



March 18, 2024

U.S. Department of Labor
200 Constitution Ave NW
Washington, DC 20210

Re: National Apprenticeship System Enhancements
Docket ID – ETA – 2023-0004; RIN 1205 – AC13

1250 Connecticut Ave., NW
Suite 200
Washington DC, 20036

☎ 202.223.8991
nationalskillscoalition.org

Introduction

As the Department of Labor (DOL) reviews comments on its proposed rule for enhancements to the National Apprenticeship System, the National Skills Coalition (NSC) thanks DOL for its consideration of the following comments. NSC is a broad-based coalition of business leaders, labor affiliates, education and training providers, community-based organizations, and public workforce agencies advocating for policies that invest in the skills of U.S. workers. NSC relies on the voices of its network to inform our comments and work to support inclusive, high-quality skills training so that more people have access to a better life, and more local businesses see sustained growth. It is through that lens that we highlight areas NSC believes are positive aspects of the notice of proposed rulemaking (NPRM), as well as areas that we request consideration for reform.

Since the passage of the Fitzgerald Act in 1937, the Department has been tasked with guiding apprenticeship sponsors through the process of registering integrated education and training programs, ensuring access to registered apprenticeship for workers, promoting quality, and safeguarding the welfare of apprentices. Over the decades, registered apprenticeship has expanded and modernized as an industry-driven structured earn-and-learn model that provides workers with affordable pathways to good jobs with family sustaining wages.

We've seen new investments and growth in registered apprenticeship since the Department last issued regulations on standards of apprenticeship 29 CFR part 29 in 2008. Over the past several years, Congress and the Administration have significantly increased the federal investment in registered apprenticeship. There has also been growth in the number of active apprentices as well as the creation of registered apprenticeship programs in new sectors and occupations.

While construction programs still serve the majority of active apprentices, new programs have also emerged in fields like IT, manufacturing, and education. The Department and Office of Apprenticeship (OA) have also modernized the way in which we assess some of these programs, such as the development of frameworks around competency-based learning and assessments. The Department has also led significant efforts around expanding access to apprenticeships for women, people of color and people with disabilities - those who have been often underrepresented. This lens toward equity has been an important development and NSC is pleased to see this role for OA potentially formalized in the proposed rule.

Also significant are recent federal investments in infrastructure through the Infrastructure Investment and Jobs Act (IIJA), the Inflation Reduction Act (IRA) and the CHIPS and Science Act that created new jobs and generated an increased need for skilled workers. These investments can allow cultivation of a strong, diverse, and multigenerational workforce and apprenticeship is a key part of those efforts. We need workers who are capable of driving the development and maintenance of our nation's new infrastructure, as well as those who can build careers in clean energy and manufacturing. Combined the investment in IIJA, IRA, and the CHIPS Act are expected to generate, in total, an average of 2.9 million jobs per year and 19 million job-years over the time span of these laws.ⁱ Approximately two in three jobs directly created by these three investments are expected to occur in the construction and manufacturing sectors, representing 453,000 jobs and 230,000 jobs annually, respectively.ⁱⁱ

One recent calculation found that there are approximately 16.6 million infrastructure workers in the industry.ⁱⁱⁱ However, this number is not sufficient to meet the existing demand for infrastructure projects and is contributing to labor shortages that hinder the progress of much-needed projects. Over the next decade, it is expected that each year on average 1.7 million infrastructure workers will leave their jobs or retire, which exacerbates the existing shortage and creates additional challenges for the industry.^{iv} To meet the upcoming job growth and address the current workforce shortage, it is essential to train new workers and equip them with the necessary skills to handle the increased demand for infrastructure projects. Avoiding past failures of underinvestment and inadequate training is tantamount, as investing significantly in workforce development and training will be key to overcoming the challenges in the infrastructure sector and meeting future demands successfully.

NSC highlights ways to modernize and reform our workforce system in its publications, [Creating an Equitable, Resilient Workforce System: New Ideas for WIOA](#) and [Building the Future Workforce](#). Expanding access to skills training programs, including quality apprenticeship and pre-apprenticeship programs, will enable individuals to acquire the expertise required for these sustainable career paths, as well as others. It will also enable broader participation in the labor market, thereby fostering a more inclusive and skilled workforce.

