

EMPLOYER TA CENTER

POLICY BRIEF

A SUMMARY OF THE EQUAL EMPLOYMENT OPPORTUNITY IN APPRENTICESHIP NOTICE OF PROPOSED RULEMAKING FROM A DISABILITY PERSPECTIVE NOVEMBER 2015

OVERVIEW

On November 6, 2015, the U.S. Department of Labor (DOL) issued a [Notice of Proposed Rulemaking \(NPRM\)](#) to update the equal opportunity regulations [29 CFR part 30] that implement the National Apprenticeship Act of 1937 (the Act). The Act authorizes DOL to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices.

What changes are being proposed in the NPRM? The existing part 30 of the regulations prohibits discrimination in the recruitment, selection, employment and training of apprentices on the basis of race, color, religion, national origin and sex. The NPRM would add disability, age (40 or older), sexual orientation, and genetic information to protected groups for nondiscrimination purposes, and clarify that sex discrimination includes discrimination on the basis of pregnancy and gender identity.

DOL is currently seeking public comment on the NPRM, and in efforts to help individuals understand the proposed changes, the National Employer Policy, Research and Technical Assistance Center for Employers on the Employment of People with Disabilities (Employer TA Center) created this educational policy brief.

The purpose of the brief is to:

- Highlight the major changes to the existing rule proposed by the NPRM;
- Provide a summary of the key provisions in the NPRM applicable to *all protected groups*; and
- Provide a summary of the NPRM *from a disability perspective*.

Comments may be submitted on the NPRM by using any of the following methods:

- **Federal Rulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **Mail:** Please address all written comments (including disk and CD-ROM submissions) to Adele Gagliardi, Administrator, Office of Policy Development and Research, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-5641, Washington, D.C. 20210.
- **Hand Delivery/Courier:** Adele Gagliardi, Administrator, Office of Policy Development and Research, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-5641, Washington, D.C. 20210.

All comments must be received on or before **January 20, 2016**.

ABOUT THE NPRM & 29 CFR Part 30

DOL's November 2015 [NPRM](#) aims to update the equal opportunity regulations [29 CFR part 30] that implement the National Apprenticeship Act of 1937 (the Act). In accordance with the Act, DOL is authorized to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices. The responsibility for formulating and promoting these labor standards lies with DOL's Employment and Training Administration (ETA) Office of Apprenticeship (OA).

Part 30 of Title 29, Code of Federal Regulations implements the Act by requiring that sponsors of registered apprenticeship programs¹ provide equal opportunity for participation in their registered apprenticeship programs, and by protecting apprentices and applicants for apprenticeships from discrimination. In addition, part 30 requires that sponsors of registered apprenticeship programs take affirmative action to provide equal opportunity in such programs.

DOL first published part 30 on December 18, 1963. In 1978, DOL amended the regulation. No changes to these regulations have been made since that time. [80 FR 68909 (November 6, 2015)]

SUMMARY OF THE APPRENTICESHIP EEO NPRM, IN GENERAL

The following is a summary of the following key aspects of the existing rule and the changes proposed in the NPRM from the perspective of all protected groups.

- [Nondiscrimination and Protected Groups](#)
- [Affirmative Steps to Ensure Equal Employment Opportunity](#)
- [Written Affirmative Action Program](#)
- [Analysis of Apprenticeship Program's Composition by Race, Ethnicity, and Sex](#)
- [Outreach and Recruitment](#)
- [Selection of Apprentices](#)
- [Complaint Procedure](#)
- [Measures of Noncompliance](#)

Nondiscrimination and Protected Groups

¹ Registered apprenticeship is a combination of on-the-job training and related technical instruction in which workers learn the practical and theoretical aspects of a highly-skilled occupation. OA oversees the National Registered Apprenticeship system. [80 FR 68909 (November 6, 2015)]

- The existing rule prohibits discrimination in the recruitment, selection, employment and training of apprentices on the basis of race, color, religion, national origin and sex.
- The proposed rule would add disability, age (40 or older), sexual orientation and genetic information to protected groups for nondiscrimination purposes, and clarify that sex discrimination includes discrimination on the bases of pregnancy and gender identity.

