

U.S. Department of Labor Employment and Training Administration, Office of Apprenticeship Washington, D.C. 20210	Distribution: A-541 Headquarters A-544 All Field Tech A-547 SD+RD+SAA+; Lab.Com	Subject: Guidelines for Reviewing Apprentice to Journeyworker Ratio Requests Code: 500
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PURPOSE: To inform the staff of the Office of Apprenticeship (OA), State Apprenticeship Agencies (SAA), and Registered Apprenticeship program sponsors and potential sponsors about OA's policy and process for reviewing requests from program sponsors in federally-administered States to establish or revise their ratio of apprentices to journeyworkers pursuant to the applicable regulatory provision governing such ratios at Title 29 Code of Federal Regulations (CFR), section 29.5(b)(7). This circular is intended to articulate the methodology for OA's process to consider ratio requests in federally-administered States. The guidance will enable OA to ensure a consistent approach in making determinations on ratio requests from program sponsors and employers.

SCOPE AND APPLICABILITY: While this guidance is intended to establish a uniform process for the consideration of requests from program sponsors in federally-administered States to establish or revise their ratio of apprentices to journeyworkers, OA also takes the position that the general policy approach to evaluating ratio requests outlined herein can and should be adopted across the National Apprenticeship System. Accordingly, OA strongly encourages SAAs to adapt or align their own guidance on ratios to comport with this circular. Nothing in this circular shall operate to supersede any Federal or State laws establishing more stringent standards with respect to ratios of apprentices to journeyworkers than those elaborated herein. Similarly, nothing in this circular shall operate to supersede the limitations and conditions established at 29 CFR section 570.50 with respect to the employment, training, and supervision of 16- and 17-year old apprentices in certain occupations covered by the Secretary of Labor's Hazardous Occupation Orders (HOs), which are administered and enforced by the Department's Wage and Hour Division (WHD).

BACKGROUND: Under 29 CFR section 29.5(b)(7), to be eligible for approval and registration, a sponsor must include the following as a standard of apprenticeship:

A numeric ratio of apprentices to journeyworkers consistent with proper supervision, training, safety, and continuity of employment, and applicable provisions in collective bargaining agreements, except where such ratios are expressly prohibited by the collective bargaining agreements. The ratio language must be specific and clearly described as to its application to the job site, workforce, department or plant.

For clarification and to be consistent with 29 CFR section 29.5(b)(7), ratios are to be expressed as the number of apprentices to the number of journeyworkers, i.e., the format 1:2 would indicate "1 apprentice to 2 journeyworkers."

I. GENERAL OA POLICY ON RATIOS OF APPRENTICES TO JOURNEYWORKERS:

Consistent with the requirements of 29 CFR section 29.5(b)(7), the burden of justifying an appropriate ratio of apprentices to journeyworkers rests with the program sponsor, including new sponsors establishing a ratio or existing sponsors seeking modification of their program standards. While the safety of apprentices is an important consideration in determining the appropriate ratio of apprentices to journeyworkers, OA will also give due consideration and weight to proper supervision, proper training, and continuity of employment in evaluating a sponsor's ratio requests (particularly in connection with requests for expanded ratios, as defined below).

In its review of a request from an apprenticeship program sponsor (including any relevant joint labor-management apprenticeship programs governed by the terms of collective bargaining agreements discussed below at section II.A.6) for a particular ratio of apprentices to journeyworkers, OA will consider all relevant information in making such an evaluation, including the following: ratios for approved programs within the same occupations in the same geographic areas; ratio practices in the occupation on a national basis; the level of physical engagement; the level of supervision in similar environments, and relevant industry/occupational studies. All such requests will be reviewed on an individualized basis in light of the requirements of 29 CFR section 29.5(b)(7) and the guidance contained in this circular; all ratio decisions will identify the information and data used in reaching the decision.

OA has determined that a ratio of more than one apprentice to one journeyworker (e.g., two or more apprentices to one journeyworker) in any industry or occupation should be approved only upon a demonstration by the sponsor that such an expanded ratio poses little or no risk to the safety of workers (i.e., both apprentices and journeyworkers) in the workplace. The process outlined in this circular details those criteria, such as the hazards of an industry or occupation and the track record of the program sponsor, which will inform OA's ratio approval process and determinations.

II. ANALYTICAL FRAMEWORK OA WILL USE IN EVALUATING APPRENTICE-TO-JOURNEYWORKER RATIO REQUESTS FROM SPONSORS:

This section of the circular describes the approach that OA will use to review and evaluate ratio requests from new program sponsors establishing apprentice-to-journeyworker ratios, or from existing program sponsors requesting to modify previously-approved apprenticeship ratios:

(a) Requests to create an expanded ratio, defined as the assignment of more than one apprentice to a journeyworker, such as moving from a 1:1 ratio to a 2:1 ratio (2 apprentices to 1 journeyworker); and

(b) Requests to expand the number of apprentices assigned to a journeyworker after the first apprentice assigned to that journeyworker has completed a minimum number of hours of supervision.

