Chapter 296-05 WAC
APPRENTICESHIP RULES

WAC

296-05-001 Purpose, scope, and authority.
296-05-003 Definitions.
296-05-005 Rule development.
296-05-007 Rules of procedure.
296-05-008 Process for objections to apprenticeship program standards.
296-05-009 Complaint review procedures.
296-05-011 Compliance reviews.
296-05-013 Sanctions for noncompliance.
296-05-015 Decisions against training agent for violating ratio, supervision and/or approved work process requirements.

PART A—WSATC MEMBERS—COMPOSITION, OFFICERS, AND DUTIES

296-05-100 WSATC composition.
296-05-103 Officers.
296-05-105 Officer duties.
296-05-107 Additional duties for the supervisor-administrator of WSATC.
296-05-109 Merit awards.

PART B—WSATC MEETINGS—TYPES, PROCEDURES, AND CONDUCT

296-05-200 Regular meetings.
296-05-203 Special meetings.
296-05-205 Petitions, requests, and correspondence submitted to the WSATC.
296-05-207 Other regulations that apply to council meeting conduct.
296-05-209 Voting.
296-05-211 Rules of order.
296-05-213 Retroactivity.
296-05-215 Limitations.

PART C—APPRENTICESHIP PROGRAMS—COMMITTEE, AGREEMENTS, TYPES, AND RECOGNITION

296-05-300 Apprenticeship and training programs—Approval.
296-05-302 Apprenticeship committee/program approval process.
296-05-303 Apprenticeship committees—Duties and responsibilities.
296-05-305 Apprenticeable occupations.
296-05-307 Types of apprenticeship agreements recognized by the WSATC.
296-05-309 Apprenticeship programs approved by the WSATC.
296-05-311 On-the-job training programs.
296-05-313 Apprenticeship committees—Composition.
296-05-314 Nonjoint and waiver committees—Additional requirements.
296-05-315 Term of apprenticeship—Standards requirement.
296-05-316 Apprenticeship agreements—Standards requirements.
296-05-317 Related/supplemental instruction.
296-05-318 Records required by the WSATC.
296-05-319 Apprenticeship agreement—Individual registration.
296-05-321 Apprenticeship agreement—Cancellation.
296-05-323 Certificate of completion.
296-05-325 Union waiver.
296-05-327 Reciprocity.
296-05-329 Certification of apprentice labor standard on renewable energy projects.

PART D—EQUAL EMPLOYMENT OPPORTUNITY IN APPRENTICESHIP

296-05-400 Equal employment opportunity plan—Purpose, scope and authority.
296-05-402 Equal employment opportunity process.
296-05-403 Definitions for Part D.
296-05-405 Exceptions to the requirement for adopting an affirmative action plan and a selection procedure.
296-05-407 Apprenticeship program sponsor's obligations.
296-05-409 Affirmative action information required by WSATC.
296-05-411 Affirmative action plan.
296-05-413 Outreach and recruitment requirements—Specific.
296-05-415 Equal employment opportunity goals and timetables.
296-05-417 Selection of apprentices for approved apprenticeship programs.
296-05-419 Qualification standards.
296-05-427 Notification requirements.
296-05-429 Existing lists of eligibles and public notice.
296-05-431 Equal employment opportunity records of the WSATC retained by the department.
296-05-433 Enrollment deficiency analysis.
296-05-435 Data and information.
296-05-437 Developing and evaluating enrollment goals and timetables.
296-05-439 Failure to meet goals and timetables.
296-05-441 Noncompliance with federal and state equal opportunity requirements.
296-05-443 Complaint filing.
296-05-445 Private review panels.
296-05-447 Processing of complaints.
296-05-449 Program registration cancellation procedures.
296-05-451 Reinstatement of program registration.
296-05-453 Adoption of consistent state plans.
296-05-455 Intimidatory or retaliatory acts.
296-05-457 Exemptions.

WAC 296-05-001 Purpose, scope, and authority. (1) The Washington State Apprenticeship and Training Act (chapter 49.04 RCW) establishes the Washington state apprenticeship and training council (WSATC) as regulatory and designates as its administrative arm the apprenticeship section of the department of labor and industries. The WSATC, acting in compliance with chapter 49.04 RCW and in harmony with 29 C.F.R. Part 29 and 29 C.F.R. Part 30, has adopted these rules to:

(a) Establish operating procedures for the WSATC;

(b) Establish standards for apprenticeship programs;

(c) Implement the intent and purpose of the Washington State Apprenticeship and Training Act;

(d) Perform other duties directed by the statute;

(e) Promote labor standards and the registration of approved programs to protect the welfare of the apprentice; and

(f) Encourage the establishment of apprenticeship programs and agreements.

(2) These rules are necessary to:

(a) Strengthen apprenticeship and training in the state of Washington;

(b) Facilitate approval and registration of apprenticeship and training programs;

(c) Explain factors related to apprenticeship and training in Washington state and federal laws;

(d) Establish procedures for presenting matters to the WSATC;

(e) Govern the WSATC's operation and ability to carry out its statutory obligations;

(f) Establish a specific procedure to resolve an impasse if a tie vote occurs on the WSATC; and

(g) Regulate registered apprenticeship and training programs.

[Statutory Authority: Chapter 49.04 RCW, 2011 c 308, and 2011 c 21. WSR 13-03-127, § 296-05-001, filed 1/22/13, effective 3/1/13. Statutory Author-

ity: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-001, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-001, filed 10/31/01, effective 1/17/02.]

WAC 296-05-003 Definitions. The following definitions apply to this chapter:

Adjudicative proceeding: A proceeding before the WSATC in which an opportunity for a hearing before the WSATC is authorized by chapter 49.04 RCW or these rules before or after the entry of an order by the WSATC.

Apprentice: Is a worker at least sixteen years of age who is employed to learn an apprenticeable occupation and is registered with a sponsor in an approved apprenticeship program according to chapter 49.04 RCW and these rules.

Exception: Seventeen years is the minimum age allowed for applicants registering in building and construction trade occupations.

Apprenticeable occupation: Is a skilled occupation which is recognized by the United States Department of Labor, Employment and Training Administration, Office of Apprenticeship or the WSATC and meets the criteria established in WAC 296-05-305.

Apprenticeship agreement: A written agreement between an apprentice and either the apprentice's employer(s), or an apprenticeship committee acting as agent for employer(s), containing the terms and conditions of the employment and training of the apprentice.

Apprenticeship committee: A quasi-public entity approved by the WSATC to perform apprenticeship and training services for employers and employees.

Apprenticeship program: A plan for administering an apprenticeship agreement(s). The plan must contain all terms and conditions for the qualification, recruitment, selection, employment and training of apprentices, including such matters as the requirement for a written apprenticeship agreement.

Approved: Approved by the WSATC or a person or entity authorized by the WSATC to do so.

C.F.R.: The Code of Federal Regulations.

Cancellation: The termination of the registration or approval status of a program at the request of the supervisor or sponsor. Cancellation also refers to the termination of an apprenticeship agreement at the request of the apprentice, supervisor, or sponsor.

Certificate of completion: A record of the successful completion of a term of apprenticeship (see WAC 296-05-323).

Certification: Written approval by the WSATC of:

(1) A set of apprenticeship standards established by an apprenticeship program sponsor and substantially conforming to the standards established by the WSATC.

(2) An individual as eligible for probationary employment as an apprentice under a registered apprenticeship program.

Committee program: All apprenticeship programs as further described in WAC 296-05-309.

Competent instructor: An instructor who has demonstrated a satisfactory employment performance in his/her occupation for a minimum of three years beyond the customary learning period for that occupation and:

(1) Meets the state board for community and technical colleges requirements for a vocational-technical instructor, or be a subject matter expert, which is an individual, such as a journey worker, who is recognized within an industry as having expertise in a specific occupation; and

(2) Has training in teaching techniques and adult learning styles, which may occur before or within one year after the apprenticeship instructor has started to provide the related technical instruction.

Competitor: A competing apprenticeship program that provides training in the same or overlapping occupation as the proposed program in the same geographic area proposed. In determining whether an occupation is the same or overlapping as the proposed program's occupation, the council may consider the following:

(1) Washington state apprenticeship and training council approved apprenticeship standards;

(2) Collective bargaining agreements;

(3) Dictionaries of occupational titles;

(4) Experts from organized labor, licensed contractors, and contractors' associations;

(5) Recognized labor and management industry practice;

(6) Scope of work descriptions issued by the department.

Completion rate: The percentage of an apprenticeship cohort who receives a certificate of apprenticeship completion 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 apprenticeship agreement has been canceled during the initial probationary period.

Compliance review: A comprehensive review conducted by the apprenticeship section of the department of labor and industries regarding all aspects of an apprenticeship program's performance including, but not limited to, determining if apprentices are receiving: On-the-job training in all phases of the apprenticeable occupation; scheduled wage increases consistent with the registered standards; related instruction through appropriate curriculum and delivery systems; and that the registration agency is receiving notification of all new registrations, cancellations, and completions as required in this chapter.

Current instruction: The related/supplemental instructional content is and remains reasonably consistent with the latest occupational practices, improvements, and technical advances.

Department: The department of labor and industries.

Employer: Any person or organization employing an apprentice whether or not such person or organization is a party to an apprenticeship agreement with the apprentice. "Employer" includes both union and open shop employers.

File: To send to:

Supervisor of Apprenticeship and Training
Department of Labor and Industries
Apprenticeship Section
Post Office Box 44530
Olympia, Washington 98504-4530

Or deliver to and receipt at:
Department of Labor and Industries
7273 Linderson Way SE
Tumwater, Washington 98501

Individual agreement: A written agreement between an apprentice and/or trainee and either the apprentice's employer or an apprenticeship committee acting as agent for the employer.

Industry wide standards: The current, acceptable practices, including technological advancements, being used in the different occupations.

Journey level: An individual who has sufficient skills and knowledge of an occupation, either through formal apprenticeship training or through practical on-the-job work experience, to be recognized by a state or federal registration agency and/or an industry as being fully qualified to perform the work of the occupation. Practical experience must be equal to or greater than the term of apprenticeship.

On-the-job training program: A program that is set up in the same manner as an apprenticeship program with any exceptions authorized by the WSATC and as further described in WAC 296-05-311.

Notice: Where not otherwise specified, notice means posted in United States mail to the last known address of the person to be notified. Notice may be given by telefacsimile where copies are mailed simultaneously or by a commercial parcel delivery company.

Petitions, requests, and correspondence: Any written business brought before the WSATC (examples may include: (1) Requests for new committees; (2) Requests for revisions to the standards; and (3) Appeals).

Probation: (1) Initial: A period of time reasonable in relation to the full apprenticeship term, with full credit given for such period toward completion of apprenticeship. The initial probationary period cannot exceed twenty percent of the term of the program, or one year from the date of registration, whichever is shorter. Initial probationary apprentices are not subject to an appeal under the complaint review procedures as defined in WAC 296-05-009. Transferred apprentices are not subject to additional initial probationary periods.

(2) Disciplinary: A time assessed when the apprentice's progress is not satisfactory. During this time the program sponsor may withhold periodic wage advancements, suspend or cancel the apprenticeship agreement, or take further disciplinary action. A disciplinary probation may only be assessed after the initial probation is completed. During the disciplinary probation, the apprentice has the right to file an appeal of the committee's action with the WSATC (as described in WAC 296-05-009).

Provisional registration: The one-year initial approval of newly registered programs that meet the required standards for program registration, after which the program approval may be made permanent, continued as provisional through the first full training cycle/term, or rescinded following a compliance review by the apprenticeship section of the department.

RCW: The Revised Code of Washington.

Registration: (1) For the purposes of an apprenticeship agreement means the acceptance and recording of an apprenticeship agreement by the apprenticeship section of the department of labor and industries as evidence of the apprentice's participation in a particular registered apprenticeship program.

(2) For the purposes of an apprenticeship program means the acceptance and recording of such program by the WSATC and apprenticeship section of the department of labor and industries, as meeting the basic standards and requirements of the department for approval of such program. Approval is evidenced by a certificate of registration or other written indicia.

Registration agency: The apprenticeship section of the Washington state department of labor and industries is responsible for registering apprenticeship programs and apprentices; providing technical assistance; conducting reviews for compliance with 29 C.F.R. parts 29 and 30, chapters 49.04 RCW and 296-05 WAC.

Regular quarterly meeting: A public meeting held quarterly by the WSATC as described in WAC 296-05-200.

Related/supplemental instruction: An organized and systematic form of instruction designed to provide the apprentice with 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 courses of equivalent value, electronic media, or other forms of self-study approved by the registration agency.

Secretary: The individual appointed by the director of the department according to RCW 49.04.030.

Special meeting: A public meeting of the council as described in WAC 296-05-203.

Sponsor: Any person, firm, association, committee, or organization operating an apprenticeship and training program and in whose name the program is registered or is to be registered.

Standards: Is a written agreement containing specific provisions for operation and administration of the apprenticeship program and all terms and conditions for the qualifications, recruitment, selection, employment, and training of apprentices, as further defined in WAC 296-05-316.

Supervision: The necessary education, assistance, and control provided by a journey-level employee that is on the same job site at least seventy-five percent of each working day, unless otherwise approved by the WSATC.