Affirmative Steps to Ensure Equal Employment Opportunity

- The existing rule establishes that program sponsors have a general duty in operating their Registered Apprenticeship program to engage in affirmative steps to ensure equal opportunity. However, the existing regulation does not make explicit how companies can comply with this obligation.
- The proposed rule specifies that an affirmative action program is more than mere passive nondiscrimination; more than a paperwork exercise. Such a program requires the sponsor to take affirmative steps to encourage and promote equal opportunity, to create an environment free from discrimination, and to address any barriers to equal opportunity in apprenticeship.
- The proposed rule would clarify what sponsors must do by setting forth the basic steps that all Registered Apprenticeship programs must undertake. These affirmative steps include:
 - Assigning responsibility to an individual to oversee EEO efforts;
 - Internally distributing the EEO policy as well as conducting orientation and information sessions for apprentices regarding the EEO policy;
 - Conducting outreach and recruitment and providing notice about apprenticeship openings to community-based organizations, schools and

- other groups that represent diverse populations and that can help increase apprenticeship applications from those populations; and
- Keeping the workplace free from harassment, intimidation and retaliation, and having procedures for handling and resolving complaints.

Written Affirmative Action Program

- The existing rule requires sponsors with five or more apprentices to establish an Affirmative Action Program (AAP) at the time their apprenticeship program is registered (either with OA or a recognized State Apprenticeship Agency). The AAP includes a written plan that details the steps the sponsor has taken and will take to ensure equal opportunity in recruitment, selection, employment and training of apprentices.
- The proposed rule would allow new program sponsors more time to establish initial AAPs. New program sponsors that hire five or more apprentices will have up to one year to prepare and submit an initial written affirmative action plan to OA or a recognized state apprenticeship agency. This will give sponsors time for preparation and approval of their first plan under these proposed regulations.
- The proposed rule exempts sponsors who are already in compliance with other equal opportunity programs on the bases of race, ethnicity, sex and disability, such as federal contractors that have written AAPs developed in accordance with Executive Order 11246 and Section 503 of the Rehabilitation Act, administered by DOL's Office of Federal Contract Compliance Programs (OFCCP).
- The existing rule requires that sponsors internally review and update their AAPs on an annual basis. The proposed rule would permit sponsors whose AAPs are in full compliance to wait two years for the next internal review and update of their written AAPs. The proposed rule also clarifies that plan sponsors need only

submit their written AAPs to OA or the state apprenticeship agency for review upon request, typically at the time of a compliance review.

Analysis of Apprenticeship Programs' Composition by Race, Ethnicity and Sex

- Under the existing regulations, non-exempt sponsors must analyze the racial, sex and ethnic composition of their apprenticeship workforce and compare that to the composition of qualified individuals in the relevant labor market. If the portion of women or minorities is less among the sponsor's apprentices than is reasonably expected given the availability of those individuals in the labor market, then the sponsor must set goals and undertake targeted outreach and recruitment efforts to increase participation of minorities and/or women.
- The proposed rule explains that these goals are not rigid and inflexible quotas which must be met; do not allow preferential selection on the basis of race, sex or ethnicity; do not create "set-asides" for specific groups; and cannot be used to supersede eligibility requirements.
- The proposed rule would simplify the process for analyzing the labor market composition by decreasing the number of data sources sponsors must analyze, clarifying the steps required to perform the analysis, and providing clear directions for establishing goals.

Outreach and Recruitment

- Sponsors must participate in outreach and recruitment activities. The existing rule sets forth ten kinds of outreach, recruitment and retention activities but does not specify which are required. The proposed rule would specify four kinds of required activities. These targeted activities are:

- Distributing information to community-based organizations, local high schools, local community colleges, local vocational, career and technical schools, career centers at minority-serving institutions, and other groups;
- Advertising openings by publishing advertisements in newspapers, electronic media and other formats;
- Cooperating with local school boards and vocational education systems to develop relationships with pre-apprenticeship programs in order to prepare students from under-represented groups to meet apprenticeship entry standards; and
- Establishing agreements to enlist the support of pre-apprenticeship programs, community-based organizations, and advocacy organizations in recruiting qualified individuals and in developing pre-apprenticeship programs.

