Florida Department of Education

DIVISION OF CAREER AND ADULT EDUCATION
BUREAU OF STANDARDS, BENCHMARKS AND FRAMEWORKS
APPRENTICESHIP SECTION

In Cooperation With

OFFICE OF APPRENTICESHIP
EMPLOYMENT AND TRAINING ADMINISTRATION
UNITED STATES DEPARTMENT OF LABOR

STATE PLAN

for

EQUAL EMPLOYMENT OPPORTUNITY

in

REGISTERED APPRENTICESHIP TRAINING

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EQUAL EMPLOYMENT OPPORTUNITY IN REGISTERED APPRENTICESHIP TRAINING

1. Purpose, Applicability, Relationship to Other Laws, and Authority to Adopt State Plan

   A. *Purpose.* The purpose of this State Plan is to promote equality and equal opportunity for apprentices and applicants for apprenticeship in registered apprenticeship programs by prohibiting discrimination based on race, color, religion, national origin, sex, age (40 or older), genetic information, and disability. The State Plan also prescribes affirmative action efforts sponsors must take to ensure equal opportunity for apprentices and applicants for apprenticeship. The regulations set forth the equal opportunity obligations of sponsors, the contents of affirmative action programs, procedures for the filing and processing of complaints, and enforcement procedures. These regulations also establish procedures for deregistration of an apprenticeship program in the event of noncompliance with this State Plan and prescribe the equal opportunity requirements for recognition of State Apprenticeship Agency (SAA) as found in 29 C.F.R. Part 29.

   B. *Applicability.* This State Plan applies to all sponsors of apprenticeship programs registered with State of Florida, Department of Education.

   C. *Relationship to other laws.* This State Plan does not invalidate or limit the remedies, rights, and procedures under any Federal law or the laws of the State of Florida or political subdivision of the State of Florida or jurisdiction that provides greater or equal protection for individuals based on race, color, religion, national origin, sex, age (40 or older), genetic information, or disability than are afforded by this State Plan. It may be a defense to a charge of a violation of this State Plan that a challenged action is required or necessitated by another Federal law or regulation, or that another Federal law or regulation prohibits an action that would otherwise be required by this State Plan.

   D. *Authority to Adopt State Plan.* The authority for the implementation and adoption of these policies and procedures affecting the registration of apprenticeship programs is vested in the Chancellor of the Division of Career and Adult Education, Florida Department of Education, under authority of Sections 446.011-092, Florida Statutes, as amended, entitled Job Training, Chapter 6A-23 Florida Administrative Code (F.A.C.), entitled Apprenticeship Programs, 29 C.F.R. Part 29.13(a)(3), and other applicable statutes and regulations.

2. Definitions

   For the purposes of the State Plan:

   Administrator means the Administrator of the Office of Apprenticeship, or any person specifically designated by the Administrator.

   Apprentice means a worker at least 16 years of age who is engaged in learning an apprenticeable occupation through actual work experience under the supervision of journeyworkers, which training should be combined with properly-coordinated studies of related technical and supplementary subjects, and who has entered into a written agreement, hereafter called an apprentice agreement, with a registered apprenticeship sponsor who may be either an employer, an association of employers, or a local joint apprenticeship committee.

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

(1) 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).

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

Apprenticeship Program means a plan containing all terms and conditions for the qualification, recruitment, selection, employment and training of apprentices, as required under 29 C.F.R. parts 29 and 30, including such matters as the requirement for a written apprenticeship agreement.

Chancellor means Chancellor, Division of Career and Adult Education, Florida Department of Education.

Chief means Bureau Chief, Bureau of Standards, Benchmarks and Frameworks, Division of Career and Adult Education, Florida Department of Education.

Commissioner means the Commissioner of Education, or any person specifically designated by the Commissioner.

Department means the Florida Department of Education.

Direct threat means a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation. The determination that an individual poses a "direct threat" must be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job. This assessment must be based on a reasonable medical judgment that relies on the most current medical knowledge and/or on the best available objective evidence. In determining whether an individual would pose a direct threat, the factors to be considered include:

(1) The duration of the risk;

(2) The nature and severity of the potential harm;

(3) The likelihood that the potential harm will occur; and

(4) The imminence of the potential harm.

*Disability** means, with respect to an individual:

*The definitions for the term "disability" and other terms relevant to defining disability and disability discrimination standards, including "direct threat", "major life activities", "physical or mental impairment", "qualified applicant or apprentice", "reasonable accommodation", and "undue hardship, are taken directly from Title I of the Americans with Disabilities Act (ADA), as amended, and from the Equal Employment Opportunity Commission's regulations implementing the ADA at 29 C.F.R. Part 1630, to the extent that the ADA, as amended, did not provide a definition.

(1) A physical or mental impairment that substantially limits one or more major life activities of such individual;

(2) A record of such an impairment; or

(3) Being regarded as having such an impairment.

EEO means equal employment opportunity.

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

Employer means any person or organization employing an apprentice whether or not such person or organization is a party to an Apprenticeship Agreement with the apprentice.

Ethnicity, for purposes of recordkeeping and affirmative action, has the same meaning as under the Office of Management and Budget's Standards for the Classification of Federal Data on Race and Ethnicity, or any successor standards. Ethnicity thus refers to the following designations:

(1) Hispanic or Latino—A person of Cuban, Mexican, Puerto Rican, Cuban, South or Central American, or other Spanish culture or origin, regardless of race.

(2) Not Hispanic or Latino

Genetic information means:

(1) Information about—

(a) An individual's genetic tests;

(b) The genetic tests of that individual's family members;

(c) The manifestation of disease or disorder in family members of the individual (family medical history);

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

(e) The genetic information of a fetus carried by an individual or by a pregnant woman who is a family member of the individual and the genetic information of any embryo legally held by the individual or family member using an assisted reproductive technology.

(2) Genetic information does not include information about the sex or age of the individual, the sex or age of family members, or information about the race or ethnicity of the individual or family members that is not derived from a genetic test.*

*The definition of the term “genetic information” is taken directly from the Genetic Information Nondiscrimination Act of 2008 (GINA) at 42 U.S.C. 2000ff(4) and the EEOC's implementing regulations at 29 CFR 1635.3(c).

Journeyworker means a person working in an apprenticeable occupation who has successfully completed a registered and state-approved apprenticeship program or who has worked the number of years required by established industry practices for the occupation and, if required

for the specific industry, has passed the appropriate state-approved industry test. Use of the term may also refer to a mentor, technician, specialist, or other skilled worker who has documented sufficient skills and knowledge of an occupation through practical on-the-job experience and formal training.

Major life activities include, but are not limited to: Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working. A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

Office of Apprenticeship (OA) means the office designated by the Employment and Training Administration of the U.S. Department of Labor to administer the National Registered Apprenticeship System or its successor organization.