Supervisor: The individual appointed by the director of the department according to RCW 49.04.030 who acts as the secretary of the WSATC. Where these rules indicate a duty of the supervisor or secretary of the WSATC, the supervisor may designate a department of labor and industries' employee to assist in the performance of those duties subject to the supervisor's oversight and direction.

Trainee: An individual registered with the supervisor according to WAC 296-05-311.

Training agent: Employer of registered apprentices approved by the program sponsor to furnish on-the-job training to satisfy the approved apprenticeship program standards who agrees to employ registered apprentices in that work process. The training agent shall use only registered apprentices to perform the work processes of the approved program standards.

Training agreement: A written agreement between a training agent and a program sponsor that contains the provi-

sions of the apprenticeship program applicable to the training agent and the duties of the training agent in providing on-the-job training.

Transfer: A shift of apprenticeship registration from one sponsor to another where there is written agreement between the apprentice and the affected apprenticeship committees or program sponsors.

WAC: The Washington Administrative Code.

WSATC: The Washington state apprenticeship and training council.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-003, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-003, filed 10/31/01, effective 1/17/02.]

WAC 296-05-005 Rule development. (1) In developing and adopting rules, the director of labor and industries:

(a) Seeks the cooperation and assistance of all interested persons, organizations, and agencies affected by its rules.

(b) Promotes the operation of apprenticeship programs to satisfy the needs of employers and employees for high quality training.

(c) Recognizes that rapid economic and technological changes require that workers must be trained to meet the demands of a changing marketplace.

(d) Recognizes employers will benefit if graduates of state approved apprenticeship programs are skilled workers trained to industry wide standards rather than the exclusive standards of an individual employer or group of employers.

(e) Acknowledges that approved apprenticeship programs should be organized and administered to assure the maximum protection of apprentices' rights.

(f) Recognizes that the number of apprentices in an occupation or group of occupations in any geographic area must be sufficient to meet the needs of all employers.

(g) Promotes comprehensive training and a variety of work experiences relevant to the occupations and seeks to assure that during the approval process all apprenticeship standards are open to employers on an equal and nondiscriminatory basis.

(h) Recognizes that quality training, equal treatment of apprentices, and efficient delivery of apprenticeship training are best provided by registered apprenticeship programs.

(2) All amendments to this chapter must be developed and adopted according to the provisions of chapter 49.04 RCW, Apprenticeship Act; chapter 34.05 RCW, Administrative Procedure Act; and Executive Order 97-02. All proposed amendments to these rules must be approved by a two-thirds majority vote of regular WSATC members before they are published for public hearing. All WSATC members, the apprenticeship supervisor, committees and any other interested parties must be promptly notified, in writing, of any proposed rule amendments, public hearings on proposed rule amendments and new rule adoptions.

(3) The specific procedure(s) and form(s) for petitions requesting the making, amendment, or repeal of a rule are in chapter 34.05 RCW, as are the specific procedure and form for requesting declaratory rulings.

(4) Such petitions and requests must be addressed to:

The Washington State Apprenticeship and Training Council
Attention: Supervisor of Apprenticeship and Training
Department of Labor and Industries
Post Office Box 44530
Olympia, Washington 98504-4530
Or e-mail address: apprentice@LNI.wa.gov

[Statutory Authority: Chapter 49.04 RCW, 2011 c 308, and 2011 c 21. WSR 13-03-127, § 296-05-005, filed 1/22/13, effective 3/1/13. Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-005, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-005, filed 10/31/01, effective 1/17/02.]

WAC 296-05-007 Rules of procedure. All hearings and adjudication, under chapter 49.04 RCW and these rules, shall be conducted according to chapter 34.05 RCW, the Administrative Procedure Act and chapter 10-08 WAC, Model Rules of Procedure. The chair (or designee) is the presiding officer for adjudicative proceedings, held before the WSATC. The WSATC may either adjudicate matter(s) itself, or refer matter(s) to the office of administrative hearings for initial adjudication.

If the initial adjudication is before the WSATC, the WSATC will enter a final order. If the initial adjudication has been held at the office of administrative hearings, the administrative hearings judge shall issue an initial order. The WSATC, upon review of the initial order shall enter the final order. An initial order shall become final without further WSATC action five business days after the next regular quarterly meeting unless:

(1) The WSATC upon its own motion determines that the initial order should be reviewed; or

(2) A party to the proceedings files a petition for review of the initial order.

The WSATC, upon review of the initial order shall enter the final order. The WSATC may appoint a person to review the initial order and prepare and enter the final WSATC order.

(3) Final WSATC orders or decisions affecting registration and oversight of apprenticeship programs and agreements for federal purposes may be appealed within thirty calendar days to the director of the department pursuant to the following:

(a) An appellant must file with the director an original and four copies of the notice of appeal.

(i) The notice of appeal must specify findings and conclusions at issue in the appeal.

(ii) The director or designee shall serve notice of receipt of the appeal, including copies of the appeal on all parties within five business days from date of receipt.

(iii) The respondent parties may file with the director or designee written arguments within thirty calendar days after the date the notice of receipt of appeal was served upon them.

(b) The director or designee shall review the record in accordance with the Administrative Procedure Act, chapter 34.05 RCW. The director or designee shall issue a final decision affirming, modifying, or reversing the WSATC final order or decision or may remand the matter to the WSATC for further proceedings.

(c) Any aggrieved party may appeal the final decision to superior court pursuant to chapter 34.05 RCW. If no party appeals within the period set by RCW 34.05.542, the director's decision is final and binding on all parties.

[Statutory Authority: Chapter 49.04 RCW, 2011 c 308, and 2011 c 21. WSR 13-03-127, § 296-05-007, filed 1/22/13, effective 3/1/13. Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-007, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010. WSR 04-10-032, § 296-05-007, filed 4/28/04, effective 6/1/04. Statutory Authority: RCW 49.04.010 and 2001 c 204 (SHB 1234). WSR 02-10-083, § 296-05-007, filed 4/29/02, effective 6/1/02. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-007, filed 10/31/01, effective 1/17/02.]

WAC 296-05-008 Process for objections to apprenticeship program standards. (1) If a competitor objects to the proposed standards, proposed amendments to existing standards, or initial committee, the competitor must provide timely and specific written objections. Objections shall be submitted to the department for WSATC consideration twenty calendar days prior to the regular quarterly WSATC meeting on a form provided by the department and approved by the WSATC.

(2) The department shall notify the petitioning program sponsor of objections no more than two business days after the department receives the objection.

(3) In accordance with WAC 296-05-007, the WSATC may either adjudicate matter(s) itself or refer matter(s) to the office of administrative hearings for initial adjudication.

(a) If the WSATC decides to adjudicate all or part of the objections to the apprenticeship program standards, a hearing on the objections shall take place at the regular quarterly WSATC meeting or at a special WSATC meeting convened for purposes of hearing the objections. The department shall notify the competitor making the objections and the program sponsor that the objection is on the agenda for consideration and shall give its recommendation ten calendar days prior to the WSATC meeting.

(b) If the WSATC decides to refer all or part of the objections to the office of administrative hearings, the WSATC shall identify the specific matters on which the WSATC is requesting the office of administrative hearings provide findings and conclusions for the initial order.

(4) The department may attempt to facilitate a resolution to any objections during the process identified in this section.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-008, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010. WSR 04-10-032, § 296-05-008, filed 4/28/04, effective 6/1/04.]

WAC 296-05-009 Complaint review procedures. If a local committee or other organization administering the agreement cannot satisfactorily resolve a complaint, any apprentice who has completed his/her initial probationary period may submit the complaint to the apprenticeship program for resolution. Complaints that involve matters covered by a collective bargaining agreement are not subject to the complaint review procedures in this section. The investigation or review of any controversy by the supervisor or the WSATC will not affect any action taken or decision made by a committee or other organization until a final decision resolving the matter is issued.

(1) Within thirty calendar days of documented, written notification of the action leading to the complaint, the apprentice must request the local committee or other organization to reconsider action.

(2) The local committee or other organization must, within thirty calendar days of the apprentice's request, provide written notification to the apprentice of its decision on the request for reconsideration. This notification shall be considered the final action of the committee.

(3) If the apprentice chooses to pursue the complaint further, the apprentice must submit a written complaint describing the controversy to the supervisor of the apprenticeship division within thirty calendar days of the final action taken on the matter by the local committee or other organization. The written complaint must be specific and include all relevant facts and circumstances contributing to the complaint. Any documents or correspondence relevant to the complaint must be attached to the complaint. The apprentice must send a copy of the complaint to the interested local committee or other organization.

(4) The supervisor must investigate complaints received from an apprentice. The supervisor must complete the investigation within thirty business days. During the investigation, the supervisor must attempt to effect a settlement between the parties. During the investigation the apprentice and the committee or other organization must fully cooperate with the supervisor by providing any relevant information or documents requested. The supervisor may delegate the investigation to any employee in the apprenticeship division. If the controversy is not settled during the investigation, the supervisor must issue a written decision resolving the controversy when the investigation is concluded.

(5) If the apprentice, committee or other organization is dissatisfied with the decision of the supervisor, they may request the WSATC to review the decision. The request must be in writing and made within thirty calendar days of the supervisor's decision. It must specify the reasons supporting the request. The party requesting review must provide a copy of the request to the other parties involved in the controversy. The WSATC must conduct an informal hearing to consider the request for review of the supervisor's decision. Unless special circumstances dictate, the hearing must be held in conjunction with the regular quarterly meeting.

At the hearing, the WSATC must review the supervisor's decision and all records of the investigation. The WSATC may also accept testimony or documents from any person, including the supervisor and the supervisor's staff, who has knowledge relating to the controversy. Parties at the informal hearing may be represented by counsel and may, at the WSATC's discretion, present argument concerning the controversy. The WSATC must not apply formal rules of evidence.

(6) Within thirty calendar days after the hearing, the WSATC must issue a written decision resolving the controversy. The WSATC's decision may be to affirm the decision of the supervisor. In that case, the supervisor's decision becomes the decision of the WSATC. All parties to the informal hearing must be sent a copy of the WSATC's decision. The chair may sign the decision for the WSATC.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-009, filed 5/4/11, effective 7/25/11. Statutory Authority:

RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-009, filed 10/31/01, effective 1/17/02.]

WAC 296-05-011 Compliance reviews. (1) The purpose of a compliance review is to systematically and periodically review apprenticeship programs to ensure that the sponsor is complying with the approved program standards and these rules. Compliance reviews consist of a comprehensive analysis and evaluations of each aspect of the apprenticeship program. They must include on-site investigations and audits.

(2) A compliance review may be required:

(a) For all existing programs on a regular and comprehensive basis.

(b) When the WSATC receives a complaint, which has not been referred to a private review body. (See WAC 296-05-009.)

(c) When a sponsor seeks to reregister a program.

(d) When a sponsor seeks to register a new program.

(3) If a compliance review indicates that the sponsor is not operating as required by these rules, the supervisor must notify the sponsor in writing of the results of the review. The supervisor must:

(a) Make a reasonable effort to secure voluntary compliance on the part of the program sponsor within a reasonable time before penalizing as authorized in WAC 296-05-013.

(b) Provide recommendations to the sponsor to assist in achieving compliance.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-011, filed 10/31/01, effective 1/17/02.]

WAC 296-05-013 Sanctions for noncompliance. The WSATC is responsible to take the necessary action to bring a noncomplying program into compliance with these rules.

When the apprenticeship supervisor, based upon a compliance review or other reason, concludes that an apprenticeship program is not in compliance with the rules of this chapter and that the sponsor will not take voluntary corrective action, the WSATC must:

(1) Institute proceedings to withdraw the program registration;

(2) Refer the matter to the equal employment opportunity commission;

(3) Refer the matter to the attorney general with recommendations for the institution of a court action under Title VII of the Civil Rights Act of 1964, as amended; or

(4) Refer the matter to the attorney general for other court action as authorized by law.

(5) For provisionally approved programs (see WAC 296-05-003) the WSATC may continue approval as provisional through the first full training cycle/term, or rescind approval following a compliance review by the apprenticeship section of the department of labor and industries.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-013, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-013, filed 10/31/01, effective 1/17/02.]

WAC 296-05-015 Decisions against training agent for violating ratio, supervision and/or approved work process requirements. Based on a complaint, compliance review, or other reason, the supervisor may investigate, in accordance with the rules in this chapter, whether a training agent is in compliance with the program standards relating to the ratio, supervision, or approved work processes requirements for purposes of responsible bidder status for public works under RCW 39.04.350 (1)(e), or for purposes of prohibitions on bidding on public works contracts under RCW 39.12.055(3).

(1) The supervisor shall notify the training agent and the program sponsor that an investigation has commenced.

(2) The supervisor 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 supervisor will notify the training agent and program sponsor in writing of the results, with a copy of the report to the WSATC. Additionally:

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

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

(3) The WSATC will take action upon the supervisor's referral under subsection (2)(b) of this section. After a hearing, the WSATC will decide by a majority vote of the members present whether to issue a determination under RCW 39.04.350 (1)(e) and 39.12.055(3) that the training agent is out of compliance with program standards relating to the ratio, supervision, or approved work processes requirements.

(4) A determination by the WSATC that a training agent is out of compliance with program standards relating to the ratio, supervision, or approved work processes requirements shall be stated in writing, along with the reasons supporting it, and shall be served upon the training agent, program sponsor, and supervisor as provided by RCW 34.05.010(19). Judicial review of the WSATC's written decision under this section shall be as provided in chapter 34.05 RCW.

