-88; BL 1-1991, f. & cert. ef. 1-23-91; BL 7-1993, f. & cert. ef. 7-12-93; BLI 2-1999, f. & cert. ef. 4-2-99; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

839-011-0015

Rules of Order

The Council adopts Roberts Rules of Order for the conduct of meetings; provided, however, that specific Administrative Rules of the Council will take precedence over Roberts Rules of Order.

Stat. Auth.: ORS chapter 660

Stats. Implemented: ORS chapter 660.120

Hist.: BL 4-1985, f. & ef. 8-8-85; BL 1-1991, f. & cert. ef. 1-23-91; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

839-011-0020

Date and Location of Council Meetings

The Council shall hold at least four regular public meetings each year as required by ORS chapter 660.120(5). The date of the next regular Council meeting will be designated by the Chair and announced at each Council meeting. Meetings may be scheduled at any location within the state of Oregon selected by the Chair.

Stat. Auth.: ORS chapter 660

Stats. Implemented: ORS chapter 660.120

Hist.: BL 4-1985, f. & ef. 8-8-85; BL 1-1991, f. & cert. ef. 1-23-91; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10; BLI 1-2012, f. & cert. ef. 1-3-12

839-011-0030

Preparation of Council Agenda

(1) All matters to be included on the agenda must be submitted in writing to the office of the Director by 5:00 p.m. at least 45 calendar days before the date of the next Council meeting. If the 45th calendar day before the next Council meeting falls on either a weekend or holiday, the items for the agenda must be submitted to the Director on the last business day before the 45th calendar day.

(2) Late submissions for inclusion on the agenda that do not request the Council to approve, modify or revoke standards, committees or programs may be considered by the Council if a majority of the members agree.

Stat. Auth.: ORS chapter 660

Stats. Implemented: ORS chapter 660.120(1)

Hist.: BL 4-1985, f. & ef. 8-8-85; BL 1-1991, f. & cert. ef. 1-23-91; BL 6-1994, f. & cert. ef. 10-10-94; BLI 2-1999, f. & cert. ef. 4-2-99; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

839-011-0040

Participation by the Public

(1) The Council encourages public participation at all meetings. Individuals who wish to address the Council are required to sign up to speak at meetings. Individuals who fail to sign up may address the Council at the discretion of the Chair, pursuant to Roberts Rules of Order.

(2) Meetings are held in facilities accessible to individuals with disabilities. Accommodations are available to allow individuals with disabilities to access and participate in all Council meetings. Accommodations may be requested by contacting the Division at (971) 673-0760 or Oregon Relay for hearing impaired assistance at 711 at least 10 business days prior to the meeting.

Stat. Auth.: ORS chapter 660

Stats. Implemented: ORS chapter 660.120

Hist.: BL 4-1985, f. & ef. 8-8-85; BL 1-1991, f. & cert. ef. 1-23-91; BLI 2-1999, f. & cert. ef. 4-2-99; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

839-011-0050

Certificate of Meritorious Service

Upon the recommendation of a local committee or the motion of a Council member, the Council may award a certificate of meritorious service to any individual who has devoted a minimum of three years of service to a registered apprenticeship program.

Stat. Auth.: ORS chapter 660

Stats. Implemented: ORS chapter 660.120

Hist.: BL 4-1985, f. & ef. 8-8-85; BL 1-1991, f. & cert. ef. 1-23-91; BLI 2-1999, f. & cert. ef. 4-2-99; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10; BLI 1-2012, f. & cert. ef. 1-3-12

839-011-0051

Delegation of Authority by Council

(1) The Chair and Director, with the approval of the Chair, may act on behalf of the Council for federal purposes and in all cases where immediate action is deemed necessary by the Chair and Director. All such actions shall be placed on the agenda for the next regular Council meeting for Council approval or ratification.

(2) All matters pertaining to the approval or deregistration of apprenticeship committees, standards, program sponsors, employers, training agents or apprentices must be ratified by the Council at its next meeting.

(3) Any standards referred back to local committees by the Council for revision may be approved by the Director when revised according to Council action.

Stat. Auth.: ORS chapter 660.120(3)

Stats. Implemented: ORS chapter 660.120, 660.210 & 660.170

Hist.: BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10; BLI 5-2011(Temp), f. 7-13-11, cert. ef. 7-18-11 thru 1-4-12; BLI 1-2012, f. & cert. ef. 1-3-1

[839-011-0060 is repealed.]

Formation, Composition and Dissolution of Local Committees

839-011-0070

Definitions

(1) "Division" means the Apprenticeship and Training Division of the Bureau.

(2) "Employee" means any person employed or active in an applicable trade.

(3) "Local Committee" means any registered joint or trades apprenticeship or training committee approved by the Council.

(4) "State minimum guideline standards" means industry/trade benchmarks developed by a Council approved state committee and approved by the Council that represent the fundamental requirements necessary for entry into and completion of specific Council approved apprenticeship or training programs.

(5) "Registered apprenticeship program" means a local committee approved by the Council to operate an apprenticeship or training program in a specific occupation.

(6) "Registration of an Apprenticeship Agreement" means the acceptance and recording of an apprentice or trainee agreement by the Division on behalf of the Council. Registration is evidence of the participation of the apprentice or trainee in a registered program.

(7) "Registration of an apprenticeship program" means the acceptance and recording of such program by the Office of Apprenticeship, or registration and/or approval by a recognized State

Apprenticeship Agency, as meeting the basic standards and requirements of the Department for approval of such program for Federal purposes. Approval is evidenced by a Certificate of Registration or other written indicia.

(8) "Standards" means a written agreement submitted by a local committee and approved by the Council, which sets forth a plan containing all terms and conditions for the qualification, employment and training of apprentices or trainees as set forth in ORS chapter 660.126 and 660.137.

(9) "Trainee" means any individual registered to a registered training program. For the purposes of these rules, all apprentice requirements apply to trainees unless otherwise noted.

(10) "Training agent" means an employer or organization approved by a local committee to employ and train apprentices and registered with the Division.

(11) "Training program" means any registered program of 2,000 on-the-job training hours or less. For the purposes of these rules, all apprenticeship requirements apply to training programs unless otherwise noted.

(12) "Journey worker" is a fully skilled practitioner who can work independently in a given trade or occupation in accordance with ORS chapter 660.010(4). Generally, a skilled crafts person has a minimum of four years of verifiable trade-specific experience or has completed a state certified apprenticeship program in the applicable trade and holds a license where required. Use of the term may also refer to a mentor, technician, specialist or other skilled worker who has documented sufficient skills and knowledge of an occupation, either through formal apprenticeship or through practical on-the-job experience and formal training.

(13) "Completion rate" means the percentage of an apprenticeship cohort who receives a certificate of apprenticeship completion within 1 year of the projected completion date. An apprenticeship cohort is the group of individual apprentices registered to a specific program during a 1 year time frame, except that a cohort does not include the apprentices whose apprenticeship agreement has been cancelled during the probationary period. The projected completion date is the number of years determined by the greater of the following measures:

(a) The number of required on-the-job training hours needed for completion of the program divided by 2000 and rounded up to the nearest whole number; or

(b) The number of years of required related training prescribed in the applicable standard.

(14) "Job Site" means:

(a) For standards in construction trades, the area covered by an approved building permit, plan of development or contract number, or contractual agreement for new construction or renovation;

(b) For standards in non-construction trades, the physical area within the wall that services are offered or the location that is identified on the license by the licensing board and/or other local government or a single job or group of jobs on the same circuit or within the same general area.

(15) “Federal purposes” means any federal contract, grant, agreement or arrangement dealing with apprenticeship; and any federal financial or other assistance, benefit, privilege, contribution, allowance, exemption, preference or right pertaining to apprenticeship pursuant to 29 C.F.R. Part 29.2.

(16) “Competency” means the attainment of manual, mechanical or technical skills and knowledge, as specified by an occupational standard and demonstrated by appropriate written and hands-on proficiency measurements.

(17) “Electronic media” means media that utilize electronics or electromechanical energy for the end user (audience) to access the content; and includes, but is not limited to, electronic storage media, transmission media, the Internet, extranet, lease lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic media and/or interactive distance learning.

(18) “Related instruction” means an organized and systematic form of instruction designed to provide the apprentice with the knowledge of the theoretical and technical subjects related to the apprentice’s occupation. Such instruction may be given in a classroom, through occupational or industrial courses, or by correspondence.

(19) “Sponsor” means any person, association, committee, or organization operating an apprenticeship program and in whose name the program is (or is to be) registered or approved.

(20) “Suspension of an apprenticeship agreement” means a temporary committee action to hold the apprenticeship agreement in abeyance during an investigation of a program or policy violation by the apprentice. The committee or its designee may temporarily suspend an apprentice upon the recommendation of the sponsor, an employer, or the committee’s designee. The committee shall notify the apprentice and the Division of the suspension action in writing and such notice shall state the reasons for the suspension action, the duration of the suspension action and shall state that the apprentice has a right to appear before the committee to contest the suspension by written request to the committee within 10 days after the date the notice is issued. If review is requested, the apprentice has a right to appear before the committee to contest the suspension at its next scheduled committee meeting. An apprenticeship agreement may also be suspended at the apprentice’s request in accordance with committee policies and procedures.

Stat. Auth.: ORS chapter 660.120(3)

Stats. Implemented: ORS chapter 660.120(1)

Hist.: BL 6-1985, f. & ef. 10-15-85; BL 7-1991, f. & cert. ef. 8-15-91 (and corrected 2-3-92); BL 6-1994, f. & cert. ef. 10-10-94; BLI 2-1999, f. & cert. ef. 4-2-99; BLI 18-2010, f. 7-29-10, cert.

ef. 8-1-10; BLI 5-2011(Temp), f. 7-13-11, cert. ef. 7-18-11 thru 1-4-12; BLI 1-2012, f. & cert. ef. 1-3-12

Joint Committees

839-011-0072

Formation of Joint Committees

- (1) Any person or group interested in forming a local joint committee may give written notice to the Division. Local committees in building and construction trades occupations may only be approved as group programs serving multiple employers.
- (2) The interested party or group shall establish a date for an organizational meeting and provide the Division with written notice of the date, time and location of the meeting at least 5 (five) working days in advance of the meeting. Division staff may attend organizational meetings in an informational role.
- (3) At the organizational meeting participants, excluding Division staff, will:
 - (a) Adopt Roberts Rules of Order;
 - (b) Specify the committee name, its geographical jurisdiction, and the occupation(s) for which it will train;
 - (c) Nominate committee members and submit their names to the Council pursuant to OAR 839-011-0074;
 - (d) Elect a chair and a secretary as committee officers, pursuant to OAR 839-011-0074(8).
- (4) Local committees and training agents shall be responsible for the administrative cost and expenses associated with the operation of their programs. No committee or training agent shall charge or cause charges to be levied against an apprentice for purposes of financially supporting the administrative, clerical or organizational cost of operating a registered program. Apprentices may be required to pay the normal cost of tuition and related training materials.