Physical or mental impairment means:

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

(2) Any mental or psychological disorder, such as intellectual disability (formerly termed “mental retardation”), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Preapprenticeship program means a training model designed to assist individuals who do not currently possess the minimum requirements for selection into an apprenticeship program to meet the minimum selection criteria established in a program sponsor's apprenticeship standards required under 29 C.F.R. Part 29 and which maintains at least one documented partnership with a Registered Apprenticeship program. It involves a form of structured workplace education and training in which an employer, employer group, industry association, labor union, community-based organization, or educational institution collaborates to provide formal instruction that will introduce participants to the competencies, skills, and materials used in one or more apprenticeable occupations.

Program Director means Florida Department of Education, Division of Career and Adult Education, Bureau of Standards, Benchmarks and Frameworks, Apprenticeship Section, Program Director of Apprenticeship.

Qualified applicant or apprentice is an individual who, with or without reasonable accommodation, can perform the essential functions of the apprenticeship program for which the individual applied or is enrolled.

Race, for purposes of recordkeeping and affirmative action, has the same meaning as under the Office of Management and Budget's Standards for the Classification of Federal Data on Race and Ethnicity, or any successor standards. Race thus refers to the following designations:

(1) White—A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

(2) Black or African American—A person having origins in any of the black racial groups of Africa.

(3) Native Hawaiian or Other Pacific Islander—A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

(4) Asian—A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

(5) American Indian or Alaska Native—A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.

Reasonable accommodation—

(1) The term reasonable accommodation means:

(a) Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires; or

(b) Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or

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

(2) Reasonable accommodation may include but is not limited to:

(a) Making existing facilities used by apprentices readily accessible to and usable by individuals with disabilities; and

(b) Job restructuring; part-time or modified work schedules; reassignment to a vacant position; acquisition or modifications of equipment or devices; appropriate adjustment or modifications of examinations, training materials, or policies; the provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities.

(3) To determine the appropriate reasonable accommodation, it may be necessary for the sponsor to initiate an informal, interactive process with the qualified individual in need of the accommodation. This process should identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations.

Registration Agency means the Florida Department of Education, which is the recognized State Apprenticeship Agency and has responsibility for registering apprenticeship programs

and apprentices; providing technical assistance; conducting quality assurance assessments and reviews of registered apprenticeship programs for compliance with the requirements of 29 C.F.R. Part 29 and this State Plan.

Selection procedure means any measure, combination of measures, or procedure used as a basis for any decision in apprenticeship. Selection procedures include the full range of assessment techniques from traditional paper and pencil tests, performance tests, training programs, or probationary periods and physical, educational, and work experience requirements through informal or casual interviews and unscored application forms.

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

State Apprenticeship Agency (SAA) means an agency of a State government that has responsibility and accountability for apprenticeship within the State. The Florida Department of Education is the State Apprenticeship Agency.

Undue hardship—

(1) In general. Undue hardship means, with respect to the provision of an accommodation, significant difficulty or expense incurred by a sponsor, when considered in light of the factors set forth in paragraph (2) of this definition.

(2) Factors to be considered. In determining whether an accommodation would impose an undue hardship on a sponsor, factors to be considered include:

(a) The nature and net cost of the accommodation needed under this State Plan, taking into consideration the availability of tax credits and deductions, and/or outside funding;

(b) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, and the effect on expenses and resources;

(c) The overall financial resources of the sponsor, the overall size of the registered apprenticeship program with respect to the number of apprentices, and the number, type and location of its facilities;

(d) The type of operation or operations of the sponsor, including the composition, structure and functions of the workforce of such entity, and the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the sponsor; and

(e) The impact of the accommodation upon the operation of the facility, including the impact on the ability of other apprentices to perform their duties and the impact on the facility's ability to conduct business.

3. Equal Opportunity Standards Applicable to All Sponsors

A. *Discrimination prohibited.*

(1) It is unlawful for a sponsor of a registered apprenticeship program to discriminate against an apprentice or applicant for apprenticeship on the basis of race, color,

religion, national origin, sex, age (40 or older), genetic information, or disability with regard to:

(a) Recruitment, outreach, and selection procedures;

(b) Hiring and/or placement, upgrading, periodic advancement, promotion, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(c) Rotation among work processes;

(d) Imposition of penalties or other disciplinary action;

(e) Rates of pay or any other form of compensation and changes in compensation;

(f) Conditions of work;

(g) Hours of work and hours of training provided;

(h) Job assignments;

(i) Leaves of absence, sick leave, or any other leave; and

(j) Any other benefit, term, condition, or privilege associated with apprenticeship.

(2) Discrimination standards and defenses.

(a) Race, color, religion, national origin, or sex. In implementing this section, the Registration Agency will look to the legal standards and defenses applied under Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq. as applicable, in determining whether a sponsor has engaged in a practice unlawful under paragraph (A)(1) of this section.

(b) Disability. With respect to discrimination based on a disability, the Registration Agency will apply the same standards, defenses, and exceptions to the definition of disability as those set forth in Title I of the Americans with Disabilities Act (ADA), 42 U.S.C. 12112 and 12113, as amended, and the implementing regulations promulgated by the Equal Employment Opportunity Commission (EEOC) at 29 C.F.R. Part 1630, which include, among other things, the standards governing reasonable accommodation, medical examinations and disability-related inquiries, qualification standards, and direct threat defense. The Interpretive Guidance on Title I of the ADA set out as an appendix to Part 1630 issued pursuant to Title I may be relied upon for guidance in complying with the nondiscrimination requirements of this State Plan with respect to the treatment of individuals with disabilities.

(c) Age. The Registration Agency will apply the same standards and defenses for age discrimination as those set forth in the Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 623, and the implementing regulations promulgated by the EEOC at 29 C.F.R. Part 1625.

(d) Genetic information. The Registration Agency will apply the same standards and defenses for discrimination based on genetic information as those set forth in the Genetic Information Nondiscrimination Act (GINA), 29 U.S.C. § 2000ff et seq., and the implementing regulations promulgated by the EEOC at 29 C.F.R. Part 1635.

B. *General duty to engage in affirmative action*. For each registered apprenticeship program, a sponsor is required to take affirmative steps to provide equal opportunity in apprenticeship. These steps must include:

(1) Assignment of responsibility. The sponsor will designate an individual or individuals with appropriate authority under the program, such as an apprenticeship coordinator, to be responsible and accountable for overseeing its commitment to equal opportunity in registered apprenticeship, including the development and implementation of an affirmative action program as required by part 4 of this plan. The individual(s) must have the resources, support of, and access to the sponsor leadership to ensure effective implementation. The individual(s) will be responsible for:

(a) Monitoring all registered apprenticeship activity to ensure compliance with the nondiscrimination and affirmative action obligations required by this State Plan;

(b) Maintaining records required under this State Plan; and

(c) Generating and submitting reports as may be required by the Registration Agency.