NSC believes that jobs that require skills training are the backbone of our economy. We build networks representing businesses, workers, colleges, community organizations, public officials, and advocates. We engage these networks to help inform critical policy proposals and reforms, including individuals designing, sponsoring, and implementing high quality registered apprenticeship, youth apprenticeship, and pre-apprenticeship programs. NSC relies on the voice of its network – individuals who are engaging a diverse range of workers in education and training on a daily basis – to inform its policy work. Those voices are the basis of our comments responding to this NPRM.

In regard to the NPRM, NSC believes there are both strengths and weaknesses within the proposal. We greatly appreciate the work that went into this effort and recognize the challenges in developing comprehensive regulatory reforms. NSC appreciates efforts to elevate equity and access within the proposed rule. This includes, outlining an explicit role for OA in efforts around diversity, equity, inclusion, and access, as well as requirements to have sponsors identify ways they are helping to recruit and support individuals who have typically been underrepresented in apprenticeship. NSC also appreciates the NPRM's attempt to provide more transparency in certain areas and modernize the national apprenticeship system. The NPRM is also thoughtful in terms of calling for additional data collection, attempting to provide greater reciprocity in approving registered apprenticeship programs across states and regions, and greater alignment with WIOA and related definitions.

NSC also has several overarching concerns with the NPRM. In terms of timing, while NSC believes the Department's justification for seeking a regulatory overhaul is reasonable, it runs afoul with Congressional efforts to reauthorize the National Apprenticeship Act. Conceptually, reauthorization is a

preferential pathway to address reforms needed to the National Apprenticeship System. In addition to providing more stability by having updated statutory language, reauthorization also has fewer limitations. For example, regulations cannot address the authorization of new funding streams to support and incentivize quality registered apprenticeship, pre-apprenticeship, and youth apprenticeship programs.

Reauthorization also has a greater ability to support innovation in this space. While NSC supports strong standards of apprenticeship, this proposal is rather narrow in its approach to expanding quality pre-apprenticeship and youth apprenticeship. The rollback on competency-based assessment of on-the-job training also appears disjointed with much of the work the Department and other agencies have done to support this type of innovation over the past several years.

Additionally, while we appreciate the Department's intent to add additional protections for apprentices via new information and disclosure requirements, NSC believes this must be done with an eye toward not adding undue complexity to the system. Both existing and new requirements of sponsors should be weighed in terms of obligation on the part of sponsors and how such information will functionally be used by the Department. It is important to recognize that registered apprenticeship is not compulsory and certain provisions included in the NPRM may be particularly challenging for small businesses. If it is the goal of the Department to meaningfully expand registered apprenticeships and the number of individuals that have access to quality apprenticeships, then the Department must also meaningfully evaluate barriers for sponsors and potential sponsors.

NSC appreciates the Department's time and commitment in developing this proposed rule and believes that its goals to strengthen, expand, modernize, and diversify the national apprenticeship system are commendable. We are providing further comments below that are structured chronologically by part, section, and subsection. NSC once again thanks the Department for its consideration of our comments.

Part 1 – Standards of Apprenticeship

Section 29.2—Definitions

NSC appreciates the addition of the term 'supportive services' into the regulatory definitions, as well as further integration of existing definitions that exist in the Workforce Innovation and Opportunity Act. While adding a definition does not create a mandate to provide supportive services, it does highlight it as a tenant of strong apprenticeships programs. While we recognize that many employers will not be able to offer supportive services and not all apprentices are in need of such services, it can be an important component of supporting equitable access. In particular, transportation and childcare remain significant barriers for individuals seeking employment and training. This is especially true in rural areas, and among women, some of whom exited the workforce during the pandemic and have not returned. If we want to engage more people who often faced challenges in accessing quality employment and training then it is often necessary to offer these supports.

NSC has concerns regarding the Department's approach to pre-apprenticeship within the NPRM. While we appreciate the Department's acknowledgment of pre-apprenticeship within the NPRM's definitions, NSC believes the proposed rule could provide further support for pre-apprenticeship, including further participation from OA and State Apprenticeship Agencies in recognition of pre-apprenticeship and the creation of standards that promote quality, flexibility, and linkages to registered apprenticeship. While pre-apprenticeship differs from registered apprenticeship in that it generally does not have a paid on-the-job training component, it represents an important pathway for many seeking these types of training opportunities. Pre-apprenticeship programs serve women and people of color at disproportionately high levels, opening doors for people who have often been excluded from opportunities in apprenticeable occupations.