Selection of Apprentices

- Under the current regulation, sponsors may choose any one of four methods of selecting apprentices: (1) Selection on the basis of rank from pool of eligible applicants; (2) random selection from pool of eligible applicants; (3) selection from pool of current employees; or (4) an alternative selection method which allows the sponsor to select apprentices by means of any other method including its present selection method, subject to approval by the Registration Agency. An alternative selection method could be, for example, the use of interviews as one of the factors to be considered in selecting apprentices. Another alternative method could use pre-apprenticeship programs as a source of candidates. A sponsor also may combine two or more selection methods.

One common method that sponsors have used regularly, which would fall under this fourth category, is referred to as “direct entry.” Under this selection method, the application process would be waived so that qualified applicants can enter directly into an apprenticeship program, where the individual applicant demonstrates specific education and/or skills previously attained. In order for

sponsors to use “direct entry,” this method must be defined clearly in the selection procedure component of the sponsor’s apprenticeship standards, and must be approved by the Registration Agency. Provisions for “direct entry” in an apprenticeship program sponsor’s registered standards enable the development of formal relationships between an apprentice sponsor and other organizations or entities that prepare individuals to meet the sponsor’s requirements for selection into apprenticeship.

- The proposed rule permits sponsors to use any method to select apprentices so long as that method complies with long-established Uniform Guidelines on Employee Selection Procedures and the Americans with Disabilities Act; is uniformly and consistently applied; and is not discriminatory.

Complaint Procedure

- The existing regulations provide that applicants or apprentices may file a written complaint with OA or the State Apprenticeship Agency alleging discrimination or a failure to comply with other equal opportunity provisions.
- The proposed rule would clarify the complaint procedures both for individuals to file EEO complaints and for OA and State Apprenticeship to handle these complaints.

Measures for Noncompliance

- OA recognizes the voluntary nature of these programs and wants registered apprenticeships to succeed. It uses compliance enforcement measures as a last resort after exhausting other avenues.
- The existing regulations’ measures for noncompliance include cancellation or deregistration of an apprenticeship program.

- The proposed rule provides more flexible enforcement mechanisms. Rather than having the only enforcement mechanisms be deregistration or cancellation of a program—which essentially would shut down the apprenticeship program—this proposal would allow the placement of a temporary moratorium on a sponsor’s registration of new apprentices until the program sponsor has addressed the violations or has met the steps identified in the program’s compliance action plan.

SUMMARY OF THE APPRENTICESHIP EEO NPRM, FROM A DISABILITY PERSPECTIVE

The following is a summary of the following key aspects of the existing rule and the changes proposed in the NPRM, from a disability perspective.

- [People with Disabilities in Apprenticeship](#)
- [Inclusion of Disability as a Protected Group and Definitions](#)
- [Inclusion of Disability in Affirmative Action Programs, In General](#)
- [Utilization Goals for Individuals with Disabilities](#)
- [Universal and Targeted Outreach for Individuals with Disabilities](#)
- [Review of Personnel Processes, Including Accessibility and Reasonable Accommodations](#)
- [Selection of Apprentices](#)
- [Invitation to Self-Identify as an Individual With a Disability](#)

People with Disabilities in Apprenticeship

In the preamble to the NPRM, DOL explained the importance of including people with disabilities in apprenticeship in affirmative action efforts.

“The Department believes strongly that including people with disabilities in apprenticeship affirmative action efforts is crucial to affording them equal opportunity in registered apprenticeship. Individuals with disabilities experience

high levels of unemployment. According to the Survey of Income and Program Participation (SIPP) by the U.S. Census Bureau that collected data from May through August 2010, individuals with disabilities comprise approximately 16.6 percent (one sixth) of the working wage population. Yet, the unemployment rate of working age individuals with disabilities and the percentage of working age individuals with disabilities who are not in the labor force remain significantly higher than for those without disabilities. According to 2012 data from BLS, 17.8 percent of working age people with disabilities were in the labor force in March 2011, compared with 63.9 percent of working age people with no disability. The unemployment rate for working age people with disabilities was 13.4 percent, compared with a 7.9 percent unemployment rate for working age individuals without a disability. Ensuring individuals with disabilities have fair access to the employment training opportunities offered by registered apprenticeship programs through inclusion in affirmative action efforts can be important in opening doors to good jobs for people with disabilities.” [80 FR 68915 (November 6, 2015)]