(5) The supervisor shall place WSATC determinations under this section on file for public review. The supervisor shall maintain a list of all training agents who, as a result of a determination they are out of compliance pursuant to RCW 39.04.350 (1)(e) and 39.12.055(3), are ineligible to bid on a public works contract, or to have a bid accepted. The supervisor shall make the list available to the public upon request.

[Statutory Authority: Chapter 49.04 RCW, RCW 19.285.040, and 2009 c 197. WSR 11-23-138, § 296-05-015, filed 11/22/11, effective 12/31/11.]

PART A—WSATC MEMBERS—COMPOSITION, OFFICERS, AND DUTIES

WAC 296-05-100 WSATC composition. (1) The director of the department appoints three voting representatives each from employer and employee organizations, respectively. Each member shall be appointed for a three-year term.

(2) The director of labor and industries shall also appoint a public member to the apprenticeship council for a three-year term.

(3) The WSATC may also include ex officio members. These members have the right to participate in the discussion of any matter before the council but they may not vote.

(4) An appointed member shall remain on the council until replaced by a qualified successor. When a vacancy does occur, it shall be filled for the remaining portion of the vacated term.

[Statutory Authority: Chapter 49.04 RCW, 2011 c 308, and 2011 c 21. WSR 13-03-127, § 296-05-100, filed 1/22/13, effective 3/1/13. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-100, filed 10/31/01, effective 1/17/02.]

WAC 296-05-103 Officers. (1) To carry out the business of the WSATC and to conduct business efficiently the WSATC has three officers:

- Chair;
- Vice-chair; and
- Secretary.

(2) The chair and vice-chair shall be elected by majority vote of the WSATC members present. This election will take place in odd-numbered years at the April regular quarterly meeting. They shall hold office for a term of two years and until the successor(s) are elected, or until death, resignation, or incapacitation. The supervisor of apprenticeship shall be the secretary of the WSATC.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-103, filed 10/31/01, effective 1/17/02.]

WAC 296-05-105 Officer duties. (1) The chair shall preside over all meetings, conducting them in accordance with *Robert's Rules of Order* as modified by these rules and regulations. The chair may vote in all matters before the WSATC as a regular member and may participate in discussion of all matters before the WSATC. The chair may also have other powers and duties that are provided in these rules; and are usual or necessary with the office of the chair; and as provided in *Robert's Rules of Order*.

(2) The vice-chair shall preside over all WSATC meetings in the absence of the chair. When presiding, the vice-chair shall have all of the powers and duties of the chair.

(3) The secretary, with the assistance of a recording secretary, must take and keep minutes of all special and regular meetings on file in the supervisor's office. The secretary must forward copies of minutes of all meetings to all regular and ex officio members of the WSATC. The secretary must also make copies of the minutes of all meetings available to the public upon written request. The secretary may also have other powers and duties that are provided in these rules or are usual or customary to the office of secretary; and as provided in *Robert's Rules of Order*.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-105, filed 10/31/01, effective 1/17/02.]

WAC 296-05-107 Additional duties for the supervisor-administrator of WSATC. (1) In addition to being the council secretary, the apprenticeship supervisor (supervisor) is the WSATC administrator. As WSATC administrator, the supervisor must:

(a) Perform the duties listed in RCW 49.04.030;

(b) Register all apprenticeship agreements that comply with the rules in this chapter;

(c) Review apprenticeship programs and recommend cancellation of any committee program, or plant program previously registered which is not operated in conformity with its apprenticeship standards; and

(d) Receive all documents concerning apprenticeship or training agreements (including revisions to) or any other matters affecting apprenticeship or training.

All written correspondence to the supervisor should be addressed to:

Supervisor of Apprenticeship and Training
Department of Labor and Industries
Apprenticeship Section
P.O. Box 44530
Olympia, Washington 98504-4530

(2) The supervisor and the supervisor's staff:

(a) May be consulted on any matters concerning apprenticeship and training and will provide on request, any information concerning apprenticeship and training available to them.

(b) Will conduct systematic reviews of the operation of all programs and investigate any discrepancies between the actual and required operations of any program. The supervisor will notify the noncompliant program sponsor of any violation.

(c) May recommend sanctions including cancellation of a program not in compliance with its approved program standards.

(d) Assists in the resolution of any complaints against committees or other organizations administering apprenticeship agreements, filed with the WSATC by apprentice(s) who have completed his/her initial probationary period.

(e) Must investigate any discrepancies of all complaints as specified in WAC 296-05-009.

(f) Conducts compliance reviews as specified in WAC 296-05-011.

[Statutory Authority: Chapter 49.04 RCW, 2011 c 308, and 2011 c 21. WSR 13-03-127, § 296-05-107, filed 1/22/13, effective 3/1/13. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-107, filed 10/31/01, effective 1/17/02.]

WAC 296-05-109 Merit awards. The WSATC may issue awards when appropriate.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-109, filed 10/31/01, effective 1/17/02.]

PART B—WSATC MEETINGS—TYPES, PROCEDURES, AND CONDUCT

WAC 296-05-200 Regular meetings. (1) Each year, regular meetings of the WSATC shall be convened on the third Thursday of January, April, July, and October. These regular quarterly meetings shall be held at locations within the state of Washington. All meetings are open to the general public.

(2) Notice of each regular quarterly meeting shall be given to all WSATC members, ex officio members, and approved program sponsors.

In addition, notices of meetings may be sent to all persons, organizations, agencies, or interested parties whose presence is desired and to any newspaper, news service, television, radio station, or other interested parties who have requested notices of WSATC meetings. The supervisor must distribute the notice of the regular meeting at least thirty calendar days prior to the meeting date.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-200, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-200, filed 10/31/01, effective 1/17/02.]

WAC 296-05-203 Special meetings. (1) Special meetings of the WSATC may be called at the request of the chair or by a majority of the WSATC members. To call a special meeting, a written notice of the meeting must be personally delivered or mailed to:

(a) Each member of the WSATC;

(b) All approved program sponsors; and

(c) Each general circulation newspaper, television or radio station which has on file with the WSATC or the supervisor a written request to be notified of special meetings.

In addition, notices of meetings may be sent electronically to all persons, organizations, agencies, and interested parties whose presence is desired.

(2) To be valid, the written notice must list the date, time and location of the meeting and specify the business to be transacted by the WSATC. The WSATC cannot take final action on any matter that is not specified in the written notice. Special meetings must be open to the general public and adhere to the same open meeting requirements that apply to the regular quarterly WSATC meetings.

(3) Notices of special meetings must be delivered personally or by mail at least seven calendar days before the specified time of the meeting.

(4) The exception is when a special meeting is called to consider rule changes according to chapter 34.05 RCW. In this case, the notice of the special meeting must be delivered at least twenty calendar days before the time specified in the notice.

(5) If the notice requirements in this section are not followed, any action taken by the WSATC at the special meeting will be null and void. However, the notice requirements can be waived if each regular WSATC member signs a written waiver of notice, at or prior to the meeting, and files it with the supervisor. With this filing, the notice shall be considered waived by any WSATC member present when the meeting convenes. Rule changes may not be made at special meetings where the notice requirements have been waived unless the requirements of chapter 34.05 RCW have been satisfied.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-203, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-203, filed 10/31/01, effective 1/17/02.]

WAC 296-05-205 Petitions, requests, and correspondence submitted to the WSATC. (1) For the WSATC to act upon petitions or requests at a regular quarterly meeting, the petitions or requests must be submitted in writing to the supervisor at least forty-five calendar days prior to the date of the regular quarterly meeting. Any petitions or requests not submitted forty-five calendar days prior to a quarterly meeting must be deferred to the next regular quarterly meeting. If a petition or request is deferred, the supervisor must notify the petitioner.

(2) Generally, correspondence not related to apprenticeship and training agreements and meetings, petitions and requests, must be submitted in writing to the supervisor of apprenticeship at least fifteen business days before the quarterly meeting at which the WSATC's consideration is requested. However, if the WSATC determines that the correspondence is crucial to any deliberations regarding approval or disapproval of an apprenticeship agreement, the supervisor may waive this fifteen business day requirement.

(3) Noncrucial correspondence submitted less than fifteen business days before the quarterly meeting must be considered by the WSATC at the next quarterly meeting.

(4) When an apprenticeship committee petitions the council or the supervisor, only the signature of the elected chair and secretary of the committee shall be accepted as a valid signature unless the petitioning committee has asked the council to recognize and accept the signature of another person. A petition requesting the recognition of a signature other than that of the elected chair and secretary must be signed by a quorum of the members from the petitioning committee.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-205, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-205, filed 10/31/01, effective 1/17/02.]

WAC 296-05-207 Other regulations that apply to council meeting conduct. (1) All council meetings must be open to the general public. Members of the public cannot be required to register his/her name, give any information, or fulfill any condition prior to attending council meetings. All council meetings must be conducted according to the provisions of chapter 42.30 RCW, the Open Public Meetings Act and chapter 34.05 RCW, the Administrative Procedure Act. The following WSATC activities must take place in open public meetings:

(a) All transactions of official business;

(b) All commitments or promises;

(c) All collective discussions;

(d) All collective decisions; and

(e) All council actions.

(2) The approval or disapproval of committee programs, plant programs, or amendments to those programs can only occur at regular quarterly meetings unless the council is

responding to a court mandate, which can occur at a special meeting under WAC 296-05-203.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-207, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-207, filed 10/31/01, effective 1/17/02.]

WAC 296-05-209 Voting. (1) A quorum is two-thirds of the WSATC members entitled to vote.

(2) All council members appointed by the director are voting members of the council. Ex officio members may not vote on any issue.

(3) To resolve tie votes, the chair shall establish a standing tie-breaker committee. The committee shall be comprised of an employer representative, an employee representative, and the public member on the WSATC. In case of a tie vote on any proposed standards brought before the WSATC, the tie-breaker committee shall meet or confer, review the record, and render a decision within thirty calendar days. The supervisor or a designee of the supervisor shall act as secretary to the committee and furnish all information necessary for a decision.

[Statutory Authority: Chapter 49.04 RCW, 2011 c 308, and 2011 c 21. WSR 13-03-127, § 296-05-209, filed 1/22/13, effective 3/1/13. Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-209, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-209, filed 10/31/01, effective 1/17/02.]

WAC 296-05-211 Rules of order. *Robert's Rules of Order* shall prevail at all meetings unless otherwise provided for by these rules.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-211, filed 10/31/01, effective 1/17/02.]

WAC 296-05-213 Retroactivity. The WSATC may make any action or decision which it takes retroactive to the date of the previous business session.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-213, filed 10/31/01, effective 1/17/02.]

WAC 296-05-215 Limitations. Nothing in this part or in any apprenticeship agreement will operate to invalidate:

(1) Any apprenticeship provision in any collective bargaining agreement between employers and employees establishing higher apprenticeship standards; or

(2) Any special provision for veterans, minority persons, or women in the standards, apprentice qualifications or operation of the program, or in the apprenticeship agreement, which is not otherwise prohibited by law, executive order, or authorized regulation.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-215, filed 5/4/11, effective 7/25/11.]

PART C—APPRENTICESHIP PROGRAMS—COMMITTEE, AGREEMENTS, TYPES, AND RECOGNITION

WAC 296-05-300 Apprenticeship and training programs—Approval. The WSATC is the body responsible for matters concerning apprenticeship and training in the state of Washington. The principal function of the WSATC is to approve, register, and regulate apprenticeship and training agreements. Persons or organizations desiring to institute an apprenticeship or training program must follow these steps:

(1) Organize an apprenticeship and training committee, if applicable, according to WAC 296-05-303 and file affidavits with the WSATC requesting that the committee be recognized.

(2) In conjunction with the proposed committee, persons or organizations desiring to institute an apprenticeship or training program must propose standards conforming to these rules and to chapter 49.04 RCW. In addition, the standards must include the composition of the committee and general rules that it will follow in administering the program. (The apprenticeship supervisor and department apprenticeship consultants are available to give assistance drafting standards.)

(3) The proposed committee and/or standards must be presented to the supervisor at least forty-five calendar days before the regular quarterly meeting at which the WSATC is requested to consider such proposed standards.

(4) At the regular quarterly meeting, the proposed committee and/or standards will be considered by the WSATC. The WSATC will:

(a) Approve;

(b) Approve provided the sponsor accepts the changes recommended by the WSATC; or

(c) Disapprove.

At the regular quarterly meeting, the WSATC will allow changes to correct clerical errors. The addition of standard language will be allowed if authorized representatives of the sponsor are present and authorized to accept changes. At the regular quarterly meeting, the WSATC will not accept changes to the format, language, or provisions of the submitted program standards which are not reasonably consistent with previously approved program standards.

If the WSATC disapproves the standards, it shall direct the department to inform the sponsor in writing the reason for disapproval.