Stat. Auth.: ORS chapter 660

Stats. Implemented: ORS chapter 660.120(2)(c), 660.135(1), (2), (3), (4) & (5)

Hist.: BL 6-1985, f. & ef. 10-15-85; BL 1-1991, f. & cert. ef. 1-23-91; BLI 2-1999, f. & cert. ef. 4-2-99; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10; BLI 1-2012, f. & cert. ef. 1-3-12

839-011-0073

Committee Policies and Procedures

(1) All local committees shall develop and administer operating policies and procedures to govern program operations as directed by the Council and administer such policies and procedures in a consistent manner. Policies and procedures will be approved by the committee and recorded in the meeting minutes.

(2) When adopted or revised, these policies and procedures will be submitted to the local committee's assigned Apprenticeship Representative who will review and approve the policies and procedures if they are in conformity with apprenticeship laws, rules and Council guidelines.

Stat. Auth.: ORS chapter 660.120(1)

Stats. Implemented: ORS chapter 660.137(2)

Hist.: BL 8-1992, f. & cert. ef. 6-15-92; BL 1-1995, f. & cert. ef. 8-14-95; BLI 2-1999, f. & cert. ef. 4-2-99; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

839-011-0074

Committee Member Selection

(1) Committees shall consist of an equal number of principal employer and employee representatives.

(a) Representatives of employers, or an employer organization representing the industry, shall submit nominations for employer committee members.

(b) Individuals representing the journey level workforce for the occupation, or an employee organization that represents the concerned employees and is involved with the occupation, shall submit nominations for employee committee members. For the purposes of these rules, an individual is eligible to serve as an employee representative for the occupation only if that individual:

(A) Is or has been a skilled practitioner in the occupation and does not serve in a supervisory capacity as defined in the National Labor Relations Act, as amended; or

(B) Is a bargaining unit representative for the employees of a participating training agent.

(2) Joint apprenticeship or training committees (JATC/JAC/JTC) shall consist of not less than two or more than four principal employer representatives and not less than two or more than four principal employee representatives.

(3) Trade apprenticeship or training committees (TATC/TAC/TTC) shall consist of one principal employer representative and one principal employee representative for each approved standard of the committee.

(4) State minimum guideline committees shall consist of one principal employer and one principal employee voting member from each local committee training in the occupation pursuant to the appointment procedures in OAR 839-011-0141.

(5) Committees may nominate one alternate member for each principal committee member and the alternate shall be selected according to the nominations procedures for principal committee members set forth in this rule. Alternates shall serve in the absence of principal members consistent with ORS chapter 660.135(2).

(6) The Director shall list the names of the nominees on the next Council agenda. After consideration of whether the appointments provide a balanced representation of the viewpoints of employer and employee groups, the Council will approve the nominations.

(a) The Council may request the names of additional nominees if it does not approve any of the nominees.

(b) If either employers or employees cannot or will not recommend nominees for the committee, the Apprenticeship Representative for the area may recommend individuals involved with the occupation, and forward the name of the individual(s) to the Director. The Director will evaluate the individual(s), and if appropriate, provide interim approval pending submittal of the names of the individual(s) to the Council for approval according to the procedures of section (1) of this rule.

(7) When a vacancy occurs on a committee, it shall be filled according to the member nomination procedures set forth in this rule.

(8) Each committee shall elect a chairperson and a secretary from committee members. One of the offices must be held by an employer member and one office must be held by an employee member.

(a) The officers shall serve for no less than one year and no more than two years without an election unless the committee has adopted policies and procedures establishing the duration of officers' terms.

(b) In the event of a vacancy in an office, the respective employer or employee members shall elect from their representation a replacement to serve the unfilled term of office consistent with ORS chapter 660.

(9) No Division staff may be elected or appointed to any position within a committee.

(10) Associate members may be elected or appointed by the committee but such members do not have voting rights on local committee matters.

Stat. Auth.: ORS chapter 660

Stats. Implemented: ORS chapter 660.135, 660.145, 660.155

Hist.: BL 6-1985, f. & ef. 10-15-85; BL 1-1991, f. & cert. ef. 1-23-91; BLI 2-1999, f. & cert. ef. 4-2-99; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10; BLI 1-2012, f. & cert. ef. 1-3-12

839-011-0078

Removal of Committee Members

(1) The Council will remove committee members only for inactivity, inadequate activity, or failure to abide by ORS chapter 660, or the rules and policies of the Council, pursuant to ORS chapter 660.120(2)(d).

(2) The Council may also remove committee members upon the recommendation of the committee as set forth in section (3) of this rule. Each committee will establish its own written policy regarding the removal of committee members.

(3) Committee(s) may recommend removal of a member and note such action in the committee meeting minutes, subject to the following conditions:

(a) Only employer committee members may recommend and vote for removal of an employer member;

(b) Only employee committee members may recommend and vote for removal of an employee committee member;

(c) If the committee is a trade committee, only employer committee members may recommend and vote for removal of an employer member from another occupation within the committee, while only employee committee members may recommend and vote for removal of an employee member from another occupation within the committee.

(4) The Director shall include such recommendations as recorded in committee meeting minutes on the Council Agenda.

(5) Notwithstanding OAR 839-011-0074, the Council may appoint a replacement committee member at the same meeting at which it removes a member.

Stat. Auth.: ORS chapter 660

Stats. Implemented: ORS chapter 660.120(2)(d)

Hist.: BL 6-1985, f. & ef. 10-15-85; BL 1-1991, f. & cert. ef. 1-23-91; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

839-011-0082

Deregistration of Committees

(1) The Council will deregister committees for inactivity, inadequate activity, or failure to abide by ORS chapter 660 or the rules and policies of the Council pursuant to ORS chapter

660.120(4)(d), or if the committee has informed the Director or the Council that it will no longer perform its duties.

(2) On behalf of the Council, the Director shall, to the extent practical, secure the formation of a new committee where a previously approved committee failed to carry out an effective program.

(3) A committee shall be subject to deregistration if it has had no apprentices registered for two years or more, has not had at least two quorum meetings in a twelve month period, has failed to administer to the needs of the apprentices or the industry concerned or if so otherwise deemed appropriate by the Council.

(4) Deregistration of a program may commence upon the voluntary action of the sponsor by submitting a request for cancellation of the registration in accordance with section (5) of this section, or upon reasonable cause, by the Division, in collaboration with the Council instituting formal deregistration proceedings in accordance with section (6) of this section.

(5) Deregistration at the request of the sponsor.

The Division may cancel the registration of an apprenticeship program, subject to ratification by the Council, by written acknowledgment of such request stating the following:

(a) The registration is cancelled at the sponsor's request, and the effective date thereof;

(b) That, within 15 days of the date of the acknowledgment, the sponsor will notify all apprentices of such cancellation and the effective date; that such cancellation automatically deprives the apprentice of individual registration; that the deregistration of the program removes the apprentice from coverage for Federal purposes which require the Secretary of Labor's approval of an apprenticeship program and for all State purposes, and that all apprentices are referred to the Division for information about potential transfer to other registered apprenticeship programs.

(6) Deregistration by the Division upon reasonable cause.

(a) Deregistration proceedings may be undertaken when the apprenticeship program is not conducted, operated, or administered in accordance with the program's registered provisions or with the requirements of this part, including not but limited to: failure to provide on-the-job learning; failure to provide related instruction; failure to pay the apprentice a progressively increasing schedule of wages consistent with the apprentice's skills acquired; or persistent and significant failure to perform successfully. Deregistration proceedings for violation of equal opportunity requirements must be processed in accordance with the provisions under 29 CFR Part 30.

(b) For purposes of this section, persistent and significant failure to perform successfully occurs when a program sponsor consistently fails to register at least one apprentice, shows a pattern of

poor quality assessment results over a period of several years, demonstrates an ongoing pattern of very low completion rates over a period of several years, or shows no indication of improvement in the areas identified by the Division during a review process as requiring corrective action.

(c) Where it appears the program is not being operated in accordance with the registered standards or with requirements of this part, the Division must notify the program sponsor in writing.

(d) The notice sent to the program sponsor's contact person must:

(A) Be sent by registered or certified mail, with return receipt requested;

(B) State the shortcoming(s) and the remedy required; and

(C) State that a determination of reasonable cause for deregistration will be made unless corrective action is effected within 30 days.

(7) Upon request by the sponsor for good cause, the 30-day term may be extended for another 30 days. During the period for corrective action, the Division must provide a reasonable amount of technical assistance in an effort to help the program achieve conformity.

(8) If the required correction is not effected within the allotted time, the Division shall send a notice to the sponsor, by registered or certified mail, return receipt requested, stating the following:

(a) The notice is sent under this paragraph;

(b) Certain deficiencies were called to the sponsor's attention (enumerating them and the remedial measures requested, with the dates of such occasions and letters), and that the sponsor has failed or refused to effect correction;

(c) Based upon the stated deficiencies and failure to remedy them, a determination has been made that there is reasonable cause to deregister the program and the program may be deregistered unless, within 15 days of the receipt of this notice, the sponsor requests a hearing with the Division; and

(d) If the sponsor does not request a hearing, the Division and the Council will make a final decision on the record with respect to deregistration.

(9) If the sponsor does not request a hearing, the Division, in consultation with the Council, will make a final decision on decertification based upon the record before the Division. The Division will then transmit to the Administrator of the Office of Apprenticeship a report containing all pertinent facts and circumstances concerning the nonconformity, including the findings and recommendation for deregistration, decisions and copies of all relevant documents and records.

Statements concerning interviews, meetings and conferences will include the time, date, place, and persons present.

(10) If the sponsor requests a hearing, the Division will notify the sponsor, in writing, The Division shall convene a hearing in accordance with paragraph (12) of this section.

(11) The Division, in consultation with the Council, shall make a final decision on the basis of the record before it, that shall consist of the compliance review file and other evidence presented and, if a hearing was conducted pursuant to paragraph (12), the proposed findings and recommended decision of the hearings officer. In its discretion, the Division, in consultation with the Council, may allow the sponsor a reasonable time to achieve voluntary corrective action. If the Division's decision is that the apprenticeship program is not operating in accordance with this plan, the apprenticeship program shall be deregistered. In each case where deregistration is ordered, the Division shall make public notice of the order and shall notify the sponsor and the complainant, if any, and the Department. The Council shall inform any sponsor whose program has been deregistered that it may appeal such deregistration to the Department in accordance with the procedures of 29 CFR, Section 30.15.

(12) Hearings shall be conducted in accordance with the following procedures:

(a) Within 10 days of receipt of a request for a hearing, the Director shall designate a hearing officer. The hearing officer shall give reasonable notice of such hearing by registered mail, return receipt requested to the sponsor. Such notice shall include a reasonable time and place of hearing; a statement of the provisions of this plan pursuant to which the hearing is to be held; and a concise statement of the matters pursuant to which the action forming the basis of the hearing is proposed to be taken.

(b) The hearing officer shall regulate the course of the hearing. Hearings shall be informally conducted. Every party shall have the right to counsel, and a fair opportunity to present his or her case including such cross - examination as may be appropriate in the circumstances. Hearing officers shall make their proposed findings and recommended decisions to the Director within 60 days upon the basis of the record before them. The Director will then make a final order for all State purposes.

(13) When a program sponsor requests a hearing to dispute proposed deregistration, for federal purposes, the Division must transmit to the Administrator of the Office of Apprenticeship a report containing all the data listed in paragraphs (6) – (12) of this section, and the Administrator will refer the matter to the Office of Administrative Law Judges to convene a hearing in accordance with 29 CFR 29.10.