The Department asserts within the NPRM that “instead of designing a model of registering pre-apprenticeships, the Department believes registered apprenticeship program sponsors would be best positioned to determine the quality of pre-apprenticeship programs.” NSC believes that the Department should have a role in identifying and supporting quality pre-apprenticeship programs. This type of quality evaluation is occurring in many states as they look for ways to assess both non-degree programs and credentials. NSC has worked with many states on [developing quality frameworks](#) for non-degree credentials. Many pre-apprenticeship programs receive federal funding through the Workforce Innovation and Opportunity Act or other federal avenues. Hence, it is a reasonable claim that the federal government should have some role in assessing quality and supporting access.

Additionally, while connecting pre-apprenticeship to registered apprenticeship opportunities is an important and fundamental goal of pre-apprenticeship, it is not the sole purpose of those programs. The Department seems to acknowledge this in the NPRM highlighting that pre-apprenticeship is an important access point for people who are not yet prepared to enter an apprenticeship program, and that tools such as supportive services and other forms of learning are necessary for success. Any framework to assess the quality of pre-apprenticeship should consider factors beyond just a linkage to registered apprenticeship programs. Moreover, OA is essentially putting registered apprenticeship sponsors - who have at times elevated barriers to entry for women and people of color – in charge of assessing quality. Given the importance of pre-apprenticeship as an entry point for underrepresented populations, NSC calls on the Department to go beyond implementing a simple definition and take meaningful steps via the regulatory process to ensure access to and support for quality pre-apprenticeship programs.

Section 29.3—Office of Apprenticeship

NSC appreciates the inclusion of proposed § 29.3(f) which establishes an administrative role for the OA in promoting diversity, equity, inclusion, and accessibility (DEIA) in apprenticeship, as well as supporting access from individuals in underserved communities. While these activities are already occurring in some ways within the OA under the current administration, NSC appreciates the necessity of this being an official role of the OA. Too often women and people of color have faced systematic barriers in accessing education and training opportunities, including apprenticeship. It will take strong leadership from OA, the State Apprenticeship Agencies, as well as apprenticeship sponsors to provide greater access to more workers and families.

Section 29.8 – Standards of Apprenticeship

The ‘Standards of Apprenticeship’ section within the NPRM includes a number of new proposals that while well-intentioned may heighten compliance costs and curb innovation in the non-traditional apprenticeship space. We urge the Department to provide careful consideration regarding the goals of these provisions and potential unintended consequences.

NSC has some concerns with the elimination of the competency-based and hybrid approaches in terms of assessing on-the-job training thresholds. While we appreciate the desire to eliminate bad actors, we believe this could perhaps be achieved with a more surgical approach allowing for some innovation in terms of evaluating on-the-job training. NSC agrees with the Department’s assertion that not every occupation is suitable for apprenticeship, and generally 2,000 hours is an appropriate minimum in more traditional occupations. However, the Department has made efforts over the past several years to expand registered apprenticeship to less traditional fields and foster new avenues. While construction still represented around 65 percent of all registered apprenticeship programs, we’ve seen successful competency-based models in manufacturing, transportation, health care, and hospitality. Rolling back pathways for competency-based and hybrid models seems incongruent with the Department’s work

(including supporting the development of some of these frameworks) to bolster innovation and expand apprenticeship in new occupations.

Additionally, we appreciate some areas in proposed § 29.8 that provide greater insight and transparency regarding registered apprenticeship programs. Specifically, we support further disclosure and identification of interim credentials earned by apprentices as part of a program, as well as any articulation of credit with an institution of higher education. These data are important for better understanding outcomes of registered apprenticeship programs, and we hope this can be done in a way that does not require a significant amount of paperwork and compliance burden for sponsors. Many states have advanced work on defining and implementing quality definitions for non-degree credentials (see NSC's publication [The Nondegree Credential Quality Imperative](#)) and additional data and information help in these efforts. NSC also supports providing apprentices with transparent information about costs that they may bear as a result of participation in a registered apprenticeship program.