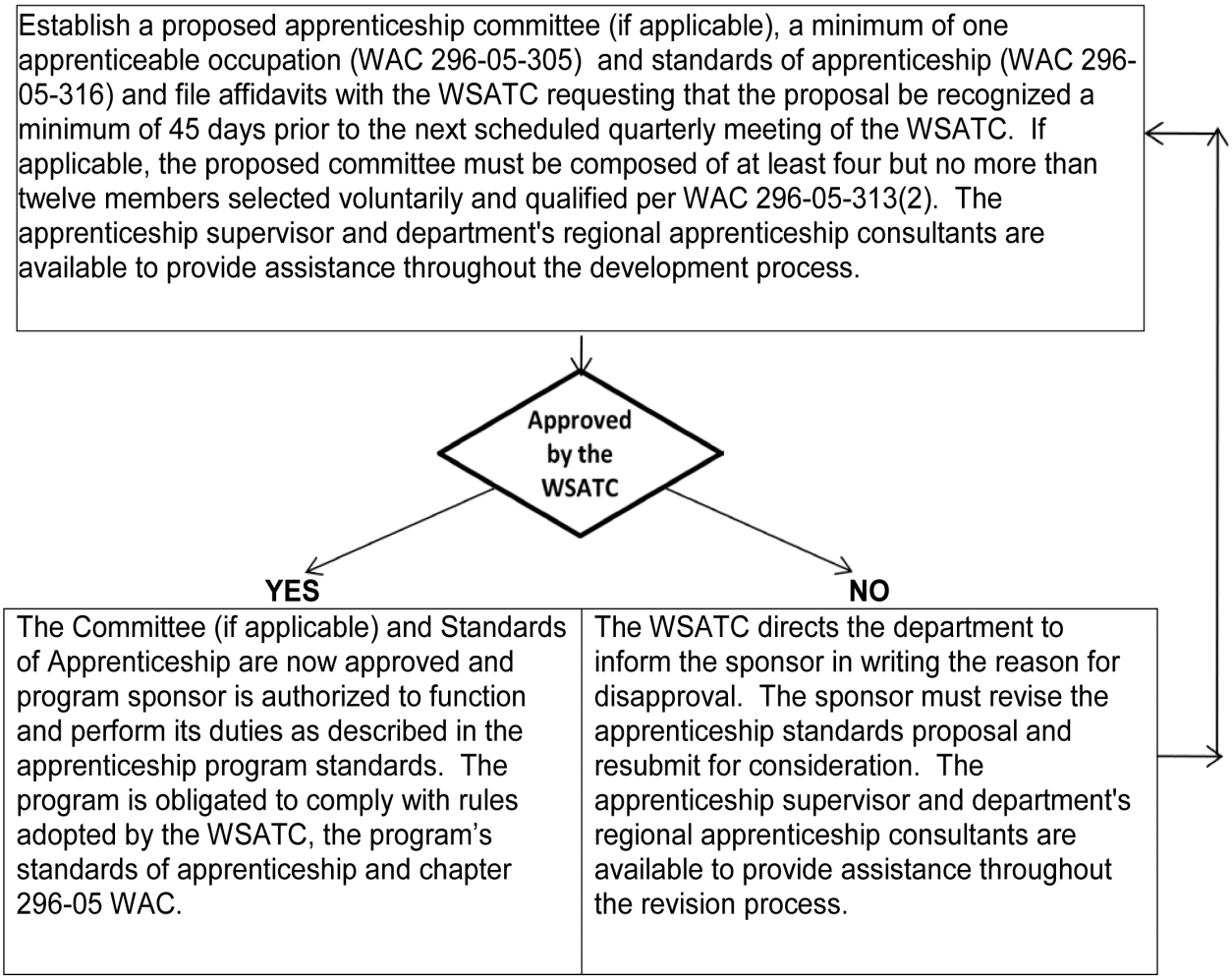
(5) Once the WSATC approves the program standards, they are provisionally registered for a period of one year and the sponsor is authorized to function and perform its duties as described in WAC 296-05-316.

(6) Objections shall be handled pursuant to WAC 296-05-008.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-300, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010 and 2001 c 204 (SHB 1234). WSR 02-10-083, § 296-05-300, filed 4/29/02, effective 6/1/02. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-300, filed 10/31/01, effective 1/17/02.]

WAC 296-05-302 Apprenticeship committee/program approval process.

Apprenticeship Program Approval Process



NOTE: This flow chart represents the general process for apprenticeship program standard approval and does not include exceptions and variations.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-302, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-302, filed 10/31/01, effective 1/17/02.]

WAC 296-05-303 Apprenticeship committees—Duties and responsibilities. (1) Apprenticeship committees are appointed according to the provisions of RCW 49.04.040 and are composed of at least four members but no more than twelve. However, the WSATC may grant exceptions to this provision.

(2) Apprenticeship committee means those persons designated by the sponsor to administer the program. A committee may be either joint or nonjoint, as follows:

(a) A joint committee is composed of an equal number of representatives of the employer(s) and of the employees represented by a bona fide collective bargaining agent(s).

(b) A nonjoint committee, which may also be known as a unilateral or group nonjoint committee (which may include employees), has employer representatives but does not have a bona fide collective bargaining agent as a participant.

(3) Chapter 49.04 RCW, these rules, and the approved standards under which a committee operates define the duties of an apprenticeship committee. Committees shall function, administer or relinquish authority only with the consent of the WSATC.

(4) A committee is responsible for:

(a) The day-to-day operations of the apprenticeship and training program;

(b) Operating the program according to WSATC approved standards;

(c) Accepting or rejecting applicants for apprenticeship or training;

(d) Registering approved applicants with the supervisor;

(e) Removing apprentices from the program as provided by the approved program standards;

(f) Informing the supervisor of any matters that affect the standing of individuals as apprentices; and

(g) Entering into agreements with other apprenticeship committees for the use of apprentices by training agents that are working outside their approved geographic area served.

The WSATC will only recognize apprentices registered with the supervisor.

(5) Committees approved by the WSATC must offer training opportunities on an equal basis to all employers and apprentices including all rights, appeals, and services available in the existing apprenticeship program. All existing committees that represent multiple employer or employer associations, except for committees that represent individual or plant programs, are expected to provide access to apprenticeship and training opportunities to employers not currently participating in the program. Those opportunities must:

(a) Ensure that apprentices work only for approved training agents;

(b) Provide training at a cost equivalent to that incurred by currently participating employers and apprentices;

(c) Grant equal treatment and opportunity for all apprentices;

(d) Offer reasonable working and training conditions and apply those conditions to all apprentices uniformly and equally;

(e) Not require an employer to sign a collective bargaining agreement as a condition of participation in an apprenticeship program;

(f) Require all employers requesting "approved training agent" status to comply with a WSATC approved agreement and all federal and state apprenticeship rules and the appropriate apprenticeship standards. (The training agent shall employ only registered apprentices when training for a given occupation);

(g) Require sponsors to approve training agent agreements and to have training agents sign a training agent agreement. The sponsor must furnish the department with a copy of the agreement and/or the list of approved training agents within thirty calendar days of committee approval; and

(h) Require sponsors who rescind "approved training agent" agreements and/or the list of approved training agents to notify the department that they have done so within thirty calendar days of said action.

(6) If an existing committee fails to or refuses to offer apprenticeship and training opportunities to all employers, the WSATC may take action to remove the restrictions to access in order to comply with the intent of chapter 49.04 RCW and these rules. Action may include, but is not limited to, the decertification of the existing committee and recognition of a new committee.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-303, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010. WSR 05-04-093, § 296-05-303, filed 2/2/05, effective 4/1/05. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-303, filed 10/31/01, effective 1/17/02.]

WAC 296-05-305 Apprenticeable occupations. An apprenticeable occupation is a skilled occupation which possesses all of the following characteristics:

(1) Involves skills that are customarily learned in a practical way through a structured, systematic program of on-the-job supervised learning.

(2) Is clearly identified and commonly recognized throughout an industry.

(3) Is not part of an occupation previously recognized by the registering agency as apprenticeable, unless such part is practiced industry wide and is identifiable and distinct .

(4) Involves manual, mechanical, or technical skills and knowledge which require a minimum of two thousand hours of on-the-job work experience.

(5) Requires a minimum of one hundred forty-four hours of related instruction per year to supplement on-the-job work experience.

(6) Involves skill sufficient to establish normal career sustaining employment.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-305, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-305, filed 10/31/01, effective 1/17/02.]

WAC 296-05-307 Types of apprenticeship agreements recognized by the WSATC. The WSATC acting according to RCW 49.04.060, recognizes the following types of written apprenticeship agreements (statements) that describe the apprenticeship training conditions:

(1) Agreements between an association of employers and an organization of employees.

(2) An agreement between an employer and an employee organization.

(3) An employer's statement when there is no bona fide employee organization in the plant affected by the agreement.

(4) An agreement between an apprenticeship program and an individual apprentice.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-307, filed 10/31/01, effective 1/17/02.]

WAC 296-05-309 Apprenticeship programs approved by the WSATC. The following apprenticeship programs may be approved by the WSATC. All the following programs with the exception of individual waiver programs must be administered by a committee. A committee may be either joint or nonjoint, as defined in WAC 296-05-303(2).

(1) Group-joint, or area joint. A program where there is a labor organization. These programs are jointly sponsored by a group of employers and a labor organization. They are administered by employer and employee representatives from an apprenticeship and training committee composed equally from management and labor.

(2) Individual-joint. A program where there is a labor organization. These programs are jointly sponsored by an individual employer and a labor organization. They are administered by employer and employee representatives from an apprenticeship and training committee composed equally from management and labor.

(3) Group nonjoint, or area group. A program where there is no labor organization. These programs are sponsored by an employer association(s) administered by an apprenticeship committee.

(4) Individual nonjoint. A program where there is no labor organization. These programs are sponsored and administered by an individual employer.

(5) Group waiver. These programs involve an employer association(s)and a labor organization. Either the employer group or the labor organization voluntarily waives participation in the program by notifying the other party in writing.

(6) Individual waiver. These programs involve an individual person, company, plant, firm, and a labor organization. Either management or labor voluntarily waives participation by notifying the other party in writing.

(7) Plant. A program for a single physical location or a group of physical locations owned by the sponsor. The WSATC, based on the authority in RCW 49.04.040, assumes jurisdiction and serves as the committee for appeals and disposition of complaints only. The apprenticeship agreement must specify the number of required hours for completion of the apprenticeship. The hours specified must represent at least two thousand hours of reasonably continuous employment. That agreement must conform to the applicable provisions of chapter 49.04 RCW and these rules.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-309, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-309, filed 10/31/01, effective 1/17/02.]

WAC 296-05-311 On-the-job training programs. On-the-job training programs may be set up in the same manner as apprenticeship programs with any exceptions authorized by the WSATC. However, no on-the-job training program must be established or authorized where there is a parallel apprenticeship program in existence. An on-the-job training program shall be any program that requires two thousand or less hours of employment for completion. All of the rules in this chapter that apply to apprenticeship agreements and programs also apply to on-the-job training programs except on-the-job training programs will be approved by the supervisor subject to the review of the WSATC.

A sample standard for an on-the-job training program is available from the supervisor.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-311, filed 10/31/01, effective 1/17/02.]

WAC 296-05-313 Apprenticeship committees—Composition. (1) Apprenticeship committees must be composed of an equal number of management and nonmanagement representatives.

(2) For apprenticeship committees that represent one occupation, at least fifty percent of the members of a committee must be occupationally qualified by education and experience in the specific occupation for which the committee is responsible. A committee member, who possesses journey level status as defined in WAC 296-05-003, is occupationally qualified. The committee must be able to verify the occupational qualifications of the members.

(3) For apprenticeship committees that represent multiple occupations, the committee members must either:

(a) Be occupationally qualified by education and experience in the specific occupations for which the committee is responsible and must be able to verify the occupational qualifications of the members; or

(b) Be known to represent the interests of the multiple occupations served.

(4) All committee members must be provided copies of the applicable apprenticeship standards, chapter 49.04 RCW, and these rules, and directed to familiarize themselves with the information contained therein.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-313, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-313, filed 10/31/01, effective 1/17/02.]

WAC 296-05-314 Nonjoint and waiver committees—Additional requirements. (1) The WSATC shall only recognize nonjoint and waiver standards for a specific occupation or directly related occupations.

(2) When multiple related occupations are approved on a single standard, each occupation shall be considered as an individual standard.

(3) Unrelated occupations shall be submitted under separate standards.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-314, filed 5/4/11, effective 7/25/11.]

WAC 296-05-315 Term of apprenticeship—Standards requirement. 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).

(1) 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.

(2) The competency-based approach measures skill acquisition through the individual apprentice's successful demonstration of acquired skills and knowledge, as verified by the program sponsor. 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.

(3) 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.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-315, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-315, filed 10/31/01, effective 1/17/02.]

WAC 296-05-316 Apprenticeship agreements—Standards requirements. The WSATC shall have the

authority to develop, administer, and enforce program standards for the operation and success of an apprenticeship and training program.

The sponsor's proposed program standards must include a list of duties and responsibilities of the program sponsor reasonably consistent with other approved program standards.

All apprenticeship agreements must comply with the approved program standards, chapter 49.04 RCW, and these rules. The standards of apprenticeship agreements must include the following:

(1) A statement of the occupation to be taught and the required hours for completion of apprenticeship which must not be less than two thousand hours of reasonably continuous employment.

(2) A statement identifying the program sponsor, establishing the apprenticeship committee and enumerating the sponsor's and committee's duties and responsibilities. This statement must include provisions to:

(a) Elect a chair and a secretary from employer and employee representatives of the committee.