(14) If a committee is decertified, the Division will notify all apprentices of such cancellation and the effective date; that such cancellation automatically deprives the apprentice of individual registration; that the deregistration of the program removes the apprentice from coverage for

Federal purposes which require the Secretary of Labor's approval of an apprenticeship program and for all State purposes, and that all apprentices are referred to the Division for information about potential transfer to other registered apprenticeship programs.

Stat. Auth.: ORS chapter 660

Stats. Implemented: ORS chapter 660.120(d)

Hist.: BL 6-1985, f. & ef. 10-15-85; BL 1-1991, f. & cert. ef. 1-23-91; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10; BLI 1-2012, f. & cert. ef. 1-3-12

839-011-0084

Approval of New Committees and Standards

(1) Additional committees or standards in an area already served by an existing committee in the same trade, craft or occupation shall be established in the same manner as any other local committee.

(2) All employers and their qualified employees shall be afforded the opportunity to participate, on a non-discriminatory basis, in existing programs.

(3) The Council and the Apprenticeship and Training Division of the Bureau of Labor and Industries will approve the creation of a new local committee or new standards for an existing committee only if the applicant for the new program or new standards can first demonstrate to the Council and the Division, by a preponderance of evidence, that the application is in conformity with the following requirements:

(a) The applicant shall submit documentation showing committee composition pursuant to ORS chapter 660.135, .145.

(b) The applicant shall submit standards in a format approved by the Council that meet or exceed any existing statewide minimum guideline standards for the occupation. Where no state guideline standards exist, proposed standards shall meet or exceed national guideline standards approved by the federal Office of Apprenticeship. Where no state or national guideline standards exist, standards will be approved at the discretion of the Council and the Division when the proposed occupation is clearly identified and commonly recognized throughout an industry.

(A) The term of apprenticeship for an individual apprentice may be measured through the completion of the industry standard for on-the-job learning (at least two thousand hours) (time-based approach), the attainment of competency (competency-based approach), or a blend of the time-based and competency-based approaches (hybrid approach).

(B) A statement of the number of hours to be spent by the apprentice in work and the number of hours to be spent in related/supplemental instruction. For competency based and hybrid models, the program standards must specifically address how on-the-job learning will be

integrated into the program, describe competencies and how such competencies will be measured, and identify an appropriate means of testing and evaluation for such competencies.

(C) The time-based approach measures skill acquisition through the individual apprentice's completion of at least two thousand hours of on-the-job learning as described in a work process schedule.

(D) The competency-based approach measures skill acquisition through the individual apprentice's successful demonstration of acquired skills and knowledge, as verified by the program. Programs utilizing this approach must still require apprentices to complete an on-the-job learning component of registered apprenticeship. The program standards must address how on-the-job learning will be integrated into the program, describe competencies, and identify an appropriate means of testing and evaluation for such competencies.

(E) The hybrid approach measures the individual apprentice's skill acquisition through a combination of specified minimum number of hours of on-the-job learning and the successful demonstration of competency as described in a work process schedule.

(c) The applicant shall submit an administration plan that includes:

(A) Written designation of the program administrator;

(B) Documented assurances that the committee will be adequately funded to support its administration and the presentation of related instruction;

(C) A written statement that details all costs to apprentices (including instruction, books, tuition); and

(D) Assurances that training agents and prospective training agents will be provided with a written statement of costs for program participation.

(d) The applicant must demonstrate the ability to track required on-the-job training, related and supplemental training and affirmative action information (i.e., work progress reports, apprentice/trainee rotation system, employer's apprentice/trainee evaluation forms, grading sheets, applicant logs) and provide the Council with copies of the forms and documents that will be used to track such information.

(e) The applicant shall submit a plan detailing how the committee will ensure that participating employers will provide work in all areas covered by the program standards (ORS chapter 660.137(5)), including:

(A) Training in all counties listed in proposed geographical area;

(B) Training in all work processes set forth in the standards;

(C) Committee expectations of supervising journey workers and a plan for the supervision of apprentices/trainees in the ratio set forth in the standards (ORS chapter 660.126(1)(c), (f));

(D) Training agent qualifications and duties (ORS chapter 660.137(5)); and

(E) A plan for training participating employers on their duties and responsibilities.

(f) The applicant shall submit a complete related training curriculum, including instructor qualifications, class outlines and expected competencies, grading procedures and completion criteria. This submission shall include:

(A) An explanation of the curriculum delivery method and a description of the related training facilities;

(B) Certification of the curriculum and instructional delivery plan by either a state education certifying authority or nationally recognized industry association (ORS chapter 660.137(2)(c), .126(1)(j), .157); and

(C) Assurances that classroom and related instruction can be delivered throughout the geographic area. The applicant must submit a contract or other documentation demonstrating that actual instructional resources are in place. The committee's geographic area must be one that can be reasonably served by the committee with respect to employers and the location of the related training services (ORS chapter 660.126(1)(a)).

(D) Assurances that instructors meet the Oregon Department of Education or Office of Community Colleges and Workforce Development requirements for vocational-technical instructors or are subject matter experts, defined as an individual, such as a journey worker, who is recognized within an industry as having expertise in a specific occupation. If the instructor is a subject matter expert, the submission must include assurances that the instructor has or will have had training in teaching techniques and adult learning styles, which may occur before or within nine (9) months after the apprenticeship instructor has started to provide the related technical instruction.

(g) The applicant must submit operating policies and procedures and assurances that the program will be operated in accordance with the same; and

(h) The applicant shall submit a plan to recruit, evaluate and select apprentice/trainee applicants throughout the proposed geographic area, including an application form that meets Council requirements.

(4) All objections to the approval of a new committee or new standards shall be submitted to the Council in writing at the meeting where the application is being considered for approval, specifically detailing any objections to the application. Council may rule on the application and objections thereto at that time or grant the applicant 30 days after the Council meeting to submit

a written rebuttal to the objections to the Director. Council shall direct the Director to investigate and evaluate the objections and rebuttal and to provide a report to Council within 45 days of receipt of the rebuttal statement. At the next Council meeting after the initial submission, Council shall either approve or deny the application and provide a specific written explanation for its actions.

(5) All new programs shall serve a probationary period of three (3) years after Council approval. Failure to clearly demonstrate the ability to operate a satisfactory program during the probationary period, based upon periodic program reviews conducted by the Division, shall result in deregistration of the program by the Division in consultation with the Council.

(6) Compliance reviews will be conducted during the probationary period pursuant to OAR 839-011-0145 unless the Council directs the Division to conduct reviews more frequently. Should the Council find operating deficiencies in the course of any such review, the program shall immediately take action to correct the deficiencies and submit a report to the Council explaining corrective measures taken within 90 days of the Council initial finding of deficiencies. If the committee has not corrected the deficiencies within the 90 day period, the Division in consultation with the Council shall deregister the program at the next scheduled Council meeting.

Stat. Auth.: ORS chapter 660.120(3)

Stats. Implemented: ORS chapter 660.135(1)

Hist.: BL 6-1985, f. & ef. 10-15-85; BL 1-1991, f. & cert. ef. 1-23-91; BLI 2-1999, f. & cert. ef. 4-2-99; BLI 16-2005(Temp), f. & cert. ef. 8-23-05 thru 2-19-06; Administrative correction 3-20-06; BLI 16-2006, f. 4-17-06, cert. ef. 4-18-06; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10; BLI 5-2011(Temp), f. 7-13-11, cert. ef. 7-18-11 thru 1-4-12; BLI 1-2012, f. & cert. ef. 1-3-12

Apprenticeship and Training Standards

839-011-0088

Registration of Apprenticeship Agreements

(1) The Council delegates registration of apprenticeship agreements to the Division and recognizes an agreement as registered when:

(a) It is on a form that has been approved pursuant to ORS chapter 660.020 and issued by the Division;

(b) Information requested on the form as authorized by ORS chapter 660.020 has been supplied by the apprentice. The requested information includes, but is not limited to the apprentice's Social Security Number for identification purposes; the number of hours to be spent in related instruction in technical subjects related to the occupation, that is recommended to be not less

than 144 hours per year; and a statement indicating whether and under what circumstances an apprentice is entitled to be financially compensated for attending related instruction;

(c) It has been signed by the apprentice and the local joint committee. Approval must be recorded as soon as possible at a committee meeting; and

(d) The agreement has been submitted to and received by a representative of the Division.

(2) The effective starting date of an apprenticeship agreement in non-licensed trades shall be not more than forty five (45) days prior to the date that a fully executed original agreement and committee minutes approving the registration are received by a representative of the Division. In the licensed trades, the effective starting date of an apprenticeship shall not commence before a fully executed apprenticeship agreement is received by a representative of the Division, unless the committee has written authorization from the Division to issue an initial license and operates in accordance with the conditions of authorization.

(3) Local committees shall develop and implement a policy and procedures detailing the process for evaluating previous experience and demonstrated competency in a uniform manner and awarding advanced standing to new apprentices for on-the-job or related training.

(a) The committee may grant credit for prior experience based upon demonstrated competency for any time previously spent by the apprentice in the trade or occupation that the committee considers applicable to the work processes in the program standards.

(b) In licensed trades, only lawfully obtained and documented experience that specifically applies to an Oregon license may be considered in granting credit for prior experience.

(4) All apprenticeship agreements will be maintained in the Division's main office.

Stat. Auth.: ORS chapter 660.120(3)

Stats. Implemented: ORS chapter 657.732 & 660.060(8)

Hist.: BL 6-1985, f. & ef. 10-15-85; BL 1-1991, f. & cert. ef. 1-23-91; BL 7-1996, f. & cert. ef. 7-22-96; BLI 2-1999, f. & cert. ef. 4-2-99; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10; BLI 5-2011(Temp), f. 7-13-11, cert. ef. 7-18-11 thru 1-4-12; BLI 1-2012, f. & cert. ef. 1-3-12

839-011-0090

Causes for Disciplinary Actions

The Division in consultation with the Council has the authority to take disciplinary action against a committee for conduct or action, including but not limited to:

(1) Inappropriate use of an apprentice's registration status or an apprentice's time, skills or training;

- (2) Inadequate training of apprentices;
- (3) Inappropriate assignment or abuse of discretion in work assignments;
- (4) Discriminatory action(s) against an apprentice(s);
- (5) Violation of any state or federal law;
- (6) Failure to submit required documentation to the Division in a timely manner;
- (7) Failure to communicate with the Division or the Council in a timely manner; or
- (8) Any other action deemed inappropriate by the Council.