While conceptually, NSC supports the idea that we must ensure that registered apprenticeship instructors and related instructional method are high quality, we would like to better understand how the Department plans to utilize the information it gleans as a result of the new reporting requirements under proposed § 29.8(a)(5) and (7). The compliance burden of some of the provisions in section 29.8 appears quite significant. Hence it is important to assess the necessity of this information and how it will be utilized by the Department. NSC's concern is that if the cost of compliance is too great then employers may opt to not offer registered apprenticeship programs.

Section 29.9—Apprenticeship Agreements

In addition to the disclosure of program related costs that must be covered by apprentices, NSC appreciates the inclusion of any supportive services that may be available to apprentices. It is certainly not a requirement that sponsors provide such benefits, however that are often essential in addressing systematic barriers that some people face in entering quality training programs.

Section 29.10—Program Registration

NSC commends the Department's commitment to including DEIA within the program registration process and throughout the NPRM. While we recognize that developing a plan for equitable recruitment and retention may require additional work for program sponsors, we believe it is an important addition to the regulations. We must ensure that workers who have been held back by structural barriers of discrimination or lack of opportunity, are empowered to equitably participate in and benefit from federal investments in registered apprenticeship. NSC believes that a thoughtful approach to DEIA is beneficial to not only workers, but to businesses and the economy as a whole. As the Department noted in its publication 'Scaling Diversity, Equity, Inclusion and Accessibility (DEIA) in Registered Apprenticeship' approximately 70 percent of all workers are either women or from underserved communities.^v It order to support a strong and inclusive economy we need to intentionally open the door to millions of workers who want to train for a new career – particularly workers of color, and women.

NSC has concerns with proposed § 29.10(a)(5) requiring disclosure on financial capacity of a prospective program sponsor. While we understand the intent is to protect apprentices from situations where an employer may not be able to live up to their promises and obligations, the requirement of providing financial documentation is problematic. First, it is unclear what standards the Department is looking for and what disclosures may be required. Providing a full accounting of a business to the federal government would be a deterrent to many businesses in participating in registered apprenticeship. Additionally, this may inadvertently impact small and minority-owned businesses who comparatively may not have as much 'financial capacity' on paper compared to large businesses. We request that the Department revisit this proposal.

Section 29.12—Qualifications of Apprentice Trainers and Providers of Related Instruction

While NSC appreciates the intent behind proposed § 29.12, the ability of the sponsor to meaningfully demonstrate the criteria described in subsections (a)(1) – (5) appears difficult to achieve in the manner described. In practice, finding qualified journeyworkers to act as instructors is already a challenge for many registered apprenticeship programs. Adding additional reporting and investigation into some of these areas of qualification may make that task significantly more difficult. It would also likely create a barrier for hiring first-time instructors. We ask the Department to revisit this proposal, including an assessment of how such information may be used by the Department.

Section 29.16 – End-Point Assessment

NSC has some concerns with the mandatory requirement of an end-point assessment per proposed § 29.16. For registered apprenticeship programs associated with licensure the assessment of competencies and classroom learning is determined by the entity conferring such licenses. This mandate could potentially conflict with the governance of those programs. Additionally, this type of assessment could incentivize creaming, or selectively choosing apprentices that sponsors deem most likely to succeed. The NPRM also does not substantively address what happens to apprentices that do not pass an end-point assessment. NSC is concerned that this would potentially create an artificial barrier to employment for certain individuals who may have spent a year or more in a training program, demonstrate the ability to be successful in an occupation, yet fail to pass a final exam. NSC requests that the Department reconsider this proposal while reflecting upon potential conflicts and equity concerns.

Part 2: Career and Technical Education Apprenticeships

NSC has overarching concerns with the newly proposed CTE Apprenticeship program. While we appreciate the intent of the Department to further engage young people in apprenticeship, the CTE Apprenticeship proposal appears to be rigid in composition and not supportive of successful work that is already happening in states and regions around youth apprenticeship and pre-apprenticeship. NSC also believes it does not fully align with existing CTE programs and may face challenges with employer engagement. We request that the Department reevaluate this proposal with consideration of input from the youth apprenticeship and CTE communities if it wishes to move forward.