Exception: This provision is not necessary for a plant program.

(b) Convene at least three annual regular meetings of the program sponsor and apprenticeship committee. The meetings shall be at least three times per year, be attended by a quorum of committee members (as defined in the approved program standards), be documented with minutes which must be periodically submitted to the department and made available to the WSATC upon request. Conference call meetings may be conducted in lieu of regular meetings but must not exceed the number of attended meetings and no disciplinary action shall be taken at conference call meetings.

(c) Explain the program sponsor's request for apprentices in the area covered by the apprenticeship standards established under these rules and a plan to include reasonable continuous employment.

(d) Establish minimum standards of education and skilled occupational experience required of apprentices.

(e) Rotate apprentices in the various processes of the skilled occupation to assure a well-rounded, competent worker.

(f) Determine the adequacy of an employer to furnish proper on-the-job training in accordance with the provisions of the approved standards.

Exception: This does not apply to plant programs.

(g) Recommend competent instructors as defined in WAC 296-05-003 and related/supplemental instruction in accordance with state board for community and technical college requirements.

(h) Coordinate related/supplemental instruction with on-the-job work experience.

(i) Hear and adjust all complaints of violations of apprenticeship agreements.

(j) Adopt, as necessary, program rules to administer the apprenticeship program in compliance with its standards, chapter 49.04 RCW, and these rules.

(k) Periodically review and evaluate apprentices before advancement to the apprentice's next wage progression period.

(l) Maintain apprenticeship records and records of the administrative program as may be required by the WSATC, chapter 49.04 RCW, and these rules. (See WAC 296-05-318.)

(3) The following Equal Employment Opportunity Pledge:

"The recruitment, selection, employment and training of apprentices during their apprenticeship shall be without discrimination because of race, sex, color, religion, national origin, age, disability or as otherwise specified by law. The sponsor shall take positive action to provide equal opportunity in apprenticeship and will operate the apprenticeship program as required by the rules of the Washington State Apprenticeship and Training Council and Title 29, Part 30 of the Code of Federal Regulations."

(4) When applicable, an equal employment opportunity plan and selection procedures.

(5) A numeric ratio of apprentices to journey-level workers may not exceed one apprentice per journey-level worker. It must be consistent with proper supervision, training, safety, continuity of employment, and applicable provisions in collective bargaining agreement, if any. The ratio must be described in the program standards and shall be specific and clear as to application in terms of job site, work group, department, or plant. An exception to this requirement may be granted by the WSATC.

(6) A statement of the related/supplemental instruction including content, format, and hours of study per year. Related/supplemental instruction shall not be less than one hundred forty-four hours per year and shall be defined in the standards per:

(a) Twelve-month period from date of registration; or

(b) Defined twelve-month school year; or

(c) Two thousand hours of on-the-job training.

If a sponsor does not prescribe hours of study, the WSATC shall adopt (a) of this subsection for compliance purposes.

(7) An attendance policy which includes the following provisions:

(a) If the apprentice fails to fulfill the related/supplemental instruction obligations, the sponsor may withhold the apprentice's periodic wage advancement, suspend or cancel the apprenticeship agreement.

(b) That time spent in related/supplemental instruction classes shall not be considered as hours of work and the apprentice is not required to be paid for the classroom time.

(c) That all hours of actual attendance by the apprentice in related/supplemental instruction classes must be reported to the department on a quarterly basis.

(d) That the hours reported to the department will clearly identify unpaid, supervised related/supplemental instruction time versus paid or unsupervised time for industrial insurance purposes.

(8) A provision to ensure that the sponsor provides for instruction of the apprentice during the apprentice's related/supplemental instruction in safe and healthful work practices in compliance with the Washington Industrial

Safety and Health Act, and applicable federal and state regulations.

(9) A provision for a formal agreement between the apprentice and the sponsor and for registering that agreement with the supervisor.

(10) A provision for the timely notice to the department of all requests for disposition or modification of apprenticeship agreements including: Certificate of completion; additional credit; suspension; military service; reinstatement; cancellation; and corrections.

(11) A provision for granting of advanced standing or credit for demonstrated competency, acquired experience, training, education, or skills in or related to the occupation and:

(a) In licensed trades regulated by electrical, plumbing, and elevator programs at the department, apprenticeship sponsors may give advanced credit or grant hours to apprentices only up to the hours that have been approved by the appropriate licensing entity prior to the sponsor granting credit to the registered apprentice. Programs are not required to use all hours granted by the regulatory section of the department.

(b) All apprenticeship programs need to ensure that a fair and equitable process is applied to apprentices seeking advanced standing or credit.

(12) A provision for the transfer of an apprentice from one training agent to another training agent or the sponsor in order to provide to the extent possible, continuous employment and diversity of training experiences for apprentices.

(13) A provision for the amendment of the standards or deregistration of the program. This provision must comply with chapter 49.04 RCW, these rules, and WSATC policies and procedures.

(14) An apprenticeship appeal procedure in compliance with chapters 49.04, 34.05 RCW, and these rules.

(15) A statement of the processes within the occupation in which the apprentice is to be taught and the approximate amount of time to be spent at each process.

(16) 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 as defined in WAC 296-05-315, 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.

(17) A statement of the minimum qualifications for persons entering the apprenticeship program including the age of the apprentice which may not be less than sixteen years of age. Note: Seventeen years is the minimum age allowed for applicants registering in building and construction trade occupations. All exceptions to minimum qualifications, if any, must be clearly stated and applied in a nondiscriminatory manner.

(18) Provision that the services of the supervisor and the WSATC may be utilized for consultation regarding the settlement of differences arising out of the apprenticeship agreement where such differences cannot be adjusted locally or as required by the established apprenticeship standards procedure.

(19) Provision that if an individual training agent is unable to fulfill its obligation under the apprenticeship agreement; it will transfer the obligation to the program sponsor.

(20) Such additional standards as may be prescribed in accordance with the provisions of this chapter.

(21) Disciplinary procedures and criteria for apprentices. The procedures may include a committee-imposed disciplinary probation during which the committee may according to expressed criteria:

(a) Withhold periodic wage advancements;

(b) Suspend or cancel the apprenticeship agreement;

(c) Take further disciplinary action; or

(d) The disciplinary procedures must include a notice to the apprentice that the apprentice has the right to file an appeal, of the committee's action, to the WSATC.

(22) A provision for an initial probation which the WSATC or the supervisor of apprenticeship may terminate an apprenticeship agreement at the written request by any affected party. The initial probationary period cannot exceed twenty percent of the term of the program, or one year from the date of registration, whichever is shorter, unless an exemption has been granted for longer probationary periods as specified by Civil Service or law. The initial probationary period must be expressed in hours of employment. During the initial probationary period, the apprenticeship agreement may be terminated by the sponsor or the apprentice without a hearing or stated cause. An appeal process is available to apprentices who have completed the initial probationary period.

(23) Provisions prohibiting discrimination on the race, sex, color, religion, national origin, age, disability or as otherwise specified by law during all phases of apprenticeship.

(24) Provisions to ensure adequate records of the selection process are kept for a period of at least five years and are available to the WSATC or its representative on request. ("Adequate records" means at least a brief summary of any interviews and the conclusions reached on each of the specific factors which are part of the total judgment concerning each applicant.)

(25) Provisions to ensure that local committee rules and regulations be consistent with these rules and the applicable apprenticeship agreement.

(26) Provisions to ensure any proposed standards for apprenticeship are reasonably consistent with any standards for apprenticeship already approved by the WSATC for the industry occupation in question. The goal is to achieve general statewide uniformity of standards in each industry occupation. Proposed standards for a new program shall be considered consistent if they are equal to or exceed the minimum number of hours approved by the United States Department of Labor, Employment and Training Administration, Office of Apprenticeship for a given occupation. If the United States Department of Labor has not established a minimum number of hours for an occupation, the WSATC may utilize its discretion to determine the minimum number of hours that must be achieved. In addition, the course content and delivery method must be designed to achieve reasonably consistent skills as existing standards within the state for that industry occupation.

(27) A provision to ensure progressively increasing wage scales based on specified percentages of journey-level

wage. Sponsors must submit the journey-level wage at least annually or whenever changed to the department. Wage reports may be submitted on a form provided by the department.

A sample apprenticeship agreement and a standard form for program standards are available from the supervisor.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-316, filed 5/4/11, effective 7/25/11. Statutory Authority: Chapter 49.04 RCW. WSR 07-22-096, § 296-05-316, filed 11/6/07, effective 1/1/08. Statutory Authority: RCW 49.04.010. WSR 05-10-087, § 296-05-316, filed 5/4/05, effective 6/15/05. Statutory Authority: RCW 49.04.010 and 2001 c 204 (SHB 1234). WSR 02-10-083, § 296-05-316, filed 4/29/02, effective 6/1/02. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-316, filed 10/31/01, effective 1/17/02.]

WAC 296-05-317 Related/supplemental instruction. The WSATC may approve apprentice-related/supplemental instruction for apprenticeable occupations based on recommendations from the state board for community and technical colleges.

Program sponsors may allow credit for previously completed related/supplemental instruction under WAC 296-06-316(11).

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-317, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-317, filed 10/31/01, effective 1/17/02.]

WAC 296-05-318 Records required by the WSATC. Each sponsor must keep adequate records including, but not limited to, the following:

(1) Selection of applicants:

(a) A summary of the qualifications of each applicant;

(b) The basis for evaluation and for selection or rejection of each applicant;

(c) The records pertaining to the interviews of applicants; and

(d) The original application for each applicant.

(2) Operation of the apprenticeship program:

(a) On-the-job training assignments;

(b) Promotion, demotion, layoff, or termination;

(c) Rates of pay or other forms of compensation or conditions of work;

(d) Hours of training provided on-the-job by work process and in related/supplemental instruction in accordance to the sponsor's approved plan;

(e) Signed and approved training agency agreement forms; and

(f) Any other records needed by WSATC to determine compliance with these rules.

(3) Equal employment opportunity plans:

(a) A copy of the program's complete equal employment opportunity plan. All data and analysis made to determine enrollment deficiencies;

(b) Evidence that equal employment opportunity plans are reviewed on an annual basis; and

(c) Evidence that equal employment opportunity plans, goals and timetables are updated when necessary.

(4) Documentation necessary to establish a sponsor's good faith effort in implementing its equal employment opportunity plan:

(a) Who was contacted;

(b) When the contacts were made;

(c) Where the contacts occurred;

(d) How the contacts were made; and

(e) The content of each contact.

(5) Qualification standards: Evidence that the sponsor's qualification standards meet the requirements of WAC 296-05-316.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-318, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-318, filed 10/31/01, effective 1/17/02.]

WAC 296-05-319 Apprenticeship agreement—Individual registration. All individual agreements are subject to the approval of the supervisor and must be registered with the supervisor.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-319, filed 10/31/01, effective 1/17/02.]

WAC 296-05-321 Apprenticeship agreement—Cancellation. The supervisor may recommend that an agreement and program be canceled when a program does not comply with these rules or the program's standards. The procedures for cancellation are as follows:

(1) When any program is found to be operating inconsistently or contrary to these rules or its established program standards, the supervisor must notify the offending committee, person, firm or agency of the violation(s).

(2) The offending committee, firm, or agency has sixty calendar days to correct the violation(s).

(3) If the supervisor does not receive notice, within sixty calendar days, that action has been taken to correct the violations, the supervisor may recommend cancellation of the apprenticeship or training program and agreement to the WSATC.

(4) A recommendation to cancel a program must be in writing, addressed to each WSATC member, and detail the reasons for the recommendation.

(5) A copy of the recommendation, along with a notice that the WSATC will consider the recommendation, must be mailed to the last known address of each member of the committee administering said program, or to those persons responsible for the program.

(6) The WSATC must consider the recommendation at its next regularly scheduled quarterly meeting. However, at least thirty calendar days must pass between the date of the recommendation and the date of the regular quarterly meeting. If thirty calendar days have not passed, the recommendation must be considered at the subsequent regular quarterly meeting.

(7) At the regular quarterly meeting, all interested person(s) may present evidence or testimony regarding the recommendation.

(8) The WSATC must act on the recommendation by a majority vote of the members present and voting.

(9) Once the WSATC has voted, it must give written notification of its decision to all interested parties along with the reasons supporting it.

(10) The cancellation of any program or agreement automatically cancels any agreement(s) registered under them.

However, any organization or firm not responsible for the violations that caused the cancellation may petition the WSATC for approval of the canceled agreement or program as a new program.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-321, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-321, filed 10/31/01, effective 1/17/02.]

WAC 296-05-323 Certificate of completion. At the request of the apprenticeship committee, the WSATC shall issue certificates of completion. An affidavit of the secretary, chair, or authorized official of the committee concerned must accompany the request. The affidavit must state that the apprentice was registered with the department and an active participant of that committee's program for at least six months and has successfully completed his/her apprenticeship. These may be submitted on a form provided by the department.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-323, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-323, filed 10/31/01, effective 1/17/02.]

WAC 296-05-325 Union waiver. (1) When apprenticeship programs allowing for the substantive union participation are proposed for registration by an employer or employers' association and the union does participate, the proposal must be accompanied by a written statement from the union supporting the registration. Such a statement is referred to as a "no objection" statement.