Stat. Auth.: ORS chapter 660.120(1)

Stats. Implemented: ORS chapter 660.120(1) & ORS chapter 660.120(2)(d)

Hist.: BL 6-1994, f. & cert. ef. 10-10-94; BLI 2-1999, f. & cert. ef. 4-2-99; BLI 1-2012, f. & cert. ef. 1-3-12

839-011-0093

Disciplinary Procedure

- (1) The Council shall establish a disciplinary procedure, to be applied before any disciplinary action toward a committee, apprentice or training agent is taken, consisting of but not limited to:
 - (a) A request to appear before Council to present information and answer questions from the Council; and
 - (b) A written notice of Council's decision in the matter.
- (2) Based on a complaint, compliance review, or other reason, the Division may investigate, or cause a local committee to investigate, whether a training agent or committee is in compliance with the program standards relating to the ratio, supervision, or approved work processes requirements, wages or Council policies.
- (3) The Division shall notify the training agent and the program sponsor that an investigation has commenced. If the Division requests that a local committee initiate an investigation as to whether a training agent is in compliance with the program standards relating to the ratio, supervision, or approved work processes requirements, wages or Council policies, the local committee shall forward the results of the investigation to the Division within 60 days of the request.
- (4) The Division shall prepare a report identifying the results of the investigation. If the results indicate that the training agent is not operating as required by the program standards, the

Division shall notify the training agent and local committee in writing of the results, with a copy of the report to the Council. Additionally:

(a) The Division will make a reasonable effort to secure compliance on the part of the training agent or committee by requiring the training agent or committee to submit to the Division a proposed plan identifying voluntary corrective action. The Division shall review the proposed corrective action plan and approve it, or work with the training agent or committee to modify it, before its implementation. If the Division does not receive notice, within thirty (30) calendar days, that action has been taken to correct violations, the Division shall refer the matter to the Council for action. The local committee shall assist the training agent in developing a proposed corrective action plan and shall assist the Division in monitoring the training agent's compliance with the terms of the approved corrective action plan.

(b) If the Division is unable to obtain compliance from the training agent or committee under (a) of this subsection, or if a second investigation within one year of the initial inspection reveals the training agent or committee is not operating as required by the program standards, the Division shall refer the matter to the Council for action.

(5) The Council will take action upon the Division's referral under subsection (4)(b) of this section. After a notice and the opportunity for the training agent to show cause, the Council will decide by a majority vote of the members present whether to issue a determination that the training agent or committee is out of compliance with program standards relating to the ratio, supervision, or approved work processes requirements, wages or Council policies. Where training agent violations are found by the Council after a review of all relevant facts, including the opportunity for the training agent to make a presentation before the Council, the Council may vote to:

- (a) Censure the training agent or committee and find it not to be in good standing;
 - (b) Place the training agent or committee on probation for a specific period of time;
 - (c) Prohibit the training agent from employing apprentices or prohibit the committee for registering new apprentices for up to two years;
 - (c) Order specific actions to correct the violations;
 - (d) Impose sanctions pursuant to existing Council policies and interpretations; or
 - (e) Deregister the training agent or committee.
- (6) A determination by the Council that a training agent is out of compliance with program standards relating to the ratio, supervision, or approved work processes requirements, wages or Council policies shall be stated in writing, along with the reasons supporting it, and shall be mailed to the training agent and program sponsor.

(7) The Division shall place Council determinations under this section on file for public review. The Division shall maintain a list of all training agents who, as a result of a determination they are out of compliance are unable to employ registered apprentices. The Division shall make the list available to the public upon request.

Stat. Auth.: ORS chapter 660.120(1)

Stats. Implemented: ORS chapter 660.120(1) & 660.120(2)(d)

Hist.: BL 6-1994, f. & cert. ef. 10-10-94; BLI 2-1999, f. & cert. ef. 4-2-99; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

839-011-0140

Approval and Dissolution of Standards

(1) A local committee must submit new standards or revisions to previously approved standards, together with executed signature sheets and committee minutes to the Director at least 45 calendar days before the date of the next Council meeting pursuant to OAR 839-011-0030.

(2) Proposed standards and revisions must be in a form and format approved by Council that includes all elements specified in ORS chapter 660.126. The Council may require additional information of committees pursuant to OAR 839-011-0084, including program administration and training plans.

(3) Standards in a form or format other than that approved by the Council and the Division may be accepted when they are part of the federal Office of Apprenticeship approved national pattern standards and are consistent with federal Office of Apprenticeship regulations and guidelines, these rules and Council policies.

(4) With Council approval, local committees may charge applicants a reasonable non-refundable application fee. Such fees shall be stated in the standards as a minimum qualification for entry into the program. Committees shall be required to:

(a) Incorporate the payment of a non-refundable application fee into the minimum qualifications of the committee's standards. The standards shall also reflect that applicants with an income below 150% of the federal poverty guidelines may apply for a non-refundable application fee waiver. Federal poverty guidelines are established by the Federal Department of Health and Human Services and are recognized by the Oregon Adult and Family Services Division;

(b) Show that the non-refundable application fee results in no disparate impact and report annually to the Council whether disparate impact has been determined to result from the fees charged; and

(c) Show that the local committee experiences an extraordinary burden with respect to the administration of applications, i.e., beyond the ordinary course of conducting such procedures.

Examples of an extraordinary burden include, but not limited to, development of specific entrance examinations, validation studies and extensive testing or interview procedures.

(5) Revised standards will supersede the committee's previous standards covering the same occupation.

(6) Every registered apprenticeship program must have at least one registered apprentice, except for the following specified periods of time that may not exceed 1 year:

(a) Between the date when a program is registered and the date of registration for its first apprentice(s); or

(b) Between the date that a program graduates an apprentice and the date of registration for the next apprentice(s) in the program.

(7) The Division shall report any standards that have had no registered apprentices for one (1) year to the Council for dissolution due to inactivity. Committees will be notified at that time that the standards will be dissolved if no apprentices registered within one (1) additional year.

(a) Committees may request administrative reactivation of standards that are dissolved due to inactivity if a new apprentice is identified within two (2) years of dissolution.

(A) Current documentation of OAR 839-011-0084(3) requirements shall be submitted to the Division with reactivation request.

(B) Apprentice registration can occur upon the Division's administrative approval of the reactivated standards. The standards will then be placed on the next Council agenda for ratification in accordance with OAR 839-011-0051.

(b) After two (2) years, standards dissolved due to inactivity shall be resubmitted as new standards and Council approval of the standards will be required prior to registration of new apprentices.

Stat. Auth.: ORS chapter 660.120(3)

Stats. Implemented: ORS chapter 660.120(2)(b), 660.126 & 660.137

Hist.: BL 95, f. 8-16-65; BL 130, f. 10-5-72, ef. 10-15-72; BL 3-1978, f. & ef. 4-3-78; BL 13-1988, f. & cert. ef. 7-1-88; BL 1-1991, f. & cert. ef. 1-23-91; BL 6-1994, f. & cert. ef. 10-10-94; BLI 2-1999, f. & cert. ef. 4-2-99; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10; BLI 5-2011(Temp), f. 7-13-11, cert. ef. 7-18-11 thru 1-4-12; BLI 1-2012, f. & cert. ef. 1-3-12

839-011-0141

Minimum Guideline Standards

The Council may approve minimum guideline standards for occupations it deems necessary.

(1) At its discretion, or upon petition by two or more local committees directly affected by minimum guideline standards, the Council will direct the Division to convene a state committee composed of voting members of local committees training in the occupation. Division staff will organize the meeting time and location, and contact all appropriate local committees.

(a) Each local joint committee training in the occupation may appoint no more than one employer and one employee committee member (with alternates if desired) to the state committee pursuant to OAR 839-011-0074. Notification of this action must be submitted to the Division in writing. Appointments will be valid only after written notice of the names of the appointees is received by the Division at least one (1) day before a scheduled state guideline committee meeting.

(b) The employer and employee members of local trades committees (and alternates) shall represent their respective occupations on the state committee pursuant to ORS chapter 660.155(2).

(c) Only properly appointed representatives to the state guideline committee will be permitted to vote on issues before the State Guideline Committee.

(d) A quorum shall consist of 50% plus one of the total appointed local joint committee representatives; local trade committee representatives will be counted only if they are present at the state committee meeting. A quorum of the total appointed local committee representatives constituted pursuant to this rule may revise the quorum requirement for future state committee meetings, pending review and approval by the Council.

(e) Each state committee may adopt policies and procedures consistent with ORS chapter 660 as it deems necessary for the orderly conduct of its meetings.

(2) The state committee will develop or revise minimum guideline standards in accordance with the needs of the industry and occupation. This committee shall establish minimum guidelines in the following standards areas:

(a) Minimum qualifications;

(b) Hours of employment;

(c) Maximum probationary period;

(d) Maximum ratio of apprentices to journey workers and required supervision;

(e) Minimum work processes and approximate hours, and expected competencies (if desired);
and

(f) Minimum related/supplemental instruction.

- (3) If consensus is not reached by the state committee, a majority and minority report will be submitted with the proposed standards to the Council for consideration.
- (4) New or revised minimum guideline standards shall be distributed to all local committees training in the occupation for review and comment prior to submission to the Council.
 - (a) Each local committee shall have not more than 30 days to present any written objections. This information shall be referred to the state committee for review.
 - (b) The state committee shall determine whether additional meetings are required then prepare its final recommendations to the Council.
 - (c) When majority and minority reports are submitted, the Council and the Division will take into consideration the geographic area covered by each participating committee as well as the number of apprentices served and the number of training agents affected in determining whether to accept the minimum guideline standard as submitted or approved amendments thereto.
- (5) On-the-job training hours for a local committee may not fluctuate below the requirements dictated by minimum guideline standards. The variations must be within statutory limits governing the licensed occupations.

Stat. Auth.: ORS chapter 660.120(3)

Stats. Implemented: ORS chapter 660.120(3)

Hist.: BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10; BLI 5-2011(Temp), f. 7-13-11, cert. ef. 7-18-11 thru 1-4-12; BLI 1-2012, f. & cert. ef. 1-3-12

839-011-0142

Apprentice/Trainee Qualifications

- (1) The Council and the Division shall evaluate proposed qualification standards or selection methods pursuant to the criteria set forth in Title 29 CFR Part 30, the Equal Employment Opportunity in Apprenticeship Plan noted in OAR 839-011-0200, the objectives expressed by the committee and/or sponsor, and such other factors as the Council and the Division may deem appropriate. Evaluation of proposed qualification standards or selection methods shall include an analysis of whether they would result in an adverse impact upon any protected class of applicants.
- (2) The Council and the Division shall not consider proposed standards that contain any of the following requirements within their minimum qualifications:
 - (a) Physical ability to do the job, unless it specifically references a validated occupational requirement, such as lifting a sack of cement to a specified height;

(b) Any tests (including color tests) that do not meet the validity requirements under 41 CFR 60.3;

(c) A valid driver's license; or

(d) A medical exam.

(3) Standards submitted containing any of these requirements will not be placed on the Council agenda.

(4) The minimum qualifications section of the standards may include a note advising applicants that employers may require apprentices to meet additional lawful conditions of employment. These must be identified by employers and specified in the standards.

Stat. Auth.: ORS chapter 660.120(3)

Stats. Implemented: ORS chapter 660.120(3)

Hist.: BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10; BLI 5-2011(Temp), f. 7-13-11, cert. ef. 7-18-11 thru 1-4-12; BLI 1-2012, f. & cert. ef. 1-3-12

839-011-0143

Ratio

(1) Registered apprentices shall only work for training agents registered to the same committee as the apprentice, unless the subject committees and employer have reached agreement on a plan that will enhance the training opportunities for all apprentices and have jointly submitted a written request to the Council outlining their plan and requesting the exemption from this rule.

(2) Except as provided in sections (6) and (7) below, registered apprentices shall be supervised by journey workers employed in the same trade or occupation by the same training agent employing the apprentice.