(2) Internal dissemination of equal opportunity policy. The sponsor must inform all applicants for apprenticeship, apprentices, and individuals connected with the administration or operation of the registered apprenticeship program of its commitment to equal opportunity and its affirmative action obligations. In addition, the sponsor must require that individuals connected with the administration or operation of the apprenticeship program take the necessary action to aid the sponsor in meeting its nondiscrimination and affirmative action obligations under federal law. A sponsor, at a minimum, is required to:

(a) Publish its equal opportunity pledge—set forth in paragraph (C) of this section—in the apprenticeship standards required under Rule 6A-23.004, F.A.C., and in appropriate publications, such as apprentice and employee handbooks, policy manuals, newsletters, or other documents disseminated by the sponsor or that otherwise describe the nature of the sponsorship;

(b) Post its equal opportunity pledge from paragraph (C) of this section on bulletin boards, including through electronic media, such that it is accessible to all apprentices and applicants for apprenticeship;

(c) Conduct orientation and periodic information sessions for individuals connected with the administration or operation of the apprenticeship program, including all apprentices and journeyworkers who regularly work with apprentices, to inform and remind such individuals of the sponsor's equal employment opportunity policy with regard to apprenticeship, and to provide the training required by paragraph (B)(4)(a) of this section; and

(d) Maintain records necessary to demonstrate compliance with these requirements and make them available to the Registration Agency upon request.

(3) Universal outreach and recruitment. The sponsor will implement measures to ensure that its outreach and recruitment efforts for apprentices extend to all persons

available for apprenticeship within the sponsor's relevant recruitment area without regard to race, color, religion, national origin, sex, age (40 or older), genetic information, ethnicity, or disability consistent with federal law. In furtherance of this requirement, the sponsor must:

(a) Develop and update annually a list of current recruitment sources that will generate referrals from all demographic groups within the relevant recruitment area. Examples of relevant recruitment sources include: The public workforce system's One-Stop Career Centers and local workforce investment boards; community-based organizations; community colleges; vocational, career and technical schools; pre-apprenticeship programs; and Federally-funded, youth job-training programs such as YouthBuild and Job Corps or their successors;

(b) Identify a contact person, mailing address, telephone number, and email address for each recruitment source; and

(c) Provide recruitment sources advance notice, preferably 30 days, of apprenticeship openings so that the recruitment sources can notify and refer candidates. Such notification must also include documentation of the sponsor's equal opportunity pledge specified in paragraph (C) of this section.

(4) Maintaining apprenticeship programs free from harassment, intimidation, and retaliation. The sponsor must develop and implement procedures to ensure that its apprentices are not harassed because of their race, color, religion, national origin, sex, age (40 or older), genetic information, or disability and to ensure that its apprenticeship program is free from intimidation and retaliation as prohibited by part 17 of this plan. To comply with federal anti-discrimination laws, the following steps must be taken:

(a) Providing anti-harassment training to all individuals connected with the administration or operation of the apprenticeship program, including all apprentices and journeyworkers who regularly work with apprentices. This training must not be a mere transmittal of information, but must include participation by trainees, such as attending a training session in person or completing an interactive training online. The training content must include, at a minimum, communication of the following:

(i) That harassing conduct will not be tolerated;
(ii) The definition of harassment and the types of conduct that constitute unlawful harassment on the basis of race, color, religion, national origin, sex, age (40 or older), genetic information, and disability; and
(iii) The right to file a harassment complaint under part 14 of this plan.

(b) Making all facilities and apprenticeship activities available without regard to race, color, religion, national origin, sex, age (40 or older), genetic information, or disability except that if the sponsor provides restrooms or changing facilities, the sponsor must provide separate or single-user restrooms and changing facilities to assure privacy between the sexes;

(c) Establishing and implementing procedures for handling and resolving complaints about harassment and intimidation based on race, color, religion, national origin, sex, age (40 or older), genetic information, and disability, as well as complaints

about retaliation for engaging in protected activity described in part 17 of this plan.

(5) Compliance with Federal and State equal employment opportunity laws and the U.S. Constitution. The sponsor must comply with all other applicable Federal and State laws and regulations that require equal employment opportunity without regard to race, color, religion, national origin, sex, age (40 or older), genetic information, or disability. Failure to comply with such laws if such noncompliance is related to the equal employment opportunity of apprentices and/or graduates of such an apprenticeship programs under this State Plan is grounds for deregistration or the imposition of other enforcement actions in accordance with part 15 of this plan. Registered apprenticeship programs shall ensure that all affirmative action plans comply with state and federal anti-discrimination laws and the U.S. Constitution.

C. *Equal opportunity pledge.*

(1) Each sponsor of an apprenticeship program must include in its Standards of Apprenticeship and apprenticeship opportunity announcements the following equal opportunity pledge:

[Name of sponsor] will not discriminate against apprenticeship applicants or apprentices based on race, color, religion, national origin, sex, genetic information, or because they are an individual with a disability or a person 40 years old or older. [Name of sponsor] will take affirmative action to provide equal opportunity in apprenticeship and will operate the apprenticeship program as required under Title 29 of the Code of Federal Regulations, part 30.

(2) Sponsors may not exclude any of the non-discrimination bases included in this State Plan.

D. Compliance. Sponsors must come into compliance by the effective date of this plan or upon registration, whichever is later.

4. Affirmative Action Programs

A. *Definition and purpose.* As used in this State Plan:

(1) An affirmative action program is designed to ensure equal opportunity and prevent discrimination in apprenticeship programs. An affirmative action program requires the sponsor to take affirmative steps to encourage and promote equal opportunity, to create an environment free from discrimination, and to address any barriers to equal opportunity in apprenticeship. It includes those policies, practices, and procedures, including self-analyses, that the sponsor implements to ensure that all qualified applicants and apprentices are receiving an equal opportunity for recruitment, selection, advancement, retention and every other term and privilege associated with apprenticeship.

(2) A central premise underlying affirmative action is that, absent discrimination, over time a sponsor's apprenticeship program, generally, will reflect the sex, race, ethnicity, and disability profile of the labor pools from which the sponsor recruits and selects. Consistent with this premise, affirmative action programs contain a

diagnostic component which includes quantitative analyses designed to evaluate the composition of the sponsor's apprenticeship program and compare it to the composition of the relevant labor pools. If women, individuals with disabilities, or individuals from a particular race, for example, are not being admitted into apprenticeship at a rate to be expected given their availability in the relevant labor pool, the sponsor's affirmative action program must include specific, practical steps designed to address any barriers to equal opportunity that may be contributing to this underutilization.

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

(4) An affirmative action program also ensures equal opportunity in apprenticeship by incorporating the sponsor's commitment to equality in every aspect of the apprenticeship program. Therefore, as part of its affirmative action program, a sponsor must monitor and examine its employment practices, policies and decisions and evaluate the impact such practices, policies and decisions have on the recruitment, selection and advancement of apprentices. It must evaluate the impact of its employment and personnel policies on all participants and revise such policies accordingly where such policies or practices are found to create a barrier to equal opportunity.