(2) When there is no evidence of any union participation, the employer or employers' association must simultaneously furnish to the union that serves as the collective bargaining agent of the employees to be trained, copies of the registration application and the apprenticeship program. Before taking a final action on the application, the supervisor must give the union a reasonable time period to respond. (A "reasonable time" shall be within forty-five calendar days before final action on the application for registration and/or approval.) If the union fails to comment within the allotted time period, it will have waived its right to participate in the program.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-325, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-325, filed 10/31/01, effective 1/17/02.]

WAC 296-05-327 Reciprocity. (1) For state purposes, reciprocity means that the WSATC may recognize and approve out-of-state apprenticeship programs and standards if certain conditions are met and the out-of-state sponsoring entity requests it. The conditions shall include consideration of, but not be limited to, the following:

(a) Registration with any recognized state apprenticeship agency/council or with the United States Department of Labor, Employment and Training Administration, Office of Apprenticeship according to the requirements of 29 C.F.R. Part 29;

(b) Present reasonably consistent apprenticeship standards, working conditions and apprentice to journey worker ratios; and

(c) Recognition of occupations as apprenticeable.

The terms and conditions of reciprocity may be suspended or revoked by the WSATC when it is determined that an apprenticeship program sponsor or approved training agent/approved employer is not operating in a manner consistent with these requirements.

(2) For federal purposes, the WSATC will accord reciprocal approval to apprentices, apprenticeship programs and standards that are registered in other states by the office of apprenticeship or a registration agency if such reciprocity is requested by the apprenticeship program sponsor. All program sponsors seeking reciprocal approval for federal purposes must meet the wage and hour provisions and apprentice ratio standards of Washington state.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-327, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-327, filed 10/31/01, effective 1/17/02.]

WAC 296-05-329 Certification of apprentice labor standard on renewable energy projects. The WSATC shall establish the minimum level of apprentice labor hours to qualify for the renewable energy credit pursuant to RCW 19.285.040 (2)(h)(ii) and provide, upon sufficient evidence presented, a letter certifying that the renewable energy project met the apprentice labor standard. This section outlines information and required elements for the WSATC apprentice labor standard certification process. These provisions shall be in effect for projects that commence on or after July 1, 2011.

(1) The minimum level of Washington approved apprentice labor hours necessary to qualify for WSATC apprentice labor certification is fifteen percent of the total labor hours used in the construction of the renewable energy project (WAC 194-37-120(1)).

(a) "Washington approved" extends to reciprocally recognized programs.

(b) The WSATC adopts the definition of "labor hours" as presented in RCW 39.04.310(3) with the noted exception below:

Exception: Hours worked by foremen, superintendents, owners, and workers who are not subject to prevailing wage requirements must be reported and included in the total labor hours if such individual is counted in satisfying the required apprentice to journey supervision ratio as stated in the standards of apprenticeship.

(c) The WSATC will defer to the prevailing wage statute (chapters 39.04 and 39.12 RCW and 296-127 WAC) as it defines "work" on a site.

(d) Apprentice registration number and occupation title must be provided in tracking documentation for all apprentices on the project.

(2) A letter of intent to request the apprentice labor standard certification is required within forty-five days of the start of on-site construction for a generation facility or work on incremental efficiency improvements. Send letters of intent to:

Washington State Apprenticeship & Training Council
Attn: Program Manager, Apprenticeship Section
P.O. Box 44530
Olympia, WA 98504-4530

Include the following information with the letter of intent:

(a) Name and location of the renewable energy project;

(b) A description of the scope of the project and estimated total labor hours;

(c) Anticipated start and completion dates;

(d) Anticipated date for final records to be submitted to the department; and

(e) Plan to record all apprentice and journey labor hours by occupation and employer for the project.

The WSATC may grant exceptions to the letter of intent requirement for a period of two years from the effective date of this rule.

(3) For the WSATC to act upon the request for certification of apprentice labor standard at a regular quarterly meeting, the request and documentation must be submitted in writing to the supervisor at least forty-five calendar days before the next regular quarterly meeting. Documentation required includes:

(a) The name of each registered apprentice, his/her occupational title and apprentice registration number;

(b) The number of apprentices and labor hours worked, categorized by occupational title and employer;

(c) The number of journey level workers and labor hours worked, categorized by occupational title and employer;

(d) Copies of weekly or monthly reporting forms used to capture the required information throughout the project duration. This must be supported by certified payroll records (electronic copies are acceptable); and

(e) A statement affirming that reported hours reflect all hours worked on the project as defined in subsection (1)(b) of this section.

Sample affirmation statement: On the (insert name of project), I do hereby affirm that the reported hours presented with this letter reflect all labor hours as defined in WAC 296-05-329 (1)(b) for this project.

(4) The department will review the apprentice labor standard request and supportive records and make a recommendation to the WSATC. Following consideration and action by the WSATC, the chair of the WSATC will provide a letter to the requesting party within thirty calendar days either:

(a) Certifying that the project met the apprentice labor standard of at least fifteen percent of the total labor hours;

(b) Denying the request for certification and providing the reasons for denial; or

(c) Requiring additional information for reconsideration of the request at the next regularly scheduled meeting.

(5) The Washington department of labor and industries, apprenticeship section will maintain a list of renewable energy projects that achieve fifteen percent cumulative level of apprenticeship labor.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-329, filed 5/4/11, effective 7/25/11.]

PART D—EQUAL EMPLOYMENT OPPORTUNITY IN APPRENTICESHIP

WAC 296-05-400 Equal employment opportunity plan—Purpose, scope and authority. The WSATC's equal employment opportunity plan is based on the statutory authority granted in chapter 49.04 RCW and according to the provisions of 29 C.F.R. Part 30. The purpose of the equal employment opportunity plan is to promote equality of opportunity in apprenticeship by:

• Prohibiting discrimination in apprenticeship programs based on race, sex, color, religion, national origin, age disability or as otherwise specified by law;

• Requiring equal employment opportunities in apprenticeship programs; and

• Coordinating the WSATC's equal employment opportunity programs with other affirmative action policies and procedures and equal opportunity programs.

The following sections contain the policies and procedures to promote equality of opportunity and equity of treatment of apprentices in apprenticeship programs approved by the WSATC. These policies and procedures are to be used to:

• Recruit and select apprentices;

• Review and revise apprenticeship programs;

• Process equal employment opportunity complaints;

• Take corrective action when appropriate;

• Deregister noncomplying apprenticeship programs; and

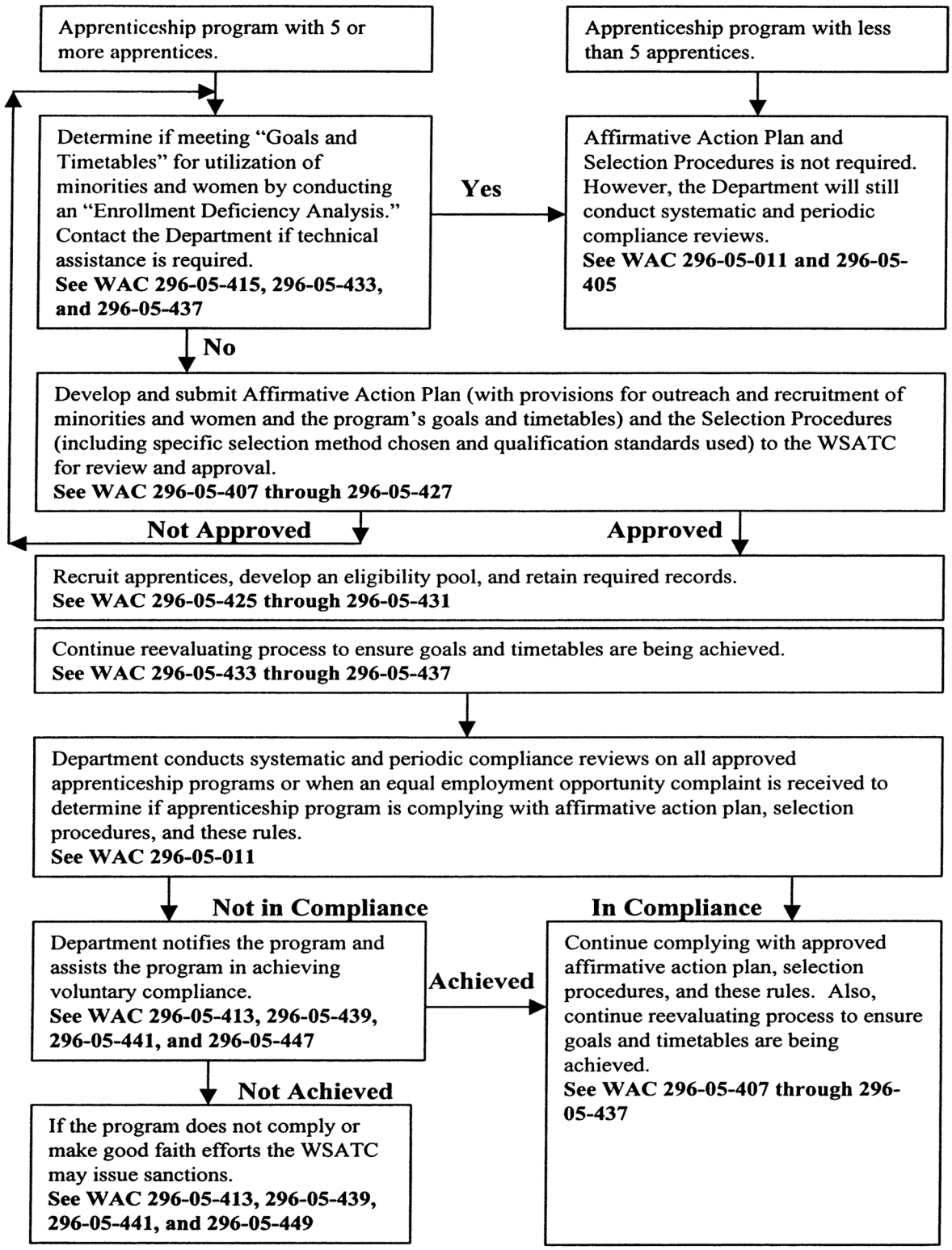
• Continue recognition or withdraw recognition of apprenticeship programs.

An equal employment opportunity program must not be used to discriminate against any qualified applicant or apprentice on the basis of race, sex, color, religion, national origin, age, disability or as otherwise specified by law.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-400, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-400, filed 10/31/01, effective 1/17/02.]

WAC 296-05-402 Equal employment opportunity process.

Equal Employment Opportunity Process



[Statutory Authority: RCW 49.04.010 and 2001 c 204 (SHB 1234). WSR 02-10-083, § 296-05-402, filed 4/29/02, effective 6/1/02. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-402, filed 10/31/01, effective 1/17/02.]

WAC 296-05-403 Definitions for Part D. The following definitions are to be used with this part.

Underutilization: Enrolling minorities and women in a ratio not proportionate to the participation of minorities and women that is representative of the geographical region served.

Women or female: As used in Part D of this chapter refers to minority women and nonminority women.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-403, filed 10/31/01, effective 1/17/02.]

WAC 296-05-405 Exceptions to the requirement for adopting an affirmative action plan and a selection procedure. (1) A sponsor is not required to adopt an affirmative action plan or a selection procedure if:

(a) It has fewer than five apprentices; or

(b) The program is determined by the WSATC to be in compliance with an approved equal employment opportunity program. An approved program is one which:

(i) Provides for selection of apprentices;

(ii) Provides for affirmative action in apprenticeship;

(iii) Includes goals and timetables for participation of minorities and women in the labor force in apprenticeship which meet or exceed the requirements of WAC 296-05-415; and

(iv) Meets the requirements of the following laws:

• Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000, et seq.);

• The regulations implementing 42 U.S.C. 2000, et seq.;

• Executive Order 11246 as amended; and

• The regulations (41 C.F.R. Part 60) implementing Executive Order 11246.

(2) A program sponsor must submit satisfactory evidence of its qualification for the exception to the WSATC. If the program sponsor designed the apprenticeship program or the equal opportunity program to circumvent the requirements of these rules, the program will not qualify for an exception.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-405, filed 10/31/01, effective 1/17/02.]

WAC 296-05-407 Apprenticeship program sponsor's obligations. (1) A sponsor of an approved apprenticeship program must:

(a) Promote equal opportunity in its apprenticeship program; and

(b) Recruit, select, employ and train apprentices without discrimination based on race, sex, color, religion, national origin, age, disability or as otherwise specified by law.

(2) A sponsor of an approved apprenticeship program with five or more apprentices must uniformly apply all rules related to apprentices. Such rules include, but are not limited to:

• Equality of wages;

• Periodic advancement;

• Promotion;

• Assignment of work;

• Job performance;

• Rotation among all work processes for the occupation;

• Imposition of penalties or other disciplinary action; and

• All other aspects of the apprenticeship program administered by the program sponsors.

(3) Adopt and implement an equal employment opportunity plan and selection procedure as required by chapter 49.04 RCW, 29 C.F.R. Part 30, and these rules unless the approved apprenticeship program qualifies for an exception (see WAC 296-05-405).

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-407, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-407, filed 10/31/01, effective 1/17/02.]