(3) The apprentice to journey worker ratio for any registered program approved by the Council and the Division shall be clearly set forth in the standards for the given occupation and must be specific as to application in terms of jobsite, workforce, shift, department or plant.

(4) The maximum ratio of apprentices to journey workers for an occupation covered by a state committee will be developed as part of the minimum guideline standards for the occupation. Requests for a less restrictive ratio from local committees will be referred to the state committee for evaluation of minimum guideline ratio.

(5) For occupations where a minimum guideline standard is not in place, local committees are expected to meet the following apprentice to journey level ratios:

(a) Construction trades: Not more than one apprentice for the first journey worker on the job site. Additional apprentices are authorized at the ratio of one apprentice for each three additional journey workers on the job site. (Expressed hereafter as 1:1,1:3)

(b) Industrial trades and fixed-site facilities: 1:1,1:2

(c) Other trades (non-traditional and new and emerging occupations): 1:1,1:1

(d) Committees wishing a less restrictive ratio must submit a request to the Council for consideration, along with information including but not limited to:

(A) Specific workforce demographics justifying a different ratio;

(B) Plan to monitor effects of ratio on the safety and continuity of employment for apprentices; and

(C) Comparison of completion rate to statewide average for occupation.

(6) In licensed trades, an apprentice must be supervised by a journey worker in the same or a higher license classification than the apprentice, unless the local committee that the apprentice is registered to has approved supervision by a journey worker holding a license covering the specific work being performed by the apprentice on the job site.

(7) Electrical power line installers and repairers and linemen apprentices may work for training agents registered to other local joint committees in order to ensure that all work processes are fulfilled, pursuant to a written agreement between the apprentice, the local committees and both training agents.

(8) In limited situations, the Council may grant a training agent a short-term waiver of the established ratio for a given program, upon demonstration of extreme need. In no event shall an apprentice work without qualified journey worker supervision. Ratio waivers of less than 90 days must be requested by the committee on behalf of a training agent. Local committees are not authorized to grant temporary waivers to training agents. A temporary waiver of ratio may be granted under the following circumstances:

(a) Serious injury or illness of the journey worker, where the journey worker is expected to return to work in 90 days or less; or

(b) The sudden departure of a journey worker from employment with the training agent for causes not attributable to the training agent. The employer is expected to replace the departing journey worker within a reasonable amount of time and in no event shall this amount of time exceed ninety (90) days. The training agent must document its efforts to replace journey workers which may include, but shall not be limited to:

(A) Copies of job orders;

(B) Classified advertising, including a posting of the journey wage rate offered; and

(C) Job orders placed with the Oregon Employment Division.

(9) The lack of available qualified or licensed journey workers shall not be a valid reason for granting a temporary ratio waiver.

(10) The Council may authorize the Director to grant or deny waivers as set forth above on an interim basis. Such action taken by the Director must be submitted to the Council for ratification at its next meeting after interim approval or denial has been made.

Stat. Auth.: ORS chapter 660.120(3)

Stats. Implemented: ORS chapter 660.120(2), 660.126(1)(f)

Hist.: BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10; BLI 5-2011(Temp), f. 7-13-11, cert. ef. 7-18-11 thru 1-4-12; BLI 1-2012, f. & cert. ef. 1-3-12

839-011-0145

Compliance Reviews

(1) All committees are subject to periodic reviews of program operation and affirmative action activities.

(2) The Division shall develop and maintain a review schedule that identifies programs scheduled for review, the type of review to be conducted and the time period to be evaluated.

(3) The Program Operation Compliance Review will evaluate program operation and administration.

(a) New committees will receive a Program Operation Compliance Review annually for the first three years of operation, unless otherwise directed by the Council.

(b) After the first three (3) years, committees found in compliance will receive a Program Operation Compliance Review every three (3) years.

(4) The Affirmative Action Compliance Review will evaluate outreach, recruitment, and selection activities.

(a) Committees with five or more apprentices registered to a single standard during the previous three years will receive an annual Affirmative Action Compliance Review.

(b) Training agents who select their own apprentices in accordance with the committee's approved selection procedure will receive a separate annual Affirmative Action Compliance Review.

(5) Additional reviews may be scheduled if:

(a) The Director has a reasonable belief that such reviews are prudent and in the best interest of apprenticeship;

(b) Complaints have been received that the program is not operating in compliance; or

(c) At the Council's direction.

(6) Committees found out of compliance will be required to appear at the next meeting of the appropriate Council subcommittee, unless:

(a) The committee has not been previously found out-of-compliance;

(b) The welfare, safety and training of apprentices or trainees was not undermined;

(c) The committee has submitted a timely, written response that addresses all compliance issues requiring attention; and

(d) The Division has recommended approval of the compliance review and committee response.

(7) All reviews shall be reported on a form and in a format approved by the Council. Upon review of compliance reports, the Council shall take action including but not limited to any of the following:

(a) Approve the report;

(b) Refer the report back for further clarification;

(c) Extend the review period for up to six (6) months;

(d) Order a probationary period including more frequent and detailed program reviews;

(e) Direct compliance and/or corrective action accordingly;

(f) Impose sanctions;

(g) Deregister the committee and/or standards for non-compliance; and

(h) Any other action as directed by the Council and the Division.

Stat. Auth.: ORS chapter 660.120(3)

Stats. Implemented: ORS chapter 660.120(2)(a) & 660.120(2)(f)

Hist.: BL 16-1979, f. & ef. 11-8-79; BL 6-1994, f. & cert. ef. 10-10-94; BLI 2-1999, f. & cert. ef. 4-2-99; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10; BLI 5-2011(Temp), f. 7-13-11, cert. ef. 7-18-11 thru 1-4-12; BLI 1-2012, f. & cert. ef. 1-3-12

839-011-0162

Employer Training Agents

- (1) The Division will register training agents upon receipt of committee minutes showing approval of specific employers as training agents and a fully executed training agent registration agreement for each employer.
- (2) The effective starting date for a new training agent shall be no more than forty five (45) days prior to the date that a fully executed original training agent agreement and committee minutes approving the registration of the employer are received by a representative of the Division.
- (3) No employer shall be required to join an industry or trade association as a condition of approval as a training agent.
- (4) Where two or more programs of the same occupation exist in the same geographical area an employer may not serve as an approved training agent for more than one such program at a time.
 - (a) In the event an employer has been approved as a training agent by two or more such programs, the Division shall notify the employer and the appropriate committees of this rule and require that the employer respond within twenty (20) working days of receipt of the notice, designating the program in which the employer chooses to continue and resigning from all others. Such notice shall be sent by certified mail, return receipt requested.
 - (b) An employer who does not respond pursuant to section (3)(a) of this rule, shall be deemed conclusively to have elected to resign as a training agent from all such programs. The Division shall notify the committees serving programs in which the employer had participated that the employer's training agent status has been revoked by operation of this rule.
- (5) In limited cases where special conditions exist, the Council may consider an employer's request to participate in multiple programs in the same occupation within the same geographical area:
 - (a) When an individual construction project has special conditions warranting consideration for multiple training agent status, the employer must work with all committees involved to establish a plan that provides for the health, safety, and continuity of employment for all apprentices.
 - (b) When the committees and employer have reached agreement on a plan that will enhance the training opportunities for all apprentices, they shall jointly submit a written request to the Council outlining their plan and requesting the exemption from section (2) of this rule.
- (6) An employer with a principal place of business outside the geographic jurisdiction of a local committee may seek approval to register with that local committee as a training agent. Each such employer must agree to comply with Oregon state, county and municipal laws, rules and ordinances and the rules, policies, procedures and standards of the local committee.

(a) The employer and the local committee must agree on the manner in which local apprentices will be utilized.

(b) Registration as a training agent in Oregon is not required if the employer is approved as a training agent in a state that participates in the multi-state apprenticeship reciprocity agreement, provided:

(A) The standards are equivalent to Oregon apprenticeship standards for the occupation; and

(B) The employer and sponsor maintain good standing in their home state.

(b) Reciprocal approval for federal purposes is accorded to contractors, apprentices, apprenticeship programs and standards that are registered with the USDOL Office of Apprenticeship (“OA”) or registered to other State Apprenticeship Registration Agencies duly recognized by OA for federal public works projects in Oregon that are subject to the Davis-Bacon Act, in accordance with 29 CFR 29.5(b)(13).

(c) Reciprocal approval for non-federal purposes will be accorded to contractors, apprentices, apprenticeship programs and standards that are registered with the USDOL Office of Apprenticeship or a duly authorized State Registration Agency:

(A) The apprenticeship standards must be equivalent to Oregon standards for the occupation.

(B) The employer and its sponsor must have passed any probationary period mandated by their registration agency.

(C) Recognition of reciprocity is valid for one (1) year. A new letter of recognition shall be issued upon request accompanied by required documentation.

(D) For occupations requiring an Oregon plumbing or electrical license, employers and apprentices must be registered with an Oregon committee in order to obtain the required apprentice license.

Stat. Auth.: ORS chapter 660

Stats. Implemented: ORS chapter 660.120(1) & 660.137(5)

Hist.: BL 17-1979, f. & ef. 11-8-79; BL 1-1991, f. & cert. ef. 1-23-91; BLI 2-1999, f. & cert. ef. 4-2-99; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10; BLI 1-2012, f. & cert. ef. 1-3-12

839-011-0170

Committee Minutes Submission and Processing

(1) Meeting requirements:

(a) Local committees shall hold at least two (2) physical meetings each year with a quorum of committee members in attendance to evaluate apprentices and conduct other committee business.

(A) All disciplinary actions require a physical meeting. Electronic polling is prohibited for issues requiring the personal appearance of applicants, apprentices, trainees, training agents or employers.

(B) Committees may vote to take all other actions by facsimile, e-mail or other electronic media if by-laws permitting such voting have been adopted.

(b) State committees should hold at least one (1) physical meeting every three (3) years to review guideline standards. Additional meetings may be called by the state committee chair, at the request of a majority of state committee members or at Council direction. A quorum of members must be physically present at meetings to vote on proposed revisions to guideline standards.

(2) As required in ORS chapter 660.135(3), each committee secretary shall be responsible for the preparation, maintenance and submission to the Division of committee meeting minutes, including actions pertaining to apprentices and all supporting documentation.

(a) All committee meeting minutes shall be submitted in a format approved by the Division within ten (10) working days of the meeting.

(b) All committee actions noted in meeting minutes shall be recorded and processed by the Division within fourteen (14) working days of receipt of the minutes.

Stat. Auth.: ORS chapter 660.120(1)

Stats. Implemented: ORS chapter 660.120(1) & 660.135(4)

Hist.: BL 6-1994, f. & cert. ef. 10-10-94; BLI 2-1999, f. & cert. ef. 4-2-99; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10; BLI 9-2012(Temp), f. & cert. ef. 8-15-12 thru 1-29-13; Administrative correction, 2-25-13

839-011-0175

Cancellation Notices

All notices to appear for cancellation of apprenticeship agreements must be sent certified mail, return receipt, addressed to the apprentice and postmarked at least twenty-two (22) calendar days in advance of the appearance date for the consideration of the cancellation.