For purposes of this circular, each of the foregoing types of sponsor requests shall be regarded as requests for an **expanded ratio** of apprentices to journeyworkers.

Note: *A request by an existing program sponsor to modify a previously-approved ratio by **increasing** the number of journeyworkers assigned to an apprentice (such as changing from a 1:1 ratio to a 1:2 ratio) will generally be approved because such modification will likely satisfy the criteria established in 29 CFR section 29.5(b)(7).*

OA staff will apply the guidelines and factors listed below in Section II. A (Proper Safety and Supervision) and Section II.B (Proper Training and Continuity of Employment) in assessing the appropriate apprentice-to-journeyworker ratio for a sponsor's program:

A. Proper Safety and Supervision

As noted above, establishing an apprentice-to-journeyworker ratio that is conducive to ensuring the proper safety and supervision of apprentices in the workplace is of importance to OA. This is particularly true in instances where an apprentice may be exposed to work conditions, tasks, and/or equipment that pose a risk of serious bodily injury or death. In such cases, it is critically important that apprentices receive proper guidance and supervision from experienced and capable journeyworkers and/or supervisors who possess expert knowledge on how to mitigate such risks (please note that a journeyworker could also be the apprentice's supervisor, at least at a specific job site). Accordingly, in evaluating what constitutes an appropriate apprentice-to-journeyworker ratio for a program, consideration should be given to the level of supervision that will mitigate the risk of serious bodily injury or death in industry sectors or occupations that present such heightened dangers to new workers (see paragraphs II.A.1 and 2 below).

In addition to these considerations, the appropriate extent of apprentice supervision may depend in large part upon whether a close, direct, and ongoing one-on-one mentoring and supervisory relationship with a journeyworker is essential to acquiring the technical precision and practical skills required by the occupation. In this regard, OA staff may also consider additional relevant data, including the level of physical engagement, levels of supervision in similar environments, and industry/occupational studies in assessing the appropriate level of supervision. As proper safety and supervision of apprentices are largely interdependent, the approach below should be followed by OA staff in evaluating these factors.

- 1. New Apprenticeship Programs Registered by OA in High-Hazard Industry Sectors** - As of the effective date of this circular, programs that have been provisionally registered by OA on a national, State, or local basis, that operate in industry sectors with high rates of fatal work-related deaths (as defined in the

paragraph immediately below), and that are being considered for permanent registration pursuant to 29 CFR section 29.3(g) will need to provide OA with objective data that is sufficient to support the granting of an expanded apprentice-to-journeyworker ratio.

For purposes of this circular, an industry sector (as defined by utilizing the two-digit industry sector code assigned by the North American Industry Classification System (NAICS) Manual) with a high rate of fatal work related injuries is one that, utilizing the data compiled by the U.S. Department of Labor's Bureau of Labor Statistics (BLS), has an average fatal work injury rate exceeding five (5) deaths per 100,000 full-time equivalent workers over the three (3) most recent calendar years for which such statistics are available.

Utilizing this empirical approach, new Registered Apprenticeship programs operating within the following four industry sectors would be subject to a heightened level of scrutiny with respect to their utilization of expanded ratios under this circular: (1) Construction; (2) Transportation and warehousing; (3) Mining, quarrying, and oil and gas extraction; and (4) Agriculture, forestry, fishing, and hunting. (For more information on the rate of fatal work injuries by industry sector, visit the BLS website at <https://www.bls.gov/iif/oshcfoi1.htm>, and the most current as of the date of this circular - <https://www.bls.gov/news.release/cfoi.t04.htm>). *Note – This list may vary based on the most current BLS data.* In this connection, apprenticeship programs falling within this category should furnish OA with objective data (examples provided below in section II.A.4) that is sufficient to justify the utilization of an expanded ratio.

2. **Existing Apprenticeship Programs Registered by OA in High-Hazard Industry Sectors** - For those apprenticeship programs that were previously registered by OA on a national, State, or local basis as of the date of this circular and that utilize expanded ratios in the industry sectors described in section II.A.1 above, such programs are also subject to monitoring by OA. In order to support their continued use of an expanded ratio, such existing programs should provide OA with the safety-related data described below in Section II.A.4 to verify that the sponsor's workplace continues to be safe for apprentices, and that the expanded apprentice-to-journeyworker ratio for the program remains appropriate.
3. **New and Existing Apprenticeship Programs Registered by OA in Other Industry Sectors** – New and existing apprenticeship programs that are seeking registration or have been registered by OA on a national, State, or local basis as of the date of this circular, that utilize or seek to utilize expanded ratios, and that do not operate within the high-hazard industry sectors described in section II.A.1 above may utilize them, provided that such programs demonstrate quality training, performance, and/or satisfactory completion rates (see section II.B. below), and also follow proper safety and training standards (see Section II.A.5 below).