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

B. *Adoption of affirmative action programs*. Sponsors other than those identified in paragraph (D) of this section must develop and maintain an affirmative action program consistent with federal law, setting forth that program in a written plan. The components of the written plan, as detailed in parts 5 through 9 of this plan, must be developed in accordance with the respective compliance dates and made available to the Registration Agency any time thereafter upon request.

C. *Contents of affirmative action programs*. An affirmative action program must include the following components in addition to those required of all sponsors by part 3(A) of this plan:

(1) Utilization analysis for race, sex, and ethnicity, as described in part 5 of this plan;

(2) Establishment of utilization goals for race, sex, and ethnicity, as described in part 6 of this plan;

(3) Utilization goals for individuals with disabilities, as described in part 7 of this plan;

(4) Targeted outreach, recruitment, and retention, as described in part 8 of this plan;

(5) Review of personnel processes, as described in part 9 of this plan; and

(6) Invitations to self-identify, as described in part 11 of this plan.

D. *Exemptions—*

(1) Programs with fewer than five apprentices. A sponsor is exempt from the requirements of paragraphs (B) and (C) of this section if the sponsor's apprenticeship program has fewer than five apprentices registered, unless such program was adopted to circumvent the requirements of this section.

(2) Programs subject to approved equal employment opportunity programs. A sponsor is exempt from the requirements of paragraphs (B) and (C) of this section if the sponsor both submits to the Registration Agency satisfactory evidence that it is in compliance with an equal employment opportunity program providing for affirmative action in apprenticeship, including the use of goals for any group or groups of individuals, which has been approved as meeting the requirements of either Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000e et seq.) and agrees to extend such program to include individuals with disabilities, or if the sponsor submits to the Registration Agency satisfactory evidence that it is in compliance with an equal employment opportunity program providing for affirmative action in apprenticeship, including the use of goals for any underrepresented group or groups of individuals, which has been approved as meeting the requirements of Section 503 of the Rehabilitation Act, as amended (29 U.S.C. § 793), and their implementing regulations at title 41 of the Code of Federal Regulations, Chapter 60 provided that programs approved, modified or renewed subsequent to the effective date of this amendment will qualify for this exception only if the goals for any underrepresented group for the selection of apprentices provided for in such programs are likely to be equal to or greater than the goals required under this State Plan.

E. *Written affirmative action plans.* Sponsors required to undertake an affirmative action program must create and update a written document memorializing and discussing the contents of the program set forth in paragraph (C) of this section, and consistent with federal law.

(1) Compliance.
(a) Apprenticeship programs existing as of January 18, 2017. The initial written affirmative action plan for such programs must be updated every time the sponsor completes workforce analyses required by parts 5(B) and 7(D)(2) of this plan.
(b) Apprenticeship Programs registered after January 18, 2017. The initial written affirmative action plan for such programs must be completed within two years after the date of registration. The written affirmative action plan for such programs must be updated every time the sponsor completes workforce analyses required by parts 5(B) and 7(D)(2) of this plan.

5. Utilization Analysis for Race, Sex, and Ethnicity

A. *Purpose.* The purpose of the utilization analysis is to provide sponsors with a method for assessing whether possible barriers to apprenticeship exist for particular groups of individuals by determining whether the race, sex, and ethnicity of apprentices in a sponsor's apprenticeship program is reflective of persons available for apprenticeship by race, sex, and ethnicity in the relevant recruitment area. Where significant disparity exists between availability and representation, the sponsor will be required to establish a utilization goal pursuant to part 6 of this plan consistent with federal law and the U.S. Constitution.

B. *Analysis of apprenticeship program workforce—*

(1) Process. Sponsors must analyze the race, sex, and ethnic composition of their apprentice workforce. This is a two-step process. First, each sponsor must group all apprentices in its registered apprenticeship program by occupational title. Next, for each occupation represented, the sponsor must identify the race, sex, and ethnicity of its apprentices within that occupation. Availability analysis must be conducted in a manner that is consistent with federal law and the U.S. Constitution.

(2) Schedule of analyses. Each sponsor is required to conduct an apprenticeship program workforce analysis at each compliance review, and again if and when three years have passed without a compliance review. This updated workforce analysis should be compared to the utilization goal established at the sponsor's most recent compliance review to determine if the sponsor is underutilized, according to the process in paragraph (D) of this section.

(3) Compliance date. A sponsor must conduct its first workforce analysis, pursuant to this section, no later than the effective date of this plan or within two years after the date of registration, whichever is later.

C. *Availability analysis—*

(1) The purpose of the availability analysis is to establish a benchmark against which the demographic composition of the sponsor's apprenticeship program can be compared in order to determine whether barriers to equal opportunity may exist with regard to the sponsor's apprenticeship program. Availability analysis must be conducted in a manner that is consistent with federal law and the U.S. Constitution.

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

(3) In determining availability, the following factors must be considered for each major occupation group represented in the sponsor's registered apprenticeship program standards:

(a) The percentage of individuals who are eligible for enrollment in the apprenticeship program within the sponsor's relevant recruitment area broken down by race, sex, and ethnicity; and

(b) The percentage of the sponsor's employees who are eligible for enrollment in the apprenticeship program broken down by race, sex, and ethnicity.

(4) In determining availability, the relevant recruitment area is defined as the geographical area from which the sponsor usually seeks or reasonably could seek apprentices. The sponsor must identify the relevant recruitment area in its written affirmative action plan. The sponsor may not draw its relevant recruitment area in such a way as to have the effect of excluding individuals based on race, sex, or ethnicity from consideration, and must develop a brief rationale for selection of that recruitment area.

(5) Availability will be derived from the most current and discrete statistical information available. Examples of such information include census data, data from local job

service offices, and data from colleges or other training institutions.

(6) Sponsors, working with the Registration Agency, will conduct availability analyses at each compliance review, consistent with federal law and the U.S. Constitution.

D. *Rate of utilization.* To determine the rate of utilization, the sponsor, working with the Registration Agency, must group each occupational title in its apprenticeship workforce by major occupation group and compare the racial, sex, and ethnic representation within each major occupation group to the racial, sex, and ethnic representation available in the relevant recruitment area, as determined in paragraph (C) of this section. When the sponsor's utilization of any particular group is significantly less than would be reasonably expected given the availability of such individuals for apprenticeship, the sponsor must establish a utilization goal for the affected group in accordance with the procedures set forth in part 6 of this plan, consistent with federal law and the U.S. Constitution. Sponsors are not required or expected to establish goals where no significant disparity in utilization rates has been found.

6. Establishment of Utilization Goals for Race, Sex, and Ethnicity

A. Where, pursuant to part 5 of this plan, a sponsor is required to establish a utilization goal for a particular racial, sex, or ethnic group in a major occupation group in its apprenticeship program, the sponsor, working with the Registration Agency, must establish a percentage goal at least equal to the availability figure derived under part 5(C) of this plan for that major occupation group, consistent with federal law and the U.S. Constitution.