Stat. Auth.: ORS chapter 660.137(4)

Stats. Implemented: ORS chapter 660

Hist.: BL 6-1994, f. & cert. ef. 10-10-94; BL 11-1996, f. & cert. ef. 12-10-96; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10; BLI 1-2012, f. & cert. ef. 1-3-12

839-011-0200

Equal Employment Opportunity in Apprenticeship

The Council hereby adopts the "Equal Opportunity in Apprenticeship Plan," effective April 1, 1999 and incorporated by reference as if fully set forth in these rules.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS chapter 660

Stats. Implemented: ORS chapter 660.120

Hist.: BL 120, f. 2-16-72, ef. 3-1-72; BL 151(Temp), f. & ef. 12-19-73; BL 159, f. 3-8-74, ef. 4-11-74; BL 168, f. 10-11-74, ef. 11-11-74; BL 9-1978(Temp), f. & ef. 9-15-78; BL 13-1978, f. & ef. 12-8-78; BL 2-1988, f. & cert. ef. 2-19-88; BL 1-1991, f. & cert. ef. 1-23-91; BL 8-1991(Temp), f. 8-15-91, cert. ef. 9-1-91; BLI 2-1999, f. & cert. ef. 4-2-99; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

839-011-0250

Agreements During Labor Disputes

(1) Pursuant to the National Labor Relations Act and Title 29 CFR Parts 29.3(h) and 29.12(10), when a labor dispute exists with an employer or prospective employer in a single employer program, until such dispute has been resolved or the representative union has tendered a written waiver of its objections to the employer or prospective employer's participation, the Council will not:

- (a) Approve changes in existing standards;
- (b) Approve new standards;
- (c) Register additional apprentices for the employer; or
- (d) Review the employer's application for a new committee.

(2) Pursuant to the National Labor Relations Act and Title 29 CFR Parts 29.3(h) and 29.12(10), when a labor dispute exists with an employer or prospective employer in a multi-employer program, until such dispute has been resolved or the representative union has tendered a written waiver of its objections to the employer or prospective employer's participation, the local committee will not:

- (a) Provide additional apprentices to the employer or prospective employer engaged in the labor dispute; or
- (b) Grant training agent status.

(3) For purposes of this rule, a labor dispute exists for an employer where:

- (a) There is a collective bargaining agreement in effect, or where employees have voted for a bargaining agreement; and

(b) There is a strike, lock out or work stoppage.

(4) Apprentices or trainees subject to apprenticeship or training agreements and employed in an establishment involved in a labor dispute where the employees have voted for a bargaining unit and a strike is in progress are not in violation of their agreements if they leave their employment until settlement of the labor dispute.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS chapter 660

Stats. Implemented: ORS chapter 660.120

Hist.: BL 7-1986, f. & ef. 7-14-86; BLI 2-1999, f. & cert. ef. 4-2-99; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

839-011-0260

Movement and Training of Apprentices within the Same Occupation

(1) Registered apprentices who are transported to an area outside of the committee's geographic jurisdiction may receive related training with the consultation and agreement of the appropriate local committee in the new area.

(2) Each local committee shall develop and uniformly implement a policy defining its processes and procedures for the immigration of employers and apprentices into its geographical area and jurisdiction including, but not limited to:

(a) The authorization of approved training agents domiciled in other jurisdictions;

(b) The portability of apprentices; and

(c) The hiring priority, if any, of unemployed apprentices within the jurisdiction.

(3) The policies of each committee shall be reviewed and approved by Division staff on behalf of the Council.

(4) In the event that a policy is not approved by the Division, it shall be referred to the Council's Rules and Policy Subcommittee for review and action.

Stat. Auth.: ORS chapter 660

Stats. Implemented: ORS chapter 660.120

Hist.: BL 7-1986, f. & ef. 7-14-86; BL 1-1991, f. & cert. ef. 1-23-91; BLI 2-1999, f. & cert. ef. 4-2-99; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

839-011-0265

Partial Rotation of Apprentices

(1) All apprentices must obtain work experience for at least 50% of the hours listed for each work process in the committee's approved standards. A committee unable to provide an apprentice with work experience equaling at least 50% of the hours listed in any of the work processes must provide and document additional related training to compensate for the lack of on-the-job training. A written statement, held in the apprentice's files, shall document such compensatory training and shall include, date, time, place, hours and instructor. In no event may distance learning classes be used to compensate for deficiencies in total work process hours.

(2) For licensed occupations, all variations in work processes must be within the statutory limits governing the trade.

Stat. Auth.: ORS chapter 660

Stats. Implemented: ORS chapter 660.120

Hist.: BLI 2-1999, f. & cert. ef. 4-2-99; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10; BLI 1-2012, f. & cert. ef. 1-3-12

839-011-0270

Administrative Cancellation or Completion of Apprenticeship Agreements

(1) Whenever a local committee has insufficient members to conduct business, has not met at least once within a six-month period or has been dissolved by Council, the Director may:

(a) Cancel an apprenticeship agreement:

(A) At the apprentice's request; or

(B) For good cause as defined by ORS chapter 660.060(7) or;

(C) In the case of program deregistration, or for the failure to hold registered training standards.

(b) Complete an apprenticeship agreement when documentation has been submitted to the Director demonstrating that the apprentice has fulfilled the required related instruction and on the job training as set forth in the standards established by the committee.

(2) Absent exceptional circumstances demonstrated by a local committee, apprentices referred for a license exam will be administratively completed by the Director within one (1) year of referral, with or without benefit of license. Examples of exceptional circumstances are military service; illness; injury or incapacitation of the apprentice.

(a) Local committees may complete apprentices without benefit of license earlier than one (1) year of referral in accordance with approved committee policies and procedures.

(3) Such action by the Director or the committee shall be taken pursuant to the following procedure:

(a) Notice and an opportunity to show cause to the Council, through the Division, shall be provided by certified mail to the apprentice, employer, committee, Council and any interested parties before any action to administratively complete or cancel an agreement; and

(b) Written notice to the apprentice, committee, Council and any interested parties of the final action taken by the Director.

(4) An apprentice may appeal an administrative cancellation as an order other than a contested case order under ORS chapter 183.484.

Stat. Auth.: ORS chapter 660.120

Stats. Implemented: ORS chapter 660.120(2)(f)

Hist.: BL 7-1986, f. & ef. 7-14-86; BL 1-1991, f. & cert. ef. 1-23-91; BLI 2-1999, f. & cert. ef. 4-2-99; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10; BLI 1-2012, f. & cert. ef. 1-3-12

839-011-0280

Electrical Apprentices — Indirect Supervision

(1) The Division shall issue electrical apprentice licenses to active apprentices or trainees registered to standards jointly approved by the Council and the Oregon Electrical and Elevator Board. Apprentice license formats shall be jointly agreed to by the Division and the Oregon Building Codes Division.

(2) All electrical apprentices must be directly supervised in accordance with OAR 839-011-0143, unless approved for indirect supervision.

(3) Pursuant to OAR 918-282-0270(3), a local committee may take action to permit electrical apprentices to work under indirect supervision during their final period of apprenticeship provided they have met the provisions of ORS chapter 660.126(3) and ORS chapter 479.510 to 479.860 and have:

(a) Completed at least 6,500 hours of on-the-job training for licenses requiring 8,000 hours of apprenticeship training, or 5,000 hours of on-the-job training for licenses requiring 6,000 hours of apprenticeship training; and

(b) Successfully completed related training appropriate to the required 6,500 hours of on-the-job training in an 8,000 hour program or related training appropriate to the required 5,000 hours in a 6,000 hour program.

(4) Indirect supervision licenses will be issued by the Division upon notification of committee approval and reissued for the duration of the program unless the committee takes action to rescind approval.

(5) All apprentices count towards the ratio specified in the standards, regardless of supervision status.

Stat. Auth.: ORS chapter 660

Stats. Implemented: ORS chapter 660.126(3), ORS chapter 479.510 - 479.860 & OAR 918-282-0270

Hist.: BL 11-1989(Temp), f. & cert. ef. 12-26-89; BL 17-1990, f. & cert. ef. 11-23-90; BLI 2-1999, f. & cert. ef. 4-2-99; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

839-011-0290

Plumber Apprentices — Phased Supervision

(1) The Division shall issue plumbing apprentice licenses to active apprentices or trainees registered to standards approved by the Council. Apprentice license formats shall be jointly agreed to by the Division and the Oregon Building Codes Division.

(2) All apprentices and trainees must be directly supervised in accordance with OAR 839-011-0143, unless approved for phased supervision.

(3) Pursuant to OAR 918-695-0140, a local committee may take action to permit plumbing apprentices to work under phased supervision under the following circumstances:

(a) The plumber apprentice must work in the physical presence of an appropriate journey level plumber; and

(b) An appropriate journey level plumber present at the immediate work site at all times, except for not more than a cumulative thirty (30) minutes during any work shift during which time the journey worker is immediately available by voice communication.

(4) The plumber apprentice may work under phased supervision when the following specific conditions are met:

(a) The appropriate journey worker is immediately available to the apprentice by voice communication (immediately available means that the apprentice can reach the appropriate journey worker within a 15-minute period);

(b) The appropriate journey worker meets with the apprentice at least once each day to go over the work done by the apprentice;

(c) The activity is consistent with the committee's work requirements as established in its written policy;

(d) There is only one apprentice on the job site; and

(e) The apprentice has been specifically approved for one (1) or more of the following phases:

(A) Phase 1: The apprentice only engages in water heater replacement or conversion after completing at least six (6) months of work experience, eight (8) hours of related instruction and is evaluated and authorized to do this type of work by the committee;

(B) Phase 2: The apprentice engages in work covered in Phase 1 and minor repairs in a one (1) or two (2) family dwelling after completion of three (3) periods of work experience, the appropriate related instruction for three (3) periods and is evaluated and authorized to do this type of work by the committee;

(C) Phase 3: The apprentice engages in work covered in Phase 1 and 2, and general repairs and replacement of existing installations after completion of four (4) periods of work experience, the appropriate related instruction for four (4) periods and is evaluated and authorized to do this type of work by the committee; or

(D) Phase 4: The apprentice engages in work covered in Phase 1, 2 and 3, and new or remodel installations after completing five (5) periods of work experience, the appropriate related instruction for five (5) periods and is evaluated and authorized to do this type of work by the committee.

(5) Phased supervision licenses will be issued by the Division upon notification of committee approval and reissued for the duration of the program unless the committee takes action to rescind approval.

Stat. Auth.: ORS chapter 660.120(3)

Stats. Implemented: ORS chapter 693.040

Hist.: BLI 2-1999, f. & cert. ef. 4-2-99; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10; BLI 5-2011(Temp), f. 7-13-11, cert. ef. 7-18-11 thru 1-4-12; BLI 1-2012, f. & cert. ef. 1-3-12

839-011-0300

Effective Date of Council Actions

All Council actions, other than rulemaking, unless otherwise specified by the Council, shall be effective on the first day of the month following the Council meeting at which such action is taken.

Stat. Auth.: ORS chapter 660.120(1)

Stats. Implemented: ORS chapter 660.120

Hist.: BL 7-1991, f. & cert. ef. 8-15-91 (and corrected 2-3-92)

839-011-0310

Apprentice Rights

(1) Upon registration the local committee shall provide each apprentice with the following information:

(a) Apprenticeship Standards for the program in which the apprentice is registered;

(b) Division approved committee policies and procedures; and

(c) Copy of the apprenticeship agreement.