WAC 296-05-409 Affirmative action information required by WSATC. In addition to the program standards required by WAC 296-05-316, program sponsors seeking new program registration and approval by the WSATC must submit the following:

(1) The proposed affirmative action plan;

(2) The proposed selection procedures; and

(3) Any other information about the sponsor's equal employment opportunity plan required by the WSATC.

The affirmative action plan and additional information is considered in conjunction with the program standards in the WSATC's decision whether to approve or disapprove an apprenticeship program. If the WSATC disapproves the apprenticeship program, it shall direct the department to inform the sponsor in writing the reason for disapproval.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-409, filed 10/31/01, effective 1/17/02.]

WAC 296-05-411 Affirmative action plan. An approved affirmative action plan must:

(1) Be in writing.

(2) Be more than passive nondiscrimination.

(3) Include procedures, methods and programs to:

(a) Clearly identify present and potential minority and female apprentices.

(b) Establish affirmative action goals and timetables.

(c) Equalize opportunity in apprenticeship to allow full utilization of the work potential of minorities and women.

(d) Assure equal opportunity in apprenticeship for all individuals participating in or seeking entrance into Washington's labor force.

(4) Include provisions for outreach and positive recruitment to increase the participation of minorities and women in apprenticeship programs by expanding and promoting apprenticeship opportunities to minorities and women. (See WAC 296-05-413.)

Nothing in a sponsor's approved affirmative action plan may be used to discriminate against any qualified applicant or apprentice on the basis of race, sex, color, religion, national origin, age, disability or as otherwise specified by law.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-411, filed 10/31/01, effective 1/17/02.]

WAC 296-05-413 Outreach and recruitment requirements—Specific. To gain approval, an equal employment opportunity plan must include the following specific provisions for outreach and recruitment criteria:

(1) To increase minority and female participation in apprenticeship, program sponsors are expected to strengthen program outreach and recruitment efforts. The equal employment opportunity plan must specify the activities they will use to achieve this result.

(2) The program sponsor is not necessarily required to include all of the listed activities in its equal employment opportunity program. The WSATC, when approving the sponsor's equal employment opportunity plan, will determine the number of specific activities a sponsor must implement to satisfy this outreach and recruitment requirement. The WSATC will consider all circumstances including the size and type of the program and its resources. When special circumstances exist, the WSATC may provide financial or other assistance it deems necessary to implement the requirements of this section from any funds made available to it for such purpose.

(3) Examples of positive outreach and recruitment activities are:

(a) Distributing information about the nature of apprenticeship programs, program admission requirements, current apprenticeship opportunities, sources of apprenticeship applications, and the equal opportunity policy of the sponsor.

For programs only accepting applications at specific intervals, such information shall be disseminated at least thirty calendar days in advance of each application date. For programs that accept applications throughout the year, this information must be distributed at least semiannually.

To be effective, the information described in this section must be given to the WSATC, local schools, employment service offices, women's centers, outreach programs and community organizations which effectively reach minorities and women. Also it must be published in newspapers which are circulated in the minority community and among women as well as the general areas in which the program sponsor operates.

(b) Participating in workshops conducted by employment service agencies, school districts, and community based organizations to increase apprenticeship program awareness of apprenticeship opportunities.

(c) Cooperating with local school districts, vocational education systems, and school employees to develop programs for preparing students to meet the standards and criteria required to qualify for entry into apprenticeship programs.

(d) Increasing awareness of a sponsor's equal opportunity policy within the sponsor's organization. The goal of this increased awareness within the sponsor's organization is to foster understanding, acceptance, and support among the sponsor's various officers, supervisors, employees, employers, and members. This is to encourage the necessary active assistance in achieving the program's obligations required by these rules.

(e) Participating in existing outreach programs whose focus is the recruitment and preparation of minority and female apprenticeship applicants. Whenever possible, these should provide applicants with pretesting experience and training.

(f) Developing outreach programs whose focus is the recruitment and preparation of minority and female apprenticeship applicants. If apprenticeship outreach programs do not exist, the sponsor should attempt to develop them. This effort may require working with other sponsors and appropriate community organizations. It may require obtaining financial assistance from the WSATC. Also, the sponsor shall initiate programs that prepare and encourage women to enter traditionally male dominated apprenticeship programs and occupations.

(g) Encouraging the development and use of programs for apprenticeship preparation education or other work related experiences that prepare candidates for apprenticeship.

(h) Granting to all applicants, without prejudice, advance standing or credit for previously acquired experience, training, skills, or aptitude.

(i) Engaging in other activities to ensure that the recruitment, selection, employment, and training of apprentices without discrimination based upon race, color, religion, national origin, sex, age, disability or as otherwise specified by law. Some examples of these activities include:

(i) General publication of advertisements, industry reports, articles on apprenticeship opportunities and advantages.

(ii) Use minority and female apprentices and journey-level workers as recruiters.

(iii) Provide career counseling to prospective applicants.

(iv) Periodically audit equal employment opportunity programs to see if goals are being met.

(v) Develop monitoring procedures to ensure that employers are granting equal employment opportunities to apprentices (these procedures may include reporting systems, on-site reviews, or briefing sessions).

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-413, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-413, filed 10/31/01, effective 1/17/02.]

WAC 296-05-415 Equal employment opportunity goals and timetables. (1) An equal employment opportunity plan must include goals and timetables. The first step in deciding whether goals and timetables are necessary is the completion of an analysis of the sponsor's program to determine whether there is an underutilization of minorities and/or women in the occupations represented by the program. This analysis must be:

(a) Conducted by the sponsor with technical assistance provided by the department;

(b) In writing; and

(c) Included in the sponsor's equal employment opportunity plan.

(2) If the sponsor's analysis demonstrates that minorities and females are underutilized in the program, the program has an enrollment deficiency that must be corrected. Enrollment goals and timetables to correct this deficiency must be established and they must be included in the sponsor's equal employment opportunity plan. (See WAC 296-05-433.)

(3) If the sponsor's analysis demonstrates that no enrollment deficiencies exist, enrollment goals and timetables are not required. However, where no goals and timetables are established, the equal employment opportunity plan must include a detailed explanation why no goals and timetables have been established.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-415, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-415, filed 10/31/01, effective 1/17/02.]

WAC 296-05-417 Selection of apprentices for approved apprenticeship programs. In addition to development of a written equal employment opportunity plan, the sponsor must submit a written plan for the selection of apprentices. The selection plan must ensure that minorities and women have an equal opportunity to be selected as apprentices and that full utilization and equal opportunity in apprenticeship is achieved promptly. The selection procedures must use one of the methods specified in this section.

(1) A sponsor may not implement any selection method until the WSATC approves the program's equal employment opportunity plan. In the equal employment opportunity plan, the sponsor must identify the approved selection method it has adopted. The WSATC allows the following selection methods to be used:

(a) **Selection on basis of rank from pool of eligible applicants.** With this method, a sponsor selects apprentices from a pool of eligible applicants based upon a rank ordering of applicant qualifying standard scores. A sponsor adopting this method must create a pool of eligible candidates who have either reached the minimum legal working age and meet the sponsor's minimum physical requirements or who have reached the minimum legal working age and meet the sponsor's qualification standards.

(b) **Random selection from pool of eligible applicants.** A pool of eligible applicants must be created from persons who have either reached the minimum legal working age and meet the sponsor's minimum physical requirements **or** who have reached the minimum legal working age and meet the sponsor's qualification standards. With WSATC approval, a sponsor may randomly select apprentices from a pool of eligible applicants. This method must be supervised by an impartial person(s) not associated with the administration of the apprenticeship program. The time and place of the selection, and the number of apprentices to be selected, must be publicly announced before the selection takes place. The selection process must be open to all applicants and the public. The names of apprentices drawn by this method shall be posted immediately following the selection at the program sponsor's place of business.

(c) **Selection from pool of current employees.** A sponsor may select apprentices from an eligibility pool of program employees. The actual selection process may be prescribed by a collective bargaining agreement where one exists, or by the sponsor's established promotion policy.

(d) **Alternative selection methods.** In addition to the above specified methods, the WSATC allows a sponsor to select apprentices by alternative methods, including its present selection method. However, the sponsor who adopts an alternative method of selection must submit the following information to the apprenticeship supervisor:

(i) A detailed discussion of the selection method it proposes to use;

(ii) A copy of its equal employment opportunity plan;

(iii) A copy of its enrollment deficiency analysis; and

(iv) If necessary, its goals and timetables for increasing the number of minority and female applicants and apprentices in the program.

The sponsor may not implement any such alternative method until the WSATC has approved the method and the equal employment opportunity program (including its goals and timetables).

When an alternative selection method is used and the training agent selects the apprentices, the employer must sign an agreement with the WSATC, agreeing to comply with the equal employment opportunity requirements of these rules and 29 C.F.R. Part 30.

(2) Exceptions to selection procedures may be used if:

(a) An employee of an employer not qualifying as a journey-level worker becomes a training agent, he/she shall be evaluated by the apprenticeship program using constant standard nondiscriminatory means and registered at the appropriate period of apprenticeship based on previous work experience and related training.

(b) The individual who signs an authorization card during the organizing effort by an employer wherein fifty percent or more of the employees have signed whether or not the individual is approved as a training agent, an individual not qualifying as a journey-level worker shall be evaluated by the sponsor and registered at the appropriate period of apprenticeship based on previous work experience and related training.

(3) Organizing statements specified in subsection (2) of this section, that result in direct entry into the apprenticeship program, shall be properly placed within the program selection procedure as an exemption.

(4) If the WSATC or the department fails to act upon the sponsor's selection method and equal employment opportunity program within thirty calendar days of its submission to the department, the sponsor may implement the selection method until acted upon by the WSATC.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-417, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-417, filed 10/31/01, effective 1/17/02.]

WAC 296-05-419 Qualification standards. Qualification standards are the criteria, used by sponsors to select applicants into an eligibility pool. These qualification standards and the procedures used to determine the standards must be specified in detail in the sponsor's equal employment opportunity plan and must:

• Identify the specific criteria and attributes used to evaluate applicants;

• Specify the acceptable scores required for each qualification standard;

• Demonstrate a direct relationship between each qualification standard, its required score and the expected job performance;

• Establish a significant statistical relationship between the score required for admission to the pool and the applicant's performance in the apprenticeship program. This statistical relationship must be based upon the procedures discussed in 41 C.F.R. Part 60-3 (Guidelines on employee selection procedures); and

• Specify that the applicant has achieved an acceptable score on all the qualification. Unless an applicant achieves an acceptable score on all the qualification standards, the applicant will be ineligible for admission to the pool.

(1) **Aptitude test scores for use as qualification standards.** Aptitude tests may be used as qualification standards; however, any aptitude test score used as a qualification standard must be directly related to apprenticeship job performance. To demonstrate this relationship, there must be a significant statistical relationship between the aptitude test scores required for admission to the pool and performance in the apprenticeship program. In determining this relationship, the sponsor must follow the procedures discussed in 41 C.F.R. Part 60-3. These requirements also apply to any aptitude tests used by a program sponsor and administered either by a state employment agency or any person, agency or organization engaged in the selection or evaluation of personnel. If a national aptitude test is developed and administered by a national apprenticeship committee, it must meet these requirements before it will be approved by the United States Department of Labor, Employment and Training Administration, Office of Apprenticeship.

(2) **Educational achievements for use as qualification standards.** Educational achievements can be used as qualification standards; however, all such achievements used to determine admission to a program pool must be directly related to apprenticeship job performance. This direct relationship must be demonstrated by a significant statistical relationship between the achievement scores required for admission and expected performance in the apprenticeship program. In demonstrating such a statistical relationship, the sponsor must meet the requirements of 41 C.F.R. Part 60-3.

Official school records or a certified passing grade on a general educational development (GED) test recognized by state or local public instruction officials shall be evidence of educational achievement. These education achievement requirements must be uniformly applied to all applicants.

(3) **Role of the interview in the applicant selection process.** Interviews must not be used as a qualification standard for admission to an eligibility pool for programs using the selection methods described in WAC 296-05-417 (1) and (2). However, after an applicant is placed in a pool and before selections are made from that pool, an applicant can be interviewed. When interviews are conducted, they must:

(a) Consist only of objective questions relevant to the applicant's fitness for the apprenticeship program.

(b) Not include questions related to qualifications previously used to determine entrance to the pool.

(c) Require each interviewer to record the questions and the general nature of the applicant's answers.

(d) Require each interviewer to prepare a summary of any interview conclusions.

Adequate records of the interviews must be kept including a brief summary and conclusion and how the specific factors like applicant motivation, ambition, and willingness to accept direction affected the interviewer's final decision.

(4) **Examples of qualification standards include:**

• Standardized aptitude tests;

• School diplomas or the equivalent;

• Health requirements essential to the chosen occupation;

• Interviews conducted in a fair manner (see subsection (3) of this section);

• School grades; and

• Previous work experience.

In applying these standards, the sponsor must meet the requirements of 41 C.F.R. Part 60-3.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-419, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-419, filed 10/31/01, effective 1/17/02.]

WAC 296-05-427 Notification requirements. All applicants who meet the program admission requirements must be notified that they have been placed in an eligibility pool. All program sponsors must give a written notice of rejection to each applicant who is not selected for either an eligibility pool or the apprenticeship program. This rejection notice must include the reasons for rejection, the admission requirements for those admitted to the pool or program and the appeal procedures available.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-427, filed 10/31/01, effective 1/17/02.]