Inclusion of Disability as a Protected Group and Definitions

As explained above, the NPRM would add disability to the list of bases set forth in the rule upon which sponsors of registered apprenticeship programs must not discriminate. To establish parity with parallel provisions in the Americans with Disabilities Act (ADA), the NPRM would include a paragraph explaining that part 30 does not invalidate or limit the remedies, rights, and procedures under any federal law, or the law of any State or political subdivision that provides greater or equal protections. In addition, because DOL proposes to include disability among the protected groups, the NPRM adds several new terms relevant to the definition of disability, consistent with the ADA Amendments Act of 2008 and the EEOC implementing regulations. [80 FR 68916 (November 6, 2015)]

The Preamble to the NPRM articulates DOL’s recognition that program sponsors and Registration Agencies may need technical assistance regarding the implementation of these proposed regulations with respect to individuals with disabilities.

“Therefore, ETA will partner closely with the Department’s Office of Disability Employment Policy (ODEP) to provide significant technical assistance tools and sub-regulatory policy and program guidance to assist program sponsors with improving their EEO practices with respect to individuals with disabilities and Registration Agencies with enforcing the EEO requirements set forth in this proposed rule. There are many resources immediately available to assist apprenticeship program sponsors in meeting their proposed EEO obligations for individuals with disabilities. For instance, the Job Accommodation Network, a free service provided by ODEP, provides one-on-one guidance to employers with expert and confidential guidance on workplace accommodations and disability employment issues.” [80 FR 68916 (November 6, 2015)]

Inclusion of Disability in Affirmative Action Programs, In General

As explained above, the NPRM adds a disability component to the affirmative action program. In light of the proposal to add disability to the list of protected bases for nondiscrimination and to the affirmative action requirements, DOL proposes to revise the exemption to the requirement that a sponsor develop an affirmative action program applicable to its apprenticeship program by requiring that a sponsor have an approved affirmative action program under both Executive Order 11246 and section 503 of the Rehabilitation Act, which are administered by the Office of Federal Contract Compliance Programs (OFCCP) and apply to federal contractors and subcontractors with qualifying contracts. [80 FR 68920 (November 6, 2015)]

Utilization Goals for Individuals with Disabilities

The establishment of a utilization goal for individuals with disabilities would be a new requirement, which DOL believes is warranted due to the employment disparity between those with and without disabilities. [80 FR 68924 (November 6, 2015)] The requirement includes several sections.

First, the NPRM establishes a single, national utilization goal of 7 percent for individuals with disabilities. This approach is consistent with the approach adopted by OFCCP in the refresh of the regulations implementing section 503 of the Rehabilitation Act. [80 FR 68923 (November 6, 2015)]

Second, the NPRM states the purpose of the utilization goal is to establish a benchmark against which the sponsor must measure the representation of individuals with disabilities in the sponsor's apprenticeship workforce by industry, in order to assess whether any barriers to EEO remain. The goal serves as an equal opportunity objective that should be attainable by complying with the affirmative action requirements of part 30. [80 FR 68923 (November 6, 2015)]

Third, the NPRM provides that the Administrator of OA will periodically review and update, as appropriate, the utilization goal. [80 FR 68923 (November 6, 2015)]

Fourth, the NPRM sets out the steps that the sponsor must follow to determine whether it has met the utilization goal. If individuals with disabilities are represented in the sponsor's apprentice workforce in a given industry at a rate less than the utilization goal, the sponsor must take specific measures to address this disparity. The NPRM explains that the utilization analysis is a two-step process.

- First, the sponsor is required to group all occupational titles represented in its apprenticeship program by industry. If a sponsor has apprenticeship programs in various occupations (*e.g.*, carpenter, electrician, glazier, maintenance technician), but these programs are all in one industry (*e.g.*, construction), then the sponsor conducts the utilization analysis based on that one industry.
- Next, for each industry represented, the sponsor must identify the number of apprentices with disabilities based on voluntary self-identification by the individual apprentices.