B. A sponsor's determination under part 5 of this plan that a utilization goal is required constitutes neither a finding nor an admission of discrimination.

C. Utilization goals serve as objectives or targets reasonably attainable by means of applying every good faith effort to make all aspects of the entire affirmative action program work. Utilization goals are used to measure the effectiveness of the sponsor's outreach, recruitment, and retention efforts.

D. In establishing utilization goals, the following principles apply:

(1) Utilization goals may not be rigid and inflexible quotas, which must be met, nor are they to be considered either a ceiling or a floor for the selection of particular groups as apprentices. Quotas are expressly forbidden.

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

(3) Utilization goals do not create set-asides for specific groups, nor are they intended to achieve proportional representation or equal results.

(4) Utilization goals may not be used to supersede eligibility requirements for apprenticeship. Affirmative action programs prescribed by the regulations of this State Plan do not require sponsors to select a person who lacks qualifications to participate in the apprenticeship program successfully, or select a less-qualified person in preference to a more qualified one.

7. Utilization Goals for Individuals with Disabilities

A. *Utilization goal.* The Administrator of OA has established a utilization goal of 7 percent for employment of qualified individuals with disabilities as apprentices for each major occupation group within which the sponsor has an apprenticeship program, consistent with federal law and the U.S. Constitution.

B. *Purpose.* The purpose of the utilization goal established in paragraph (A) of this section is to establish a benchmark against which the sponsor must measure the representation of individuals with disabilities in the sponsor's apprentice workforce by major occupation group. The goal serves as an equal opportunity objective that should be attainable by complying with all of the affirmative action requirements of this State Plan.

C. *Periodic review of goal.* The Administrator of OA will periodically review and update, as appropriate, the utilization goal established in paragraph (A) of this section.

D. *Utilization analysis—*

(1) Purpose. The utilization analysis is designed to evaluate the representation of individuals with disabilities in the sponsor's apprentice workforce grouped by major occupation group. If individuals with disabilities are represented in the sponsor's apprentice workforce in any given major occupation group at a rate less than the utilization goal, the sponsor must take specific measures outlined in paragraphs (E) and (F) of this section, consistent with federal law and the U.S. Constitution.

(2) Apprentice workforce analysis—

(a) Process. Sponsors are required to analyze the representation of individuals with disabilities within their apprentice workforce by occupation. This is a two-step process. First, as required in part 5 of this plan, each sponsor must group all apprentices in its registered apprenticeship program according to the occupational titles represented in its registered apprenticeship program. Next, for each occupation represented, the sponsor must identify the number of apprentices with disabilities, consistent with federal law and the U.S. Constitution.

(b) Schedule of evaluation. The sponsor must conduct its apprentice workforce analysis at each compliance review, and again if and when three years have passed without a compliance review. This updated workforce analysis, grouped according to major occupation group, should then be compared to the utilization goal established under paragraph (A) of this section, consistent with federal law and the U.S. Constitution.

(c) Compliance date.

(i) Sponsors currently registered with a Registration Agency: A sponsor must conduct its first workforce analysis, pursuant to this section, no later than two years after January 18, 2017.
(ii) New sponsors: A sponsor registering with the Registration Agency after January 18, 2017 must conduct its initial workforce analysis pursuant to this section no later than two years after the date of registration.

E. *Identification of problem areas.* When the sponsor, working with the Registration

Agency, determines that the percentage of individuals with disabilities in one or more major occupation groups within which a sponsor has apprentices is less than the utilization goal established in paragraph (A) of this section, the sponsor must take steps to determine whether and/or where impediments to equal opportunity exist, consistent with federal law and the U.S. Constitution. When making this determination, the sponsor must look at the results of its assessment of personnel processes required by part 9 of this plan and the effectiveness of its outreach and recruitment efforts required by part 8 of this plan, if applicable.

F. *Action-oriented programs.* The sponsor must undertake action-oriented programs, including targeted outreach, recruitment, and retention activities identified in part 8 of this plan, designed to correct any problem areas that the sponsor identified pursuant to its review of personnel processes and outreach and recruitment efforts, consistent with federal law and the U.S. Constitution.

G. *Utilization goal relation to discrimination.* A determination that the sponsor has not attained the utilization goal established in paragraph (A) of this section in one or more major occupation groups does not constitute either a finding or admission of discrimination in violation of this State Plan.

H. *Utilization goal not a quota or ceiling.* The utilization goal established in paragraph (A) of this section must not be used as a quota or ceiling that limits or restricts the employment of individuals with disabilities as apprentices.

8. Targeted Outreach, Recruitment, and Retention

A. *Minimum activities required.* Where a sponsor has found underutilization and established a utilization goal for a specific group or groups pursuant to part 6 of this plan and/or where a sponsor has determined pursuant to part 7(F) of this plan that there are problem areas resulting in impediments to equal employment opportunity, the sponsor must undertake targeted outreach, recruitment, and retention activities that are likely to generate an increase in applications for apprenticeship and improve retention of apprentices from the targeted group or groups and/or from individuals with disabilities, as appropriate, and consistent with federal law and the U.S. Constitution. In furtherance of this requirement, the sponsor must:

(1) Set forth in its written affirmative action plan the specific targeted outreach, recruitment, and retention activities it plans to take for the upcoming program year. Such activities must be consistent with federal law and the U.S. Constitution, and include, at a minimum:

(a) Dissemination of information to organizations serving the underutilized group regarding the nature of apprenticeship, requirements for selection for apprenticeship, availability of apprenticeship opportunities, and the equal opportunity pledge of the sponsor. These organizations may include: Community-based organizations; local high schools; local community colleges; local vocational, career and technical schools; and local workforce system partners including One Stop Career Centers;

(b) Advertising openings for apprenticeship opportunities by publishing advertisements in appropriate media which have wide circulation in the relevant recruitment areas;

(c) Cooperation with local school boards and vocational education systems to develop and/or establish relationships with pre-apprenticeship programs targeting students from underutilized groups (as legally permissible), to prepare them to meet the standards and criteria required to qualify for entry into apprenticeship programs; and

(d) Establishment of linkage agreements or partnerships enlisting the assistance and support of pre-apprenticeship programs, community-based organizations, advocacy organizations, or other appropriate organizations, in recruiting qualified individuals for apprenticeship;

(2) Evaluate and document after every selection cycle for registering apprentices the overall effectiveness of such activities;

(3) Refine its targeted outreach, recruitment, and retention activities as needed; and

(4) Maintain records of its targeted outreach, recruitment, and retention activities and records related to its evaluation of these activities.

(5) Annually evaluate the legal permissibility of outreach, recruitment and retention activities to ensure permitted under federal law and the U.S. Constitution.