WAC 296-05-429 Existing lists of eligibles and public notice. (1) A sponsor who adopts a selection method under WAC 296-05-417 must conduct an enrollment deficiency analysis (see WAC 296-05-433). If, as a result of this analysis, the sponsor concludes that there are fewer minorities and/or women on its existing pools and lists than there should be, these pools and lists must be discarded.

(2) Once the existing pools and lists have been discarded, new eligibility pools must be established and lists must be posted at the sponsor's place of business. Sponsors must allow at least a two-week period for accepting applications for admission to the apprenticeship program. There must be at least thirty calendar days of public notice in advance of the earliest date for application for admission to the apprenticeship program (see WAC 296-05-411).

(3) Once an applicant has been placed in an eligibility pool, they must be retained on the eligibility lists for two years unless they request, in writing, that they be removed or unless they fail to respond to an apprentice job opportunity mailed to applicant's last known address by certified mail, return receipt requested. It is the applicant's responsibility to keep the sponsor informed of the applicant's current mailing address. A sponsor, upon receiving a written request from a former applicant whose name was removed from an eligibility list, may restore the applicant's name to the list.

(4) Applicants who have been accepted in the program must be given a reasonable time in which to report for work. A "reasonable time" will be interpreted in light of the customs and practices of the industry for reporting for work. All applicants must be treated equally in the determination and application of "a reasonable time."

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-429, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-429, filed 10/31/01, effective 1/17/02.]

WAC 296-05-431 Equal employment opportunity records of the WSATC retained by the department. The

WSATC must keep the following types of records in the apprenticeship supervisor's office:

(1) Registration requirements;

(2) Individual program standards;

(3) Registration records;

(4) Program compliance reviews and investigations;

(5) Any other records pertinent to the determination of compliance with these rules; and

(6) Any records that must be reported to the United States Department of Labor, Employment and Training Administration, Office of Apprenticeship.

The records required by these rules and any other information relevant to compliance with 29 C.F.R. Part 30 must be maintained for five years. Also, these records and related information must be made available upon request to the United States Department of Labor or other authorized representatives.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-431, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-431, filed 10/31/01, effective 1/17/02.]

WAC 296-05-433 Enrollment deficiency analysis. (1) In analyzing a program to determine whether a deficiency exists, the sponsor must consider at least the following factors:

(a) The percentage of the working age minority and female population in the program sponsor's labor market area;

(b) The percentage of the minority and female labor force in the program sponsor's labor market area;

(c) The percentage of the minority and female apprentices participating in a particular occupation compared to the percentage of minorities and women in the labor force in the program sponsor's labor market area;

(d) The percentage of minorities and women participating as journey-level employee(s) employed by the employer(s) participating in the program as compared with the percentage of minorities and women in the sponsor's labor market area and the extent to which the sponsor should be expected to correct any deficiencies through the achievement of goals and timetables for the selection of apprentices; and

(e) The general availability of minorities and women in the sponsor's labor market that have present or potential capacity for apprenticeship in the program sponsor's labor market area.

(2) To calculate the above percentage(s) or any other percentages for the analysis, the sponsor must use the following formula: Divide the number of minority individuals or females in a particular classification in the labor force or population by the total labor force or population.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-433, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-433, filed 10/31/01, effective 1/17/02.]

WAC 296-05-435 Data and information. (1) The apprenticeship supervisor must provide program sponsors with data and information on minorities and women labor force characteristics generated by the employment security department or the office of financial management. This information is available for standard metropolitan statistical areas as well as special statistical areas.

(2) The specific data used to calculate the percentages in WAC 296-05-433 must be obtained from records maintained by apprenticeship committees.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-435, filed 10/31/01, effective 1/17/02.]

WAC 296-05-437 Developing and evaluating enrollment goals and timetables. (1) Goals and timetables must be based upon the sponsor's enrollment analysis of its underutilization of minorities and women and its entire affirmative action program. Specific enrollment goals for minorities and a separate single goal for women may be acceptable unless a particular group is employed in a substantially disparate manner. In such a case, separate goals must be established for the disparate group. An example of such a situation would be where a specific minority group of women were underutilized even though the sponsor had achieved its enrollment goals for women generally. A separate, additional goal should be established to increase the enrollment of this specific group.

(2) In establishing the enrollment goals and timetables, the sponsor should establish reasonable goals that can be achieved through a good faith effort.

(3) In evaluating whether a sponsor has satisfied the affirmative action requirements of these rules, the WSATC must determine whether the sponsor has made a good faith effort to do so.

(4) The sponsor's good faith efforts shall be judged by whether the sponsor is following its affirmative action program and attempting to make it work. A specific example of a good faith effort by a sponsor would be when a sponsor conducts evaluations of its affirmative action program and makes the necessary changes to achieve success in the attainment of its goals.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-437, filed 10/31/01, effective 1/17/02.]

WAC 296-05-439 Failure to meet goals and timetables. (1) If a sponsor, despite its good faith efforts, fails to meet its goals and timetables within a reasonable period of time, the sponsor may be required to make appropriate changes in its affirmative action program in order to obtain maximum effectiveness toward the attainment of its goals.

(2) If the WSATC determines the failure of a sponsor to meet its goals and timetables is substantially a result of the enrollment selection method adopted, the sponsor may be required to develop and adopt a WSATC prescribed selection method.

(3) If a sponsor's failure to meet its goals is substantially a result of the qualification standard it used to select minorities and/or women, the sponsor may be required to show that the qualification standards directly relate to job performance. Specifically, the sponsor will be expected to demonstrate a significant statistical relationship between the qualification standards used and the required job performance. This statistical relationship must be based upon the procedures discussed in 41 C.F.R. Part 60-3 (Guidelines on employee selection procedures).

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-439, filed 10/31/01, effective 1/17/02.]

WAC 296-05-441 Noncompliance with federal and state equal opportunity requirements. When a compliance review concludes that a sponsor is not operating according to the federal or state laws or regulations requiring equal opportunity, the apprenticeship supervisor must take action. Such action must include:

(1) Notifying the sponsor in writing of the review results;

(2) Making a reasonable effort to secure voluntary compliance from the program sponsor; and

(3) Giving the sponsor a reasonable amount of time to comply with the review recommendations before undertaking sanctions under WAC 296-05-013.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-441, filed 10/31/01, effective 1/17/02.]

WAC 296-05-443 Complaint filing. (1) Any apprentice or applicant for apprenticeship who believes they have been discriminated against may file a complaint. The basis of the complaint may be:

(a) Discrimination on the basis of race, sex, color, religion, national origin, age, disability or as otherwise specified by law by a sponsor or a sponsor's program;

(b) The equal opportunity standards have not been followed; or

(c) The sponsor's equal employment opportunity plan does not comply with the requirements of this chapter.

(2) A complaint may be filed in person or through an authorized representative. The complainant may choose to file a complaint with the WSATC or with a private review panel as established in WAC 296-05-445.

(3) A complaint must be in writing and shall be signed by the complainant. The complaint must include the name, address, and telephone number of the person allegedly discriminated against, the program sponsor involved, and a brief description of the circumstances leading to the complaint.

(4) The complaint must be filed not later than one hundred eighty calendar days from the date of the alleged discrimination or violation of the sponsor's equal employment opportunity plan or the rules of this chapter. If a complaint is initially filed with the private review panel and the complainant later wishes to refer the complaint to the WSATC, the referral must occur within one hundred eighty calendar days of the circumstances leading to the complaint or within thirty calendar days of the private review panel's final decision, whichever is later. If good cause is shown, the WSATC may extend these time periods.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-443, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-443, filed 10/31/01, effective 1/17/02.]

WAC 296-05-445 Private review panels. Sponsors may establish private review panels to resolve affirmative action complaints. The WSATC encourages sponsors to establish, fair, speedy, and effective procedures for the operation of the private review panel. Private review panels should be comprised of three or more responsible persons from the community who will serve without compensation. They should not be directly associated with the administration of an apprenticeship program. If necessary, sponsors may join together to establish a private review panel.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-445, filed 10/31/01, effective 1/17/02.]

WAC 296-05-447 Processing of complaints. (1) All approved programs must establish procedures explaining the program's complaint review process. These procedures must comply with the requirements of this section. Each sponsor must give a copy of the complaint procedures to each apprenticeship applicant and to all enrolled apprentices.

(2) When the apprenticeship supervisor receives a complaint and the sponsor has a private review panel in place, the complaint must be referred to the panel unless the complainant chooses otherwise or unless the council concludes that the panel will not satisfactorily resolve the complaint.

(3) Once the complaint is referred to the private review panel, the panel has no more than thirty calendar days to resolve it. At the end of the period, the supervisor will obtain the reports from the complainant and the review body as to the disposition of the complaint. If the complaint has been satisfactorily resolved and there is no other indication of failure to apply equal opportunity standards, the case shall be closed and the parties formally notified.

(4) If the private review panel has not satisfactorily resolved the complaint within ninety calendar days, the WSATC may conduct a compliance review and take all necessary steps to resolve the complaint.

(5) If the review panel satisfactorily resolves the complaint but there is evidence that the equal opportunity practices of the sponsor's program are not in compliance with the requirements of this chapter, the council must conduct a compliance review and take all steps necessary to bring the program into compliance.

(6) When a private review panel does not exist, the WSATC may conduct a compliance review to determine the facts of the complaint and any other information necessary to resolve the dispute.

(7) If the WSATC believes that satisfactorily resolving a complaint requires a change in the time limits established in this section, it can modify the time constraints by adopting special processing procedures. However, special processing procedures must only be adopted when circumstances warrant them and only if they will not prejudice any person or party associated with the complaint.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-447, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-447, filed 10/31/01, effective 1/17/02.]

WAC 296-05-449 Program registration cancellation procedures. (1) If the WSATC decides to withdraw a program's registration, it must give written notice to the sponsor that there is reasonable cause, under WAC 296-05-013, to do so.

(2) If the sponsor requests a hearing, it must be a written request to the apprenticeship supervisor within fifteen business days of the receipt of the WSATC's withdrawal notice. When the supervisor receives the sponsor's request, a hearing must be convened. The WSATC's final decision to withdraw

a program's registration must be based on the compliance review file and other evidence presented at the hearing. The WSATC may allow the sponsor a reasonable time to achieve voluntary corrective action. If the WSATC decides that the apprenticeship program is not in compliance and that voluntary corrective action is not an option, the program's registration may be withdrawn. If the WSATC decides to withdraw the program's registration, it must make public notice of the order and give written notice to the sponsor. If the withdrawal was the result of complaint proceedings, the WSATC must give written notice of the withdrawal to the complainant as well.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-449, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-449, filed 10/31/01, effective 1/17/02.]

WAC 296-05-451 Reinstatement of program registration. Any apprenticeship program deregistered as authorized by these rules may be reinstated upon presentation of adequate evidence to the WSATC that the apprenticeship program is operating in compliance with these rules.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-451, filed 10/31/01, effective 1/17/02.]

WAC 296-05-453 Adoption of consistent state plans. All apprenticeship programs registered with the WSATC must comply with the requirements of these rules and 29 C.F.R. Part 30. If a program fails to comply or is inconsistent with the requirements of these rules and/or 29 C.F.R. Part 30, the WSATC may disapprove or deregister the program. The WSATC must notify the United States Department of Labor, Employment and Training Administration, Office of Apprenticeship of any state apprenticeship program disapproved and deregistered by it. The state apprenticeship program disapproved or deregistered by the WSATC for noncompliance with the requirements of these rules or 29 C.F.R. Part 30 may, within fifteen business days of the receipt of the notice of disapproval or deregistration, appeal to the United States Department of Labor to set aside the determination of the WSATC. The United States Department of Labor must make its determination on the basis of the record. The United States Department of Labor may grant the state program sponsor, the state apprenticeship and training, and the complainant, if any, the opportunity to present oral or written argument.

[Statutory Authority: Chapter 49.04 RCW and RCW 19.285.040. WSR 11-11-002, § 296-05-453, filed 5/4/11, effective 7/25/11. Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-453, filed 10/31/01, effective 1/17/02.]

WAC 296-05-455 Intimidatory or retaliatory acts. (1) Any intimidation, threat, coercion, or retaliation by or with the approval of a sponsor, against a person who has exercised rights or privilege under Title VII of the Civil Rights Act of 1964 as amended or the amended Executive Order 11246 is a violation of the equal opportunity standards of these rules. Such acts may be investigated by the WSATC and, if appropriate, will be prosecuted.

(2) Identity of a complainant must be kept confidential except when it is necessary to carry out the intent of these rules, for example, the need to conduct an investigation, hearing, or judicial proceeding.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-455, filed 10/31/01, effective 1/17/02.]

WAC 296-05-457 Exemptions. A sponsor may request an exemption from Part D of these rules. The request may ask exemption from all of the section or from selected ones. The request must be in writing and must be addressed to the apprenticeship supervisor. It must explain why an exemption is needed. An exemption may be granted either by the WSATC or by the secretary of the United States Department of Labor, but can only be granted for good cause. If the WSATC approves an exemption that affects a substantial number of employers, it must notify the United States Department of Labor explaining why the exemption was allowed.

[Statutory Authority: RCW 49.04.010, 2001 c 204, and chapter 49.04 RCW. WSR 01-22-055, § 296-05-457, filed 10/31/01, effective 1/17/02.]