While NSC recognizes the constraints of utilizing regulations to align various workforce programs, the NPRM misses the mark in its attempt to create greater pathways between CTE and registered apprenticeship. There are fundamental differences between CTE and apprenticeship that make this proposed alignment difficult to achieve. Apprenticeship programs are occupationally specific while CTE programs are intended to prepare learners for a broader array of career opportunities. CTE programs are also comparatively more flexible and incorporate components beyond work-based learning so that participants have options for a range of outcomes. While there are similarities between CTE and apprenticeship programs, they do not overlap in the ways that this proposal appears to require.

Part 3: Administration and Coordination of the National Apprenticeship System

Collection of Data and Quality Metrics Concerning Apprenticeship

NSC appreciates the Department's proposal to enhance data collection on individual apprentices, including tracking progress and outcomes. Public data and accountability are key to supporting an inclusive economy. Disparities and inequities in skills training programs can only be eliminated if there is high-quality information on program outcomes available to practitioners and policymakers to assess and address equity gaps. In this vein, NSC greatly appreciates the Department's prioritization of data disaggregation in the NPRM.

We appreciate the NPRM's priority on data as well as the ability to have State Apprenticeship Agencies utilize either Registered Apprenticeship Partners Information Database System (RAPIDS) or a State Longitudinal Data System (SLDS) in reporting individual apprentice record level information to OA. NSC recommends that the NPRM is clearer in its reference to utilizing SLDS for data reporting, since the reference in proposed § 29.28 is not fully explicit as written. NSC also recommends that the Department prioritize use of an SLDS when possible, given that this is a secure and effective way to report data. Additionally, leveraging SLDS in this way will help facilitate data matching between apprenticeship programs and the wider education and workforce data systems in their state.

NSC appreciates the Department's request for comments in 2023 regarding ways to improve the utility of confidential UC information (Docket No. ETA-2023-0002 and Regulatory Identification Number 1205-AC11). As part of that request for information, NSC, the Data Quality Campaign, and other organizations [recommended](#) that existing unemployment compensation regulations be amended to expand the information collected by states to include employment status and Standard Occupational Classification (SOC) codes, including supplementary information related to an individual's job title. NSC believes that this NPRM also provides an opportunity to encourage states, on a voluntary basis, to collect this kind of wage record information.

The final rule should call for the Department to annually publish data collected as part of this rulemaking process. Making education and skills development more effective and responsive to the needs of both learners and the employers can only be successful if it is sustained by a strong data ecosystem that gathers and publicizes data on labor market needs, earnings, program availability, and program quality, among other critical criteria, so that people can make informed decisions. NSC recommends the Department clarify and support transparency by making public the data collected under this rule in a manner that is easy for workers, employers, and the wider public to understand. We encourage the Department to make such data and information common, linked, open, and interoperable to the greatest extent possible wherever applicable.

NSC believes that by incorporating the recommendations above will ensure that the data that is generated and reported through the National Apprenticeship System will have greater value for students, workers, employers, states, workforce development boards, and other important stakeholders.

Conclusion

NSC appreciates the department's work on the NPRM and commends its dedication to strengthening the national apprenticeship system. Thank you for the opportunity to provide input on this topic. Please contact Jennifer Stiddard (jennifers@nationalskillscoalition.org) if you have any questions.

ⁱ <https://nationalskillscoalition.org/resource/publications/data-infrastructure-investments/>

ⁱⁱ Ibid.

ⁱⁱⁱ Joseph W. Kane, "Seizing the U.S. infrastructure opportunity: Investing in current and future workers," Brookings (report), December 2022, <https://www.brookings.edu/essay/infrastructure-workforce/>. Note that this number reflects slightly different parameters for who is considered an infrastructure worker than other such calculations. However, the overall finding – that the size of the current infrastructure workforce is insufficient to meet the demands of new legislation -- is robust across all such calculations.

^{iv} "Employment impacts of new U.S. clean energy, manufacturing, and infrastructure laws," Political Economy Research Institute (PERI), August 2023.

^v https://www.apprenticeship.gov/sites/default/files/DOL_DEIAFactsheet_v2.pdf