B. *Other activities.* In addition to the activities set forth in paragraph (A) of this section, as a matter of best practice, sponsors are encouraged but not required to consider other outreach, recruitment, and retention activities that may assist sponsors in addressing any barriers to equal opportunity in apprenticeship. Such activities include but are not limited to:

(1) Enlisting the use of journeyworkers from the underutilized group or groups to assist in the implementation of the sponsor's affirmative action program;

(2) Enlisting the use of journeyworkers from the underutilized group or groups to mentor apprentices and to assist with the sponsor's targeted outreach and recruitment activities; and

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

9. Review of Personnel Processes

A. As part of its affirmative action program, the sponsor must, for each registered apprenticeship program, engage in an annual review of its personnel processes related to the administration of the apprenticeship program to ensure that the sponsor is operating an apprenticeship program free from discrimination based on race, color, religion, national origin, sex, age (40 or older), genetic information, and disability. This annual review is required regardless of whether the sponsor is underutilized as described in part 5(D) of this plan. The review must be a careful, thorough, and systematic one and include a review of all aspects of the apprenticeship program at the program, industry and occupation level, including, but not limited to, the qualifications for apprenticeship, application and selection procedures, wages, outreach and recruitment activities, advancement opportunities, promotions, work assignments, job performance, rotations

among all work processes of the occupation, disciplinary actions, handling of requests for reasonable accommodations, and the program's accessibility to individuals with disabilities (including to the use of information and communication technology). The sponsor must make any necessary modifications to its program to ensure that its obligations under this State Plan are met. The review must ensure that all personnel practices are consistent with federal law and the U.S. Constitution.

(1) Compliance date.
   (a) Current sponsors: A sponsor that has a registered apprenticeship program as of the effective date of this regulation must comply with the obligations of paragraph (A) of this section within two years of the effective date of this rule.
   (b) New sponsors: A sponsor registering with a Registration Agency after the effective date of this regulation shall comply with the obligations of paragraph (A) of this section within two years after the date of registration.

B. The sponsor must include a description of its review in its written affirmative action plan and identify, in the written plan, any modifications made or to be made to the program as a result of its review, consistent with federal law and the U.S. Constitution.

10. Selection of Apprentices

A. A sponsor's procedures for selection of apprentices must be included in the written plan for Standards of Apprenticeship submitted to and approved by the Registration Agency, as required under Rule 6A-23.004, F.A.C.

B. Sponsors may utilize any method or combination of methods for selection of apprentices, provided that the selection method(s) used meets the following requirements:

(1) The use of the selection procedure(s) must comply with the Uniform Guidelines on Employee Selection Procedures (UGESP) (41 C.F.R. Part 60-3), including the requirements to evaluate the impact of the selection procedure on race, sex, and ethnic groups (Hispanic or Latino/non-Hispanic or Latino) and to demonstrate job-relatedness and business necessity for those procedures that result in adverse impact in accordance with the requirements of UGESP, consistent with federal law and the U.S. Constitution.

(2) The selection procedure(s) must be uniformly and consistently applied to all applicants and apprentices within each selection procedure utilized.

(3) The selection procedure(s) must comply with Title I of the ADA and EEOC's implementing regulations at Part 1630. This procedure(s) must not screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, on the basis of disability, unless the standard, test or other selection criteria, as used by the program sponsor, is shown to be job-related for the position in question and is consistent with business necessity.

(4) The selection procedure(s) must be facially neutral in terms of race, color, religion, national origin, sex, age (40 or older), genetic information, and disability.

11. Invitation to Self-Identify as an Individual with a Disability

A. *Pre-offer.*

(1) A sponsor adopting an affirmative action program pursuant to part 4 of this plan must invite applicants for apprenticeship to inform the sponsor whether the applicant believes that that he or she is an individual with a disability as defined in part 2 of this plan, consistent with federal law and the U.S. Constitution. This invitation must be provided to each applicant when the applicant applies or is considered for apprenticeship. The invitation may be included with the application materials for apprenticeship, but must be separate from the application.

(2) The sponsor must invite an applicant to self-identify as required in paragraph (A) of this section using the language and manner prescribed by the Administrator and published on the OA Web site.

B. *Post offer.*

(1) At any time after acceptance into the apprenticeship program, but before the applicant begins his or her apprenticeship, the sponsor must invite the applicant to inform the sponsor whether the applicant believes that he or she is an individual with a disability as defined in part 2 of this plan.

(2) The sponsor must invite an applicant to self-identify as required in paragraph (B) of this section using the language and manner prescribed by the Administrator and published on the OA Web site.

C. *Apprentices.*

(1) Within the timeframe specified in paragraph (H) below, the sponsor must make a one-time invitation to each current apprentice to inform the sponsor whether he or she is an individual with a disability as defined in part 2 of this plan. The sponsor must make this invitation using the language and manner prescribed by the Administrator and published on the OA Web site.

(2) Thereafter, the sponsor must remind apprentices yearly that they may voluntarily update their disability status.

D. *Voluntary self-identification for apprentices*. The sponsor may not compel or coerce an individual to self-identify as an individual with a disability.

E. *Confidentiality.* The sponsor must keep all information on self-identification confidential, and must maintain it in a data analysis file (rather than the medical files of individual apprentices) as required under part 12(E) of this plan. The sponsor must provide self-identification information to the Registration Agency upon request. Self-identification information may be used only in accordance with this State Plan.

F. *Affirmative action obligations.* Nothing in this section may relieve the sponsor of its obligation to take affirmative action with respect to those applicants and apprentices of whose disability the sponsor has knowledge, consistent with federal law and the U.S. Constitution.

G. *Nondiscrimination obligations.* Nothing in this section may relieve the sponsor from liability for discrimination in violation of this State Plan.

H. *Compliance dates.*

(1) Sponsors currently registered with a Registration Agency: A sponsor must begin

inviting applicants and apprentices to identify as individuals with disabilities pursuant to this section, no later than two years after January 18, 2017. A sponsor must also invite each of its current apprentices to voluntarily inform the sponsor whether the apprentices believes that he or she is an individual with a disability, as defined in part 2 of this plan, no later than two years after January 18, 2017.

(2) New sponsors: A sponsor registering with a Registration Agency after the effective date of this Final Rule must begin inviting applicants and apprentices to identify as individuals with disabilities, pursuant to this section, no later than two years after the date of registration. A sponsor covered by this subparagraph must also invite each of its current apprentices to voluntarily inform the sponsor whether the apprentices believes that he or she is an individual with a disability, as defined in part 2 of this plan, no later than two years after the date of registration.

12. Recordkeeping

A. *General obligation.* Each sponsor must collect such data and maintain such records as the Registration Agency finds necessary to determine whether the sponsor has complied or is complying with the requirements of this State Plan. Such records must include, but are not limited to records relating to:

(1) Selection for apprenticeship, including applications, tests and test results, interview notes, bases for selection or rejection, and any other records required to be maintained under UGESP;

(2) The invitation to self-identify as an individual with a disability;

(3) Information relative to the operation of the apprenticeship program, including but not limited to job assignments in all components of the occupation as required under rule 6A-23.004 F.A.C., promotion, demotion, transfer, layoff, termination, rates of pay, other forms of compensation, conditions of work, hours of work, hours of training provided, and any other personnel records relevant to EEO complaints filed with the Registration Agency under part 14 of this plan or with other enforcement agencies;

(4) Compliance with the requirements of part 3 of this plan;

(5) Requests for reasonable accommodation; and

(6) Any other records pertinent to a determination of compliance with these regulations, as may be required by the Registration Agency.