(2) Within the constraints of industry and market conditions, the apprentice has the right to be employed and diligently and faithfully trained by the committee's approved training agents in accordance with the terms and conditions of the Apprenticeship Agreement and Apprenticeship Standards.

(3) The apprentice has the right to minimum compensation at the apprentice rate of pay as determined by the local apprenticeship committee pursuant to the standards or appropriate prevailing wage classification for all activities performed subsequent to the normal start time of the regular work day and prior to the completion of assigned duties during the work day.

(4) The apprentice has the right to classroom and workplace conditions that are free of harassment or intimidation.

(a) "Harassment or intimidation" includes any act that takes place on or immediately adjacent to apprenticeship classrooms or training agent work sites that:

(A) Substantially interferes with the apprentice's educational benefits, opportunities or performance; and

(B) Has the effect of:

(i) Physically harming an apprentice or damaging an apprentice's property; or

(ii) Knowingly placing an apprentice in reasonable fear of physical harm to the apprentice or damage to the apprentice's property; or

(iii) Creating a hostile educational environment, including interfering with the psychological well-being of an apprentice; and

(C) May be based on, but not limited to, the protected class status of a person.

(5) If a probationary apprentice's registration agreement is suspended, the time spent on suspension will not apply to the calculation of one year.

Stat. Auth.: ORS chapter 660.120(1)

Stats. Implemented: ORS chapter 660.120(2)(a)

Hist.: BL 7-1991, f. & cert. ef. 8-15-91 (and corrected 2-3-92); BLI 2-1999, f. & cert. ef. 4-2-99; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10; BLI 1-2012, f. & cert. ef. 1-3-12

839-011-0320

Required Appearance at Council Meetings

(1) The Council shall require a committee member or designee other than Division or federal Office of Apprenticeship staff to be present at the appropriate subcommittee meeting when seeking approval for:

(a) New committee;

(b) New standards or;

(c) Other submittals that do not have a staff recommendation for approval.

(2) When a committee member or designee is not required to be present at a subcommittee meeting and questions or deficiencies are noted, the committee will be given ten (10) working days to correct the deficiencies and obtain a Division recommendation for approval.

(a) If deficiencies are corrected, the submittal will be moved to the Council agenda.

(b) Any submittal with deficiencies not corrected within the ten (10) day time limit will be referred to the next meeting of the appropriate subcommittee.

(3) The Director may make exceptions to this rule upon receipt of a written request from the committee setting forth circumstances, such as an emergency or undue hardship, that might justify a failure to attend subcommittee meeting.

Stat. Auth.: ORS chapter 660.120(1)

Stats. Implemented: ORS chapter 660.120(2)(a)

Hist.: BL 7-1991, f. & cert. ef. 8-15-91 (and corrected 2-3-92); BLI 2-1999, f. & cert. ef. 4-2-99; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10; BLI 1-2012, f. & cert. ef. 1-3-12

839-011-0334

Eligibility of Family and Current Employees

(1) To the extent that the State Apprenticeship and Training Council determines that it would not result in an adverse impact on apprenticeship opportunities based on an individual's protected class status, an applicant who is otherwise eligible for selection as an apprentice under the selection method approved by the Council for use by the local committee may be directly registered to a family business or the applicant's current employer, subject to the consent of the applicant, regardless of whether another employer would otherwise be entitled to register the applicant under the selection method used by the local committee.

(2) As used in this section, "otherwise eligible for selection as an apprentice under the selection method approved by the Council for use by the local committee" shall mean that the applicant:

- (a) Has met the minimum qualifications for entry into the program; and
- (b) Has been evaluated or ranked by the local committee pursuant to the procedure set forth in its approved selection method; and
- (c) Based on that evaluation or ranking, is the next applicant or in the immediate group of applicants eligible to be assigned or dispatched to a registered training agent pursuant to the local committee's approved selection method.

(3) When submitting a new or revised selection method to the Council for approval, local committees must indicate whether they will be using an exception to the selection methods established in Title 29 CFR Part 30 and must note in their committee minutes when an individual is registered pursuant to subsections (1) and (2) above.

(4) Nothing in this rule is intended or should be interpreted as discouraging the use of a qualification standard or selection method on the basis of relative qualifications, if the qualification standard or selection criteria have been validated in accord with the guidelines established in Title 41 CFR Part 60-3.6.

Stat. Auth.: ORS chapter 660.120(1)

Stats. Implemented: ORS chapter 660.139

Hist.: BLI 17-1999, f. & cert. ef. 12-20-99; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10; BLI 1-2012, f. & cert. ef. 1-3-12

839-011-0335

Pre-apprenticeship Programs

1. Pre-apprenticeship is a program designed to prepare under-represented, disadvantaged or low-skilled individuals to enter and succeed in a registered apprenticeship program and has a documented partnership with at least one, if not more, registered apprenticeship committee(s). In order to be used by a registered apprenticeship committee as a direct entry or preferred applicant source, a pre-apprenticeship program must be approved by the Council and incorporate the following elements:
 - a. Council approved training and curriculum based on industry standards;
 - b. Detailed recruitment strategies focused on outreach to under-represented populations;
 - c. Provides assistance in exposing participants to registered apprenticeship programs and provides direct assistance to participants applying to those programs;

- d. Provides hands-on training to individuals in a simulated lab experience or through volunteer opportunities, when possible, neither of which supplants a paid employee but accurately simulates the industry and occupational conditions of the partnering registered apprenticeship sponsor(s) while observing proper supervision and safety protocols;
 - e. Provides facilitated entry or articulation with one or more registered apprenticeship programs and where possible, has a formalized agreement with a registered apprenticeship program that enables individuals who have successfully completed the pre-apprenticeship program to enter directly into a registered apprenticeship program and/or include articulation agreements for earning advanced credit/placement for skills and competencies already acquired.
 - f. Provide a letter of approval from one or more registered apprenticeship committee stating that the proposed pre-apprenticeship program will prepare individuals with the skills and competencies needed to meet the minimum entry requirements of the program and that upon completion, completing pre-apprentices will meet the minimum entry requirements, gain consideration, and are prepared for success in the program as a preferred applicant source.
2. Written request for Council approval of a pre-apprenticeship program shall include the following information:
 - a. Identification of the need for the pre-apprenticeship program and the target population served;
 - b. A statement clearly describing the program and the organization sponsoring and operating the pre-apprenticeship training;
 - c. A statement of program objectives, outcomes, participant competencies upon completion and benchmarks for success;
 - d. A course outline providing an overview of the academic and manipulative portions of the program. Individual course descriptions, class hours and measurement tool(s) used to determine successful completion of classes should be provided in this section.
 - e. A description of the training facilities used for pre-apprenticeship training.
 - f. A list of the knowledge, skills and abilities required to be an instructor in this program.
 3. Pre-apprenticeship program sponsors agree to provide the Council with a list of pre-apprenticeship program graduates at least once every six (6) months indicating the names, addresses and other identifying information for program completers on a form designated by the Division.

4. Upon due notice and a reasonable opportunity to show cause, the Council may revoke pre-apprenticeship program approval should it find that the program is not serving the intended purposes of the program in the best interest of registered apprenticeship

Stat. Auth.: ORS chapter 660.120

Stats. Implemented: ORS chapter 660.126, 660.137

Hist.:

Youth Apprenticeship Rules

839-011-0400 [Renumbered to **839-011-0403**]

839-011-0401

Youth Apprenticeship Program Approval

- (1) Council approval of the youth program is required prior to implementation.
- (2) Youth apprenticeship committees and standards must meet the requirements outlined in these rules for adult apprenticeship programs.
- (3) Youth standards must directly relate to an apprenticeable occupation recognized by federal Office of Apprenticeship.

Stat. Auth.: ORS chapter 344.745 & 344.750, 660.120

Stats. Implemented: ORS chapter 344.745 & 344.750, 660.120

Hist.: BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

839-011-0402

Youth Apprentice Eligibility

- (1) Committees may register youth apprentices who otherwise would not meet the minimum entry level qualifications for age, high school completion or GED in adult standards for the occupation.
- (2) The provisions and requirements of ORS chapter 344.745 shall prevail over the committee's standards should any conflict exist.

Stat. Auth.: ORS chapter 344.745, 660.120

Stats. Implemented: ORS chapter 344.745

Hist.: BL 2-1992, f. & cert. ef. 1-14-92; BL 3-1994, f. & cert. ef. 6-3-94; Renumbered from 839-011-0420, BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

839-011-0403

Youth Apprentices Selection

The procedure to be utilized in selecting youth apprentices shall be outlined in the youth standards.

- (1) Youth apprentices will be selected from a list of eligible established by the school pursuant to ORS 344.745.
- (2) In order to participate as a youth apprentice, a student must demonstrate career exploration competencies contained in a curriculum approved by the Oregon State Board of Education.
- (3) In no case shall a youth apprentice displace a regular apprentice.

Stat. Auth.: ORS chapter 344.745, 660.120

Stats. Implemented: ORS chapter 344.745

Hist.: BL 2-1992, f. & cert. ef. 1-14-92; BLI 2-1999, f. & cert. ef. 4-2-99; Renumbered from 839-011-0400, BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

839-011-0404

Youth Apprentices Training Agents

- (1) Youth apprenticeship committees shall develop a process for the purpose of approving training agents to participate in the program.
- (2) Employers must apply in writing to the appropriate committee requesting authorization to participate. The committee will review the request and respond in writing with a copy to the Director.
- (3) Approved youth apprenticeship training agents in the building and construction trades shall be permitted only one (1) youth apprentice without concurrently training/hiring adult apprentices.

Stat. Auth.: ORS chapter 344.745 & 344.750, 660.120

Stats. Implemented: ORS chapter 344.745, 660.120 & 660.137

Hist.: BL 2-1992, f. & cert. ef. 1-14-92; BL 3-1994, f. & cert. ef. 6-3-94; BLI 2-1999, f. & cert. ef. 4-2-99; Renumbered from 839-011-0440, BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

839-011-0405

Youth Apprentices Supervision

All youth apprentices shall be under direct line of sight supervision of a journey person while engaged in on-the-job training within hazardous occupations as defined by OAR 839-021-0104. Youth apprentices shall be under direct supervision at all other times to ensure optimal safety while on the job.

Stat. Auth.: ORS chapter 344.750, 660.120

Stats. Implemented: ORS chapter 660.120

Hist.: BL 2-1992, f. & cert. ef. 1-14-92; BL 7-1993, f. & cert. ef. 7-12-93; BL 3-1994, f. & cert. ef. 6-3-94; Renumbered from 839-011-0430, BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

839-011-0406

Youth Apprentice Ratios

(1) Committees shall adopt the same ratio of youth apprentices to journey persons as exists for adult apprenticeship programs, except that:

(a) Youth apprentices shall not be included in the count as part of the adult apprentices, but shall be counted separately and concurrently;

(b) A training agent is permitted to participate in the youth apprenticeship program without concurrently training/hiring adult apprentices; and

(c) At no time shall the total number of youth apprentices and adult apprentices exceed the number of journey persons for any job or training agent.

(2) The ratio shall be job and/or training agent specific in application.