Note - Existing, non-joint apprenticeship programs in relatively non-hazardous industries and occupations that request expanded ratios must still justify their use of an expanded ratio under the applicable criteria set forth in this circular and in 29 CFR section 29.5(b)(7).

4. **Ongoing Safety Assessments of Program Sponsors Utilizing Expanded Ratios in High-Hazard Industry Sectors and/or Occupations** - In conducting reviews of programs that have been granted expanded ratios in high-hazard industry sectors and/or occupations, OA staff should consider the following objective sources of data in evaluating whether the maintenance of such an expanded ratio continues to be warranted:

- Review of Form(s) 300 and/or Form(s) 300-A from the Department's Occupational Safety and Health Administration (OSHA) recording work-related injuries and illnesses, where applicable;
- Proof that the sponsor has a current agreement with OSHA pursuant to the OSHA Alliance Program (for more information on this topic, please see the following link: <https://www.osha.gov/alliances/>)
- A demonstration of adequate safety training in the apprenticeship program (via standards or curricula), including details on how the program's standards ensure that an apprentice receives direct supervision and training from a qualified journeyworker in a manner consistent with the requirements contained in 29 CFR §29.5(b)(7); **and/or**
- Available worker's compensation insurance information or documentation.

In addition to this data, OA reserves the right to consider additional objective data in those limited instances where the foregoing data points are inconclusive in assessing overall program safety and quality.

5. **Work Related Accidents Involving Apprentices** - When informed of fatal accidents or serious injury of apprentices, OA should directly contact the sponsor regarding the incident in consultation with other DOL agencies as necessary and appropriate (i.e., OSHA and the Wage and Hour Division). In such instances, OA should conduct an Apprenticeship Program Review and determine if the sponsor was following the apprenticeship standards as developed, including whether the stipulated ratio of apprentices to journeyworkers was being adhered to, and whether proper safety and supervision protocols were being followed during the incident. If the program sponsor is found not following proper safety and training protocols, OA may require corrective action or take other appropriate actions (under 29 CFR section 29.8)
6. **Collective Bargaining Agreements (CBAs)** - As noted in 29 CFR section 29.5(b)(7), collective bargaining agreements may establish ratios of apprentices to journeyworkers, provided that such ratio language is specific and clearly describes its application to a job site, workforce, department, or plant.

Ratios established through collective bargaining agreements for joint labor-management apprenticeship programs are articulated in the approved program standards and may be described in CBAs. All new and existing joint programs must submit a copy of the section(s) of the CBA relevant to ratios to the registration agency for review when requesting approval of new apprenticeship standards or a change to the ratio identified in currently approved apprenticeship standards. Additionally, programs not covered by a CBA, but operating in industries and inclusive of specific occupations covered by CBAs, may consider those CBAs as a justification for expanded ratios to the extent that these occupations and any related circumstances (e.g. other supervision or related training requirements) are directly comparable.

Please note that, pursuant to 29 CFR section 29.11(a), the processes laid out in this circular are not applicable to any provisions in CBAs governing joint labor-management programs that establish **more stringent** apprenticeship standards with respect to apprentice-to-journeyworker ratios than the minimum standards stipulated herein (i.e., CBA provisions that require the assignment of more than one journeyworker for each apprentice).

B. Proper Training and Continuity of Employment

To objectively analyze proper training and continuity of employment in connection with the establishment or modification of apprentice-to-journeyworker ratios, OA will utilize program completion rates, which a sponsor can provide and which OA can validate. Apprenticeship training consists of a combination of on-the-job learning (OJL) and related instruction (RI), as these terms are defined in 29 CFR section 29.2. The OJL usually takes place on the job site, and comprises the majority of time needed to complete an apprenticeship program. Apprenticeship training encompasses the learning of theoretical knowledge (through RI) and the development of technical skills that are vital to becoming a fully-qualified worker in a specific occupation. Effective apprenticeship OJL at the job site includes proper supervision and instruction to achieve the transfer of knowledge from a journeyworker to an apprentice.