The NPRM requires that the sponsor evaluate its utilization of individuals with disabilities in each industry group annually (or every two years, if it meets specified conditions). When the percentage of apprentices with disabilities in one or more industry groups is less than the utilization goal, the NPRM requires that the sponsor take steps to determine whether and where impediments to equal opportunity exist. The NPRM explains that when making this determination, the sponsor must look at the results of its assessment of personnel processes and the effectiveness of its outreach and recruitment efforts. If, in reviewing its personnel processes, the sponsor identifies any barriers to equal opportunity, then the NPRM requires that the sponsor undertake action-oriented programs designed to correct any problem areas that the sponsor identified. Only if a problem or barrier to equal opportunity is identified, must the sponsor develop and execute an action-oriented program. [80 FR 68923 (November 6, 2015)]

Fifth, the NPRM clarifies that the sponsor's determination that it has not attained the utilization goal in one or more industry groups does not constitute either a finding or admission of discrimination in violation of part 30. It is important to note that such a determination, whether by the sponsor or by the Registration Agency, will not impede the Registration Agency from finding that one or more unlawful discriminatory practices caused the sponsor's failure to meet the utilization goal. In such a circumstance, the Registration Agency will take appropriate enforcement measures. [80 FR 68923-68924 (November 6, 2015)]

Finally, the NPRM states that the utilization goal must not be used as a quota or ceiling that limits or restricts the employment of individuals with disabilities as apprentices. [80 FR 68924 (November 6, 2015)]

In the Preamble to the NPRM, DOL recognizes that many sponsors of registered apprenticeship programs and Registration Agencies will require assistance with

implementing the new utilization requirements for individuals with disabilities. DOL plans, therefore, to provide significant technical assistance and sub-regulatory policy and program guidance that will address, among other things, how to:

- Best analyze a sponsor's registered apprenticeship program workforce in order to identify a utilization rate that is most meaningful to the sponsor;
- Ensure equal employment opportunity through best practices; and
- Ensure a work environment inclusive of individuals with disabilities.

[80 FR 68925 (November 6, 2015)]

Recognizing that individuals need not be in the current labor force to be eligible for apprenticeship, DOL welcomes specific comments and suggestions from the public regarding current data and/or tools that would enable program sponsors to determine, within their relevant recruitment area, the availability of individuals with disabilities with the present or potential capacity for apprenticeship. [80 FR 68925 (November 6, 2015)]

In addition, the Department invites public comment on the methodology used to calculate the utilization goal for individuals with disabilities and whether there might be other approaches for setting a utilization goal—particularly approaches to setting ranges that recognize that in some geographic areas and for some occupations, there may be fewer people with disabilities qualified and eligible for apprenticeship. [80 FR 68925 (November 6, 2015)]

DOL also seeks comment on whether and, if so, how to take into account discouraged workers in assessing the availability of individuals with disabilities for registered apprenticeship. The Department is also very interested in public comment on whether there are empirically-based approaches that recognize that there are many more people who have disabilities as characterized by the ADA than the ACS and that there is likely a discouraged worker effect. [80 FR 68925 (November 6, 2015)]

The Department further invites public comment on the impact of this proposal on sponsors, and on the impact a fixed goal would have on sponsors of smaller apprenticeship programs who are required to establish an affirmative action program and comply with the utilization goal requirement for individuals with disabilities. [80 FR 68925 (November 6, 2015)]

Universal and Targeted Outreach for Individuals with Disabilities

Under the NPRM, where a sponsor has determined that there are problem areas with respect to its outreach, recruitment and retention activities for individuals with disabilities, the sponsor must undertake targeted outreach, recruitment and retention activities that are likely to generate an increase in applications for apprenticeship and improve retention of apprentices. These targeted activities would be in addition to the sponsor's universal outreach, recruitment and retention activities. [80 FR 68925-68926 (November 6, 2015)]

In terms of conducting both universal outreach and recruitment and targeted outreach and recruitment for individuals with disabilities, DOL would recommend program sponsors contact the following types of organizations: State Vocational Rehabilitation Agencies, the State Workforce System (including State Workforce Investment Boards, Local Workforce Investment Boards, and American Job Centers), Centers for Independent Living, Goodwill and other community rehabilitation and employment service providers, Community College Disability Centers, Community College Career Centers, Alternative Schools, Community Mental Health programs, and the Social Security Administration's Employment Networks. [80 FR 68927 (November 6, 2015)]

Review of Personnel Processes, Including Accessibility and Reasonable Accommodations [80 FR 68927 (November 6, 2015)]

The NPRM requires that any sponsor who is subject to the affirmative action program requirements must review its personnel processes on at least an annual basis to ensure

that it is meeting its obligations under part 30, unless the sponsor qualifies for a bi-annual review, in which case the review would take place every two years.