Stat. Auth.: ORS chapter 344.745 & 344.750, 660.120

Stats. Implemented: ORS chapter 344.745, 660.120

Hist.: BL 4-1994, f. & cert. ef. 6-13-94; BLI 2-1999, f. & cert. ef. 4-2-99; Renumbered from 839-011-0480, BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

839-011-0407

Youth Apprentice Evaluation

The committee must establish a policy and procedure addressing periodic evaluation of youth apprentices and recommending the granting of credit by the committee. The policy shall include the review of apprentice progress including participation in classroom instruction, related instruction, and on-the-job training.

Stat. Auth.: ORS chapter 344.745 & 344.750, 660.120

Stats. Implemented: ORS chapter 344.745 & 344.750

Hist.: BL 2-1992, f. & cert. ef. 1-14-92; BL 7-1993, f. & cert. ef. 7-12-93; BL 3-1994, f. & cert. ef. 6-3-94; Renumbered from 839-011-0410, BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

839-011-0408

Transfer of Youth Apprentices

The committee, in consultation with the participating school, is responsible for the transfer of youth apprentices to other training agent(s) in the event a training agent is unable to fully comply with the apprenticeship standards and these rules.

Stat. Auth.: ORS chapter 660.120

Stats. Implemented: ORS chapter 660.120

Hist.: BL 2-1992, f. & cert. ef. 1-14-92; Renumbered from 839-011-0450, BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

839-011-0410 [Renumbered to **839-011-0407**]

839-011-0420 [Renumbered to **839-011-0402**]

839-011-0430 [Renumbered to **839-011-0405**]

839-011-0440 [Renumbered to **839-011-0404**]

839-011-0450 [Renumbered to **839-011-0408**]

839-011-0480 [Renumbered to **839-011-0406**]

Investigative Subpoenas and Enforcement of Subpoenas by State Apprenticeship and Training Council

839-011-0501

Purpose and Scope

(1) ORS chapter 660.120 authorizes the State Apprenticeship and Training Council to conduct investigations in all matters relating to the Council's duties and functions as set forth in ORS chapter 660.002 to 660.210.

(2) While conducting investigations, ORS chapter 660.120 gives the Council the authority to issue subpoenas ad testificandum and subpoenas duces tecum, administer oaths, obtain evidence and take testimony.

(3) These rules govern the Council's gathering of information through subpoenas or testimony and establish procedures through which a subpoenaed party may object to answering questions or producing any document or other thing subpoenaed.

Stat. Auth.: ORS chapter 660

Stats. Implemented: ORS chapter 660.120(1)

Hist.: BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

839-011-0505

Definitions

- (1) “Council” means the State Apprenticeship and Training Council.
- (2) “Document” means any existing written, printed, typed, or recorded matter of any kind or nature, however produced or reproduced, including but not limited to all mechanical, electronic, sound or video recordings or their transcripts, photographs, electronic files and computer stored data.
- (3) “Other thing” means any existing tangible object that is not a “document.”
- (4) “Party” means any person who has been served by a subpoena under these rules.
- (5) “Person” means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character.
- (6) “Subpoena ad testificandum” is a subpoena that requires an individual to appear and give testimony under oath.
- (7) “Subpoena duces tecum” is a subpoena that requires the production of documents or other things.

Stat. Auth.: ORS chapter 660
Stats. Implemented: ORS chapter 660.120(1)
Hist.: BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

839-011-0510

Who and What May Be Subpoenaed

The Council may issue subpoenas to persons to compel testimony and the production of documents or other things that are relevant to the Council’s lawful investigative purpose and reasonable in scope under matters relating to the duties required under ORS chapter 660.002 to 660.210.

Stat. Auth.: ORS chapter 660
Stats. Implemented: ORS chapter 660.120(1)
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839-011-0515

Circumstances under Which a Subpoena May be Issued

- (1) The Council may issue a subpoena ad testificandum to compel a person to testify under oath when:

- (a) The Council determines that the person is a material witness in an investigation being conducted by the Council under ORS chapter 660.002 to 660.210;
 - (b) The information sought from the person is relevant to a lawful investigative purpose and is reasonable in scope; and
 - (c) The Council has been unable to interview the person after having made reasonable attempts to do so, or the person states that he or she will only consent to an interview if first served with a subpoena.
- (2) The Council may also issue a subpoena ad testificandum to compel a person to testify under oath about the contents of documents or other things produced in response to subpoena duces tecum served on the same person.
- (3) The Council may issue a subpoena duces tecum to compel a person to produce documents or other things when:
- (a) The Council determines that the documents or other things are relevant to the Council's investigation being conducted under ORS chapter 660.002 to 660.210;
 - (b) The documents or other things sought are relevant to a lawful investigative purpose and are reasonable in scope; and
 - (c) The Council has made a written request for production of documents or things and the person to whom the request was made has failed to comply within the time specified by the Council, unless the Council finds a subpoena is necessary to protect the documents and things from destruction.

Stat. Auth.: ORS chapter 660
Stats. Implemented: ORS chapter 660.120(1)
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839-011-0520

Who May Issue Subpoenas

The Council or the Council's designees may issue subpoenas.

Stat. Auth.: ORS chapter 660
Stats. Implemented: ORS chapter 660.120(1)
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839-011-0525

Subpoena Duces Tecum

(1) A subpoena duces tecum may be issued to any person who has custody, possession, or control of documents or other things named in the subpoena duces tecum when the conditions set out in OAR 839-011-0515(3) have been met.

(2) A subpoena duces tecum issued to a corporation will be addressed to the records custodian of the corporation.

(3) A subpoena duces tecum will not require production of documents or other things less than fourteen (14) days from the date of service upon the person required to produce and permit inspection of the documents or other things unless the Council finds a shorter period necessary to protect the documents and other things from destruction or if the Council has an immediate need for the documents or other things being subpoenaed.

(4) The Council may also command the person to whom a subpoena duces tecum is issued to produce documents and other things by mail or otherwise, at a time and place specified in the subpoena, without commanding inspection of the originals. The person to whom the subpoena is directed complies if the person produces copies of the specified items in the specified manner and certifies that the copies are true copies of all documents and other things responsive to the subpoena.

(5) The subpoenaed documents and other things must be produced at the location, time, and date required in the subpoena.

Stat. Auth.: ORS chapter 660

Stats. Implemented: ORS chapter 660.120(1)

Hist.: BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

839-011-0530

Subpoena Ad Testificandum

(1) A subpoena ad testificandum may be issued to any person when the conditions set out in 839-011-0105(1) or 839-011-0515(2) have been met.

(2) The subpoena ad testificandum must give the person a reasonable time for preparation and travel to the place of attendance and the place of attendance must be a suitable place in the vicinity to which testimony is applicable.

Stat. Auth.: ORS chapter 660

Stats. Implemented: ORS chapter 660.120(1)

Hist.: BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

839-011-0535

Method of Service

(1) Except as noted in sections (2) and (3) of this rule, subpoenas must be served in person by delivering a copy to the witness personally and, at the same time, giving or offering to the witness the fees to which the person is entitled for travel to and from the place where the witness is commanded to appear, along with one (1) day's attendance fee. A subpoena may be served by any person 18 years of age or older.

(2) Subpoenas ad testificandum may be served by mail under the following circumstances:

(a) The Council must have, by personal or telephone contact, confirmed the witness's willingness to appear if subpoenaed and certify this on the return of service;

(b) The Council made arrangements for payment to the witness of fees and mileage satisfactory to the witness and pays those fees and mileage; and

(c) The subpoena is sent by certified mail to the witness more than ten (10) days before the date set for appearance or production of documents or other things and the Council receives a return receipt signed by the witness more than three (3) days prior to that date.

(3) A subpoena duces tecum that commands production of documents or other things but is not accompanied by a subpoena ad testificandum may be served by mail by mailing the subpoena to the person required to produce and permit inspection of the documents or things by first class mail and by certified or registered mail, return receipt requested.

(4) A subpoena duces tecum issued to a corporation will be served in accordance with requirements for service of summons on a corporation pursuant to ORCP 7 D(3)(b),

Stat. Auth.: ORS chapter 660

Stats. Implemented: ORS chapter 660.120(1)

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839-011-0540

Fees

All persons subpoenaed by the Council must be paid the mileage and per diem set out in ORS 44.415(2).

Stat. Auth.: ORS chapter 660

Stats. Implemented: ORS chapter 660.120(1)

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839-011-0545

Time and Manner of Objecting to Subpoenas

(1) Any person served with an investigative subpoena may object to testifying or providing the documents or other things sought. Grounds for objections include:

(a) The information sought is irrelevant to a lawful investigative purpose;

(b) The information sought is unreasonable in scope;

(c) The witness is ordered to appear to give testimony in a place that is not suitable or not in the vicinity to which the testimony is applicable;

(d) The time and expense involved in copying the documents sought. In order to have this objection considered, a person making this objection must include a written estimate of the time involved and number of copies to be made in order to comply with the subpoena;

(e) Reasonable cause to refuse to comply; or

(f) Any other basis that may be asserted under Oregon law.

(2) Objections to subpoenas must be in writing and must be received by the Council at least seven (7) calendar days before the time that the witness is subpoenaed to testify or provide documents or other things.

(3) If a subpoenaed witness refuses to answer specific questions while giving testimony, the witness must state the reason for the objection at the time that the witness refuses to answer the questions.

Stat. Auth.: ORS chapter 660

Stats. Implemented: ORS chapter 660.120(1)

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839-011-0550

Response to Objections

(1) The Council will respond in writing to any objections timely received under OAR 839-011-0545(2).

(2) If the objection made is the time and expense involved in copying the documents sought, the Council will provide a check to the person subpoenaed to pay for the estimated time and expense, calculated at the rates set out in OAR 839-011-0060. The Council may provide this check before or at the time the witness is subpoenaed to provide documents or other things.

Stat. Auth.: ORS chapter 660

Stats. Implemented: ORS chapter 660.120(1)

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839-011-0555

Method of Taking Testimony

(1) When a witness appears to give testimony in response to a subpoena ad testificandum, an oath or affirmation will be administered to the witness prior to his or her testimony. The oath or affirmation will be administered by an officer authorized to administer oaths in Oregon, generally a notary public.

(2) The witness's testimony will be preserved by an audio or video recording. Upon request, the Council will give the witness a copy of the recording at no cost.

Stat. Auth.: ORS chapter 660

Stats. Implemented: ORS chapter_660.120(1)

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839-011-0560

Failure to Appear

If a person served with a subpoena fails to appear and has not filed any prior objections, the Council will conclude that the person has refused, without reasonable cause, to answer any question or to produce any document or other thing.

Stat. Auth.: ORS chapter 660

Stats. Implemented: ORS chapter_660.120(1)

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839-011-0565

Enforcement of Subpoena

If a person served with a subpoena refuses, without reasonable cause, to be examined, to answer any question or to produce any document or other thing as required by the subpoena, the Council may petition the circuit court in the county in which the investigation is pending for an order directing the person to show cause why the person has not complied with the subpoena and should not be held in contempt. The Council shall serve the court's order upon the person in the manner provided by Oregon Rules of Civil Procedure 55 D.

Stat. Auth.: ORS chapter 660

Stats. Implemented: ORS chapter_660.120(1), ORCP 7

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