B. *Sponsor identification of record.* For any record the sponsor maintains pursuant to this State Plan, the sponsor must be able to identify the race, sex, ethnicity (Hispanic or Latino/non-Hispanic or Latino), and when known, disability status of each apprentice, and where possible, the race, sex, ethnicity, and disability status of each applicant to apprenticeship and supply this information upon request to the Registration Agency.

C. *Affirmative action programs.* Each sponsor required under part 4 of this plan to develop and maintain an affirmative action program must retain both the written affirmative action plan and documentation of its component elements set forth in parts 5, 6, 7, 8, 9, and 11 of this plan. These activities must be conducted consistent with federal law and the U.S. Constitution.

D. *Maintenance of records.* The records required by this State Plan and any other information relevant to compliance with these regulations must be maintained for 5 years from the date of the making of the record or the personnel action involved, whichever occurs later, and must be made available upon request to the Registration Agency or other authorized representative in such form as the Registration Agency may determine is necessary to enable it to ascertain whether the sponsor has complied or is complying with this State Plan. Failure to preserve complete and accurate records as required by paragraphs (A), (B), and (C) of this section constitutes noncompliance with this State Plan.

E. *Confidentiality and use of medical information.*

(1) Any information obtained pursuant to this State Plan regarding the medical condition or history of an applicant or apprentice must be collected and maintained on separate forms and in separate medical files and treated as a confidential medical record, except that:

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

(b) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(c) Government officials engaged in enforcing this State Plan, the laws administered by OFCCP, or the ADA, must be provided relevant information on request.

(2) Information obtained under this State Plan regarding the medical condition or history of any applicant or apprentice may not be used for any purpose inconsistent with this State Plan.

F. *Access to records.* Each sponsor must permit access during normal business hours to its places of business for the purpose of conducting on-site EEO compliance reviews and complaint investigations and inspecting and copying such books, accounts, and records, including electronic records, and any other material the Registration Agency deems relevant to the matter under investigation and pertinent to compliance with this State Plan. The sponsor must also provide the Registration Agency access to these materials, including electronic records, off-site for purposes of conducting EEO compliance reviews and complaint investigations. Upon request, the sponsor must provide the Registration Agency information about all format(s), including specific electronic formats, in which its records and other information are available. Information obtained in this manner will be used only in connection with the administration of this State Plan or other applicable EEO laws.

13. Equal Employment Opportunity Compliance Reviews

A. *Conduct of compliance reviews.* The Registration Agency will regularly conduct EEO compliance reviews, consistent with federal law and the U.S. Constitution, to determine if the sponsor maintains compliance with this State Plan, and will also conduct EEO compliance reviews when circumstances so warrant. An EEO compliance review may consist of, but is not limited to, comprehensive analyses and evaluations of each aspect of the apprenticeship program through off-site reviews, such as desk audits of records submitted to the Registration Agency, and on-site reviews conducted at the sponsor's

establishment that may involve examination of records required under this State Plan; inspection and copying of documents related to recordkeeping requirements of this State Plan; and interviews with employees, apprentices, journeyworkers, supervisors, managers, and hiring officials.

B. *Notification of compliance review findings.* Within 45 business days of completing an EEO compliance review, the Registration Agency must present a written Notice of Compliance Review Findings to the sponsor's contact person through registered or certified mail, with return receipt requested. If the compliance review indicates a failure to comply with this State Plan, the registration agency will so inform the sponsor in the Notice and will set forth in the Notice the following:

(1) The deficiency(ies) identified;

(2) How to remedy the deficiency(ies);

(3) The timeframe within which the deficiency(ies) must be corrected; and

(4) Enforcement actions may be undertaken if compliance is not achieved within the required timeframe.

C. *Compliance.*

(1) When a sponsor receives a Notice of Compliance Review Findings that indicates a failure to comply with this State Plan, the sponsor must, within 30 business days of notification, either implement a compliance action plan and notify the Registration Agency of that plan or submit a written rebuttal to the Findings. Sponsors may also seek to extend this deadline one time by up to 30 days for good cause shown. If the Registration Agency upholds the Notice after receiving a written response, the sponsor must implement a compliance action plan within 30 days of receiving the notice from the Registration Agency upholding its Findings. The compliance action plan must include, but is not limited to, the following provisions:

(a) A specific commitment, in writing, to correct or remediate identified deficiency(ies) and area(s) of noncompliance;

(b) The precise actions to be taken for each deficiency identified;

(c) The time period within which the cited deficiency(ies) will be remedied and any corrective program changes implemented; and

(d) The name of the individual(s) responsible for correcting each deficiency identified.

(2) Upon the Registration Agency's approval of the compliance action plan, the sponsor may be considered in compliance with this State Plan provided that the compliance action plan is implemented.

D. *Enforcement actions.* Any sponsor that fails to implement its compliance action plan within the specified timeframes may be subject to an enforcement action under part 15 of this plan.

14. Complaints

A. *Requirements for individuals filing complaints—*

(1) Who may file. Any individual who believes that he or she has been or is being discriminated against on the basis of race, color, religion, national origin, sex, age (40 or older), genetic information, or disability with regard to apprenticeship, or who believes he or she has been retaliated against as described in part 17 of this plan, may, personally or through an authorized representative, file a written complaint with the Registration Agency with whom the apprenticeship program is registered.

(2) Time period for filing a complaint. Generally, a complaint must be filed within 300 days of the alleged discrimination or specified failure to follow the equal opportunity standards. However, for good cause shown, the Registration Agency may extend the filing time. The time period for filing is for the administrative convenience of the Registration Agency and does not create a defense for the respondent.

(3) Contents of the complaint. Each complaint must be made in writing and must contain the following information:

(a) The complainant's name, address and telephone number, or other means for contacting the complainant;

(b) The identity of the respondent (the individual or entity that the complainant alleges is responsible for the discrimination);

(c) A short description of the events that the complainant believes were discriminatory, including but not limited to when the events took place, what occurred, and why complainant believes the actions were discriminatory (for example, because of his or her race, color, religion, sex, national origin, age (40 or older), genetic information, or disability).

(d) The complainant's signature or the signature of the complainant's authorized representative.