As part of this review, the NPRM would require that the sponsor review all aspects of its apprenticeship program, including but not limited to, the qualifications for apprenticeship, wages, outreach and recruitment activities, advancement opportunities, promotions, work assignments, job performance, rotations among all work processes of the occupation, disciplinary actions, handling of requests for reasonable accommodations, and the program's accessibility to individuals with disabilities (including accessibility of information and communication technology) and make all necessary modifications to ensure compliance with the equal opportunity obligations of this part.

Such a review ultimately benefits the employer, as, done appropriately, it can ferret out potential discrimination proactively, rather than in response to employee complaints and litigation and their attendant costs. The NPRM would also require a sponsor to include a description of its review in its written AAP, and to identify in the plan any modifications that the sponsor has made or plans to make as a result of this review. In conjunction with this NPRM, OA will post on its website specific examples of what a successful review of personnel processes would entail, how it could be completed most efficiently, and how these steps could be easily documented in the written AAP.

[Selection of Apprentices \[80 FR 68927 \(November 10, 2015\)\]](#)

As explained above, the NPRM would permit a sponsor to adopt *any* method for selection of apprentices, including direct entry, provided that the method used complies with, among other things, the qualification standards set forth in title I of the ADA and is neutral in terms of race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information and disability.

Invitation to Self-Identify as an Individual with a Disability [80 FR 68928-68929
(November 6, 2015)]

The NPRM would require sponsors, as part of their general duty to engage in affirmative action, to invite applicants for apprenticeship to voluntarily self-identify as an individual with a disability at three stages: (1) At the time they apply or are considered for apprenticeship; (2) after they are accepted into the apprenticeship program but before they begin their apprenticeship; and (3) once they are enrolled in the program. Thereafter, the NPRM would require sponsors to remind apprentices yearly that they may voluntarily update their disability status, thereby allowing those who have subsequently become disabled or who did not wish to self-identify during the application and enrollment process to be counted.

The requirement to give applicants and employees the opportunity to self-identify is consistent with the ADA. Although the ADA generally prohibits inquiries about disability prior to an offer of employment, it does not prohibit the collection of this demographic data by a sponsor in furtherance of its part 30 affirmative action obligation to provide equal opportunity in apprenticeship for qualified individuals with disabilities. The EEOC's regulations implementing the ADA state that the ADA "does not invalidate or limit the remedies, rights, and procedures of any Federal law . . . that provides greater or equal protection for the rights of individuals with disabilities" than does the ADA. 29 FR 1630.1(c)(2). The OA part 30 rule is one such law.

The NPRM requires that the sponsor invite applicants to self-identify "using the language and manner prescribed by the Administrator and published on the OA Web site." The inquiry that OA will prescribe for sponsors is a limited one and will be narrowly tailored. To minimize privacy concerns and the possibility of misuse of disability-related information, DOL is proposing that the required invitation ask only for self-identification as to the existence of a "disability," not as to the general nature or type of disability the individual has, or the nature or severity of any limitations the individual has as a result of their disability. Below is the language OA proposes to

prescribe that the sponsor use when inviting applicants to self-identify at the pre-offer stage. To ensure consistency across Departmental programs, the language is modeled on the invitation to self-identify that federal contractors are required to use when complying with the requirements of section 503 of the Rehabilitation Act, but is adapted for use in the Registered Apprenticeship context. In all other respects, it is identical to what OFCCP requires of federal contractors under section 503:

- 1. *Why are you being asked to complete this form?*** Because we are a sponsor of a registered apprenticeship program and participate in the National Registered Apprenticeship System that is regulated by the U.S. Department of Labor, we must reach out to, enroll, and provide equal opportunity in apprenticeship to qualified people with disabilities. To help us measure how well we are doing, we are asking you to tell us if you have a disability or if you ever had a disability. Completing this form is voluntary, but we hope that you will choose to fill it out. If you are applying for apprenticeship, any answer you give will be kept private and will not be used against you in any way. If you already are an apprentice within our registered apprenticeship program, your answer will not be used against you in any way. Because a person may become disabled at any time, we are required to ask all of our apprentices at the time of enrollment, and then remind them yearly, that they may update their information. You may voluntarily self-identify as having a disability on this form without fear of any punishment because you did not identify as having a disability earlier.
- 2. *How do I know if I have a disability?*** You are considered to have a disability if you have a physical or mental impairment or medical condition that substantially limits a major life activity, or if you have a history or record of such an impairment or medical condition. Disabilities include, but are not limited to: Blindness, deafness, cancer, diabetes, epilepsy, autism, cerebral palsy, HIV/AIDS, schizophrenia, muscular dystrophy, bipolar disorder, major depression, multiple sclerosis (MS), missing limbs or partially missing limbs, post-traumatic stress disorder (PTSD), obsessive

compulsive disorder, impairments requiring the use of a wheelchair, intellectual disability (previously called mental retardation).

Please check one of the boxes below:

- YES, I HAVE A DISABILITY (or previously had a disability)
- NO, I DON'T HAVE A DISABILITY
- I DON'T WISH TO ANSWER

Your name: _____

Date: _____

OA invites public comment on this potential self-identification text and whether there are any reasons, programmatic or otherwise, as to why OA should not adopt a similar form to the one used by OFCCP and covered federal contractors under Section 503 of the Rehabilitation Act.

In addition, the NPRM requires that the sponsor invite applicants, after acceptance into the apprenticeship program, but before they begin their apprenticeship, to voluntarily self-identify as individuals with disabilities. DOL also proposes to include a post-offer invitation to self-identify requirement so that individuals with hidden disabilities who fear potential discrimination if their disability is revealed prior to being accepted into the program will, nevertheless, have the opportunity to provide this valuable data. The NPRM requires that the sponsor invite self-identification using the language and manner prescribed by the Administrator and published on the [OA Web site](#). Again, the Department believes that this requirement will ensure consistency in all post-offer invitations that are made, minimize any burden to sponsors of compliance with this responsibility, and consequently, facilitate such sponsor compliance.

The NPRM requires that the sponsor invite each of its apprentices to voluntarily self-identify as an individual with a disability at the time the sponsor becomes subject to the requirements of part 30 and then remind apprentices yearly that they may update their

disability status at any time. Allowing apprentices enrolled in a registered apprenticeship program to update their status will ensure that the sponsor has the most accurate data possible.

The NPRM emphasizes that the sponsor is prohibited from compelling or coercing individuals to self-identify and all information regarding self-identification as an individual with a disability shall be kept confidential and maintained in a data analysis file. The NPRM also states that self-identification must be provided to the Registration Agency upon request and that the information may only be used in accordance with this part.

The NPRM states that nothing in this section may relieve the sponsor of its obligation to take affirmative action with respect to those applicants and apprentices of whose disability the sponsor has knowledge. Finally, the NPRM clarifies that nothing in this proposed section may relieve the sponsor from liability for discrimination in violation of this part.

RESOURCES

- [NOTICE OF PROPOSED RULEMAKING to update the federal regulations for Equal Employment Opportunity in Apprenticeship \(29 CFR part 30\)](#)
- [BACKGROUND Notice of Proposed Rulemaking to update the federal regulations for Equal Employment Opportunity in Apprenticeship \(29 CFR part 30\)](#)
- **FACT SHEET:** Ensuring All Have Access to Apprenticeship, A Proven Path to the Middle Class (Apprenticeship Equal Employment Opportunity NPRM, 29 CFR Part 30)
- [QUESTIONS AND ANSWERS: Notice of Proposed Rulemaking: Apprenticeship Equal Employment Opportunity Regulations \(29 CFR Part 30\)](#)
- [DOL APPRENTICESHIP USA TOOLKIT: Advancing Apprenticeship as a Workplace Strategy](#)

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