The proper on-the-job training of apprentices (including training on safe workplace practices) is often closely connected to the proper supervision and mentoring of apprentices, particularly in apprenticeable occupations that require a rigorous practical training regimen. Proper training often will not only require that a journeyworker possess the skill to impart the practical skills required by an occupation, but also the capacity to effectively measure the apprentice's progress and provide effective feedback on performance.

As noted above, completion rates are a useful objective factor in assessing an apprentice's training and continuity of employment with a program sponsor. "Completion rate" is currently defined in 29 CFR section 29.2 as "the percentage of an apprenticeship cohort that receives a Certificate of Completion of Apprenticeship within one year of the projected completion date. An apprenticeship cohort is the group of individual apprentices registered to a specific program during a one-year time frame," except that a

cohort does not include the apprentices whose agreement has been cancelled during the probationary period (per OA Bulletin 2015-10).

In conducting reviews of programs that have established expanded ratios, OA staff should consider reviewing a record of the program sponsor's apprentice completion rates for up to the previous 5 years.

III. OA PROCESS FOR APPROVING EXPANDED RATIOS IN BOTH NEW AND EXISTING PROGRAMS:

In evaluating a new or existing program's use of expanded ratios, OA will conduct an assessment of the quality and safety of the sponsor's program in light of the foregoing criteria. When a Regional OA office undertakes this assessment, the appropriate OA Regional Director will consult with other Regional Directors and/or National Office staff as appropriate before approving or declining an expanded ratio for a program. This consultative process will take into account the program sponsor's safety and apprenticeship completion rate, consistent with 29 CFR section 29.5 (b)(7) and this circular. In this connection, the OA Regional Director may consult with OSHA to confirm that any safety records furnished to OA are adequate evidence under the guidance to allow for such an expanded ratio. The OA Administrator will review and approve or disapprove National Program Standards (NPS) or National Guideline Standards (NGS) that seek to reduce the numbers of journeyworkers and /or that seek expanded ratios.

Note - OA will discuss with the program sponsor what ratio is appropriate for the occupation(s) under review going forward.

IV. RESCISSION OF A SPONSOR'S EXPANDED RATIO BY OA:

OA reserves the right to rescind previously-granted expanded ratios upon receipt of information that these ratios are not consistent with 29 CFR section 29.5(b)(7). Specifically, if the sponsor's safety record is considered unsatisfactory by OA, the journeyworker to apprentice ratio for the program may be recalibrated to a more appropriate ratio consistent with section 29.5(b)(7).

V. STATE APPRENTICESHIP AGENCY (SAA) RATIOS:

As noted above, nothing in this circular shall operate to supersede any Federal or State laws establishing more stringent standards with respect to ratios of apprentices to journeyworkers than those elaborated herein. However, OA notes that it may consider SAA alignment with the overall content and policy contained in this circular as a consideration for evaluating future federal investments to States in connection with registered apprenticeship initiatives. In this connection, OA will provide technical assistance to SAAs on issues related to ratio policy, as well as other state apprenticeship reform and modernization.

VI. GRANT SUPPORT FOR JOURNEYWORKER INVOLVEMENT IN REGISTERED APPRENTICESHIP PROGRAMS & OTHER RESOURCES:

As discussed above, the role of the journeyworker is a key component of registered apprenticeship programs, providing apprentices with critical supervision, training, and mentorship. OA notes that generally ETA-funded grant programs that target apprenticeships are able to support the journeyworker's time for the costs associated with mentoring apprentices enrolled in grants, in addition to other support for registered apprenticeship programs. OA encourages registered apprenticeship program sponsors to partner with DOL's employment and training grantees to identify these opportunities.

Additionally, the Workforce Innovation and Opportunity Act (WIOA) advances the use of apprenticeship as an effective work-based learning approach that builds worker skills and establishes pathways to higher levels of employment and wages. WIOA funds can be used in a variety of ways to help employers and apprentices. This includes reimbursement to employers for costs associated with the on-the-job training (OJT) component of an apprenticeship. OJT may be used with new hires and current (incumbent) workers already employed by the business. WIOA funds can also support apprentices with their related technical instruction and by providing supportive services that may help apprentices complete their program.

For more information on registered apprenticeship programs, including available federal resources please visit: <https://www.apprenticeship.gov/employers/registered-apprenticeship-program> and <https://www.apprenticeship.gov/investments-tax-credits-and-tuition-support>.

EFFECTIVE DATE:

This guidance is effective immediately upon issuance; it will remain in effect until rescinded.

ACTION:

This policy is intended to guide OA and program sponsors in Federally-administered states. OA staff should familiarize themselves with this Circular. If you have any questions, please contact Mark Judge, Supervisory Program Analyst, at (202) 693-3470. This document does not have the force and effect of law and is not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

NOTE:

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