B. *Requirements of sponsors.* Sponsors must provide written notice to all applicants for apprenticeship and all apprentices of their right to file a discrimination complaint and the procedures for doing so. The notice must include the address, phone number, and other contact information for the Registration Agency that will receive and investigate complaints filed under this State Plan. The notice must be provided in the application for apprenticeship and must also be displayed in a prominent, publicly available location where all apprentices will see the notice. The notice must contain the following specific wording:

Your Right to Equal Opportunity

It is against the law for a sponsor of an apprenticeship program registered for Federal purposes to discriminate against an apprenticeship applicant or apprentice based on race, color, religion, national origin, sex, age (40 years or older), genetic information, or disability. The sponsor must ensure equal opportunity with regard to all terms, conditions, and privileges associated with apprenticeship. If you think that you have been subjected to discrimination, you may file a complaint within 300 days from the date of the alleged discrimination or failure to follow the equal opportunity standards with [INSERT NAME OF REGISTRATION AGENCY, ADDRESS, PHONE NUMBER, EMAIL ADDRESS, AND CONTACT NAME OF INDIVIDUAL AT THE REGISTRATION AGENCY WHO IS RESPONSIBLE FOR RECEIVING COMPLAINTS]. You may also be able to file complaints directly with the EEOC, or State fair employment practices

agency. If those offices have jurisdiction over the sponsor/employer, their contact information is listed below. [INSERT CONTACT INFORMATION FOR EEOC AS PROVIDED ON "EEO IS THE LAW POSTER," AND CONTACT INFORMATION FOR STATE FEPA AS PROVIDED ON STATE FEPA POSTER, AS APPLICABLE]

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

(1) Complainant's name, address and telephone number, or other means for contacting the complainant;

(2) The identity of the respondent (i.e. the name, address, and telephone number of the individual or entity that the complainant alleges is responsible for the discrimination);

(3) A short description of the events that the complainant believes were discriminatory, including but not limited to when the events took place, what occurred, and why the complainant believes the actions were discriminatory (for example, because of his/her race, color, religion, sex, national origin, age (40 or older), genetic information, or disability);

(4) The complainant's signature or the signature of the complainant's authorized representative.

C. *Requirements of the Registration Agency—*

(1) Conduct investigations. The investigation of a complaint filed under this State Plan will be undertaken by the Registration Agency, and will proceed as expeditiously as possible. In conducting complaint investigations, the Registration Agency must:

(a) Provide written notice to the complainant acknowledging receipt of the complaint;

(b) Contact the complainant, if the complaint form is incomplete, to obtain full information necessary to initiate an investigation;

(c) Initiate an investigation upon receiving a complete complaint;

(d) Complete a thorough investigation of the allegations of the complaint and develop a complete case record that must contain, but is not limited to, the name, address, and telephone number of each person interviewed, the interview statements, copies, transcripts, or summaries (where appropriate) of pertinent documents, and a narrative report of the investigation with references to exhibits and other evidence which relate to the alleged violations; and

(e) Provide written notification of the Registration Agency's findings to both the respondent and the complainant.

(2) Seek compliance. Where a report of findings from a complaint investigation indicates a violation of the nondiscrimination requirements of this State Plan, the Registration Agency should attempt to resolve the matter quickly at the Registration Agency level whenever appropriate. Where a complaint of discrimination cannot be resolved at the Registration Agency level to the satisfaction of the complainant, the Registration Agency must refer the complaint to other Federal, State or local EEO agencies, as appropriate.

(3) Referrals to other EEO agencies. The Registration Agency, at its discretion, may choose to refer a complaint immediately upon its receipt or any time thereafter to:

(a) The EEOC;

(b) The United States Attorney General;

(c) The U.S. Department of Labor's OFCCP;

(d) For an SAA, to its Fair Employment Practices Agency; or
(e) The U.S. Department of Education's Office for Civil Rights.

(4) Alternative complaint procedures. An SAA may adopt a complaint review procedure differing in detail from that given in this section provided it is submitted for review to and receives approval by the Administrator.

15. Enforcement Actions

Where the Registration Agency, as a result of a compliance review, complaint investigation, or other reason, determines that the sponsor is not operating its apprenticeship program in accordance with this State Plan, the Registration Agency must notify the sponsor in writing of the specific violation(s) identified and may:

A. Offer the sponsor technical assistance to promote compliance with this State Plan.

B. Suspend the sponsor's right to register new apprentices if the sponsor fails to implement a compliance action plan to correct the specific violation(s) identified within 30 business days from the date the sponsor is so notified of the violation(s), or, if the sponsor submits a written response to the findings of noncompliance, fails to implement a compliance action plan within 30 days of receiving the Registration Agency's notice upholding its initial noncompliance findings. If the sponsor has not implemented a compliance action plan within 30 business days of notification of suspension, the Registration Agency may institute proceedings to deregister the program in accordance with the deregistration proceedings set forth in Rule 6A-23.006, F.A.C., or if the Registration Agency does not institute such proceedings within 45 days of the start of the suspension, the suspension is lifted.

C. Take any other action authorized by federal or state law or the U.S. Constitution. These other actions may include, but are not limited to:

(1) Referral to the EEOC;

(2) Referral to an appropriate State fair employment practice agency; or

(3) Referral to the U.S. Department of Labor's OFCCP.

16. Reinstatement of Program Registration

A. An apprenticeship program that has been deregistered pursuant to this State Plan may be reinstated by the Registration Agency upon presentation of adequate evidence that the apprenticeship program is operating in accordance with this State Plan.

17. Intimidation and Retaliation Prohibited

A. A participant in an apprenticeship program may not be intimidated, threatened, coerced,

retaliated against, or discriminated against because the individual has:

(1) Filed a complaint alleging a violation of this State Plan;

(2) Opposed a practice prohibited by the provisions of this State Plan or any other Federal or State equal opportunity law;

(3) Furnished information to, or assisted or participated in any manner, in any investigation, compliance review, proceeding, or hearing under this State Plan or any Federal or State equal opportunity law; or

(4) Otherwise exercised any rights and privileges under the provisions of this State Plan.

B. Any sponsor that permits such intimidation or retaliation in its apprenticeship program, including by participating employers, and fails to take appropriate steps to prevent such activity will be subject to enforcement action under part 15 of this plan.

18. Exemptions

Requests for exemption from these regulations, or any part thereof, must be made in writing to the Registration Agency and must contain a statement of reasons supporting the request. Exemptions may be granted for good cause by the Registration Agency. State Apprenticeship Agencies must receive approval to grant an exemption from the Administrator, prior to granting an exemption from these regulations.

STATE PLAN

EQUAL EMPLOYMENT OPPORTUNITY

IN

REGISTERED APPRENTICESHIP TRAINING

This amended "Equal Employment Opportunity in Registered Apprenticeship Training State Plan" for Florida shall become effective 180 days after receiving the approval of the Office of Apprenticeship of the U.S. Department of Labor.

-For-

FLORIDA DEPARTMENT OF EDUCATION

_____

Manny Diaz, Jr.
Commissioner

_____

Kimberly Richey
Senior Chancellor

_____

Kevin O'Farrell, Ph.D.
Chancellor
Division of Career and Adult Education

_____

Kathryn Wheeler
Program Director of Apprenticeship
Division of Career and Adult Education