NEW YORK STATE APPRENTICESHIP TRAINING
Labor Law Article 23
Regulations

PART 600

EQUAL EMPLOYMENT OPPORTUNITY IN APPRENTICESHIP TRAINING

Section 600.4(a)(4) of the regulations of the Commissioner of Labor is amended as follows:

4. Not require any applicant to pay [Maintain at its current (or reduced) level]any application, processing, or other similar fee[approved by the agency and consider the reduction or elimination of such fees] unless approved by the Department. In order to receive Department approval, such fees must:

i. Be shown through documentation to not exceed actual costs;

ii. Include a well publicized procedure for waiving the fee for applicants who are in financial need; and

iii. Not exceed $25.00 per applicant.

PART 601
REGISTRATION OF APPRENTICESHIP PROGRAMS AND AGREEMENTS
(Statutory authority: Labor Law, art.23; § 811.1[j])

Sec.	
601.1	Purpose of Part
601.2	Application of Part
601.3	Definitions
601.4	Eligibility and [p]Procedure for [r]Registration
601.5	Standards for [a]Apprenticeship [p]Programs
601.6	[Standards for a]Apprenticeship [a]Agreements
601.7	Approaches to Skill Attainment & Training
601.8	Program Probation, Monitoring, Re-Certification & Performance
601.[7]9	Voluntary and [f]Formal [d]Deregistration of [r]Registered [p]Programs
601.[8]10	Effects[Reinstatement] of [p]Program Deregistration on Program Participants
601.[9]11	Hearings

601.[10]12 Limitations
601.[11]13 Complaints
601.[12]14 Records and [r]Reports
601.15 Reciprocity
601.[13]16 Consultation with Apprenticeship Counsel
601.17 Severability
601.[14]18 Effective [d]Date

Sections 601.1 through 601.2 of the regulations of the Commissioner of Labor are amended as follows:

§ 601.1 Purpose of Part.

This Part establishes procedures and standards for the approval and registration of [a]Apprenticeship [p]Programs and agreements in furtherance of the public policy of this State as enunciated in section 810 of the Labor Law to develop sound [a]Apprenticeship training standards and to encourage industry and labor to institute training programs. This Part is intended to [i]ensure that [a]Apprenticeship [training p]Programs developed and registered in accordance with [the] public policy are of the highest possible quality in all aspects of on-the-job training, [and]related and supplemental instruction, and [that all apprentice training programs]in providing[e] meaningful employment and relevant training for all [a]Apprentices.

§ 601.2 Application of Part.

This Part shall apply to [a]Apprenticeship [training p]Programs and agreements covered by [a]Article 23 of the Labor Law, including programs and agreements relating to public work projects as defined by Federal and State labor laws, and to privately financed activities.

Sections 601.3 (a), (b), (c), and (e) are repealed with new text added as subsections (a), (b) and (c) as follows:

§ 601.3 Definitions.

As used in this Part:

(a) *Active Program* means a registered program that has:

(1) Passed [p]Probation;
(2) Met the standards for employment and training of Apprentices; and

(3) Not been granted Inactive status.

(b) *Apprentice* means a person who is at least 16 years of age who has entered into a written agreement with a Sponsor to provide for his or her participation in an approved Program of training through employment and related and supplemental instruction.

(c) *Apprentice Probation* means the number of months following the execution of an Apprenticeship Agreement when such Agreement may be cancelled by either party, upon written notice to the Department, without any adverse impact on the Sponsor's Completion Rate. Said period shall be twenty-five percent (25%) of the time set in the Apprentice Training Program Registration Agreement (Program Registration Agreement) for the length of the Program, or one (1) year, whichever is shorter. Program length for purposes of determining the Apprentice Probation period in Competency-Based and Hybrid Programs shall be that which a Time-Based Program in the same trade would require.

The repealed text of subsection (c) is amended and added as section 601.3 (e); subsections (d) and (e) are amended as follows:

(d) *Apprenticeable [o]Occupation* means [is] a skilled trade which possesses all of the following characteristics:

(1) [i]Is customarily learned in a practical way through training and work on the job;

(2) [i]Is, in the judgment of the [c] Commissioner, clearly identified and commonly recognized throughout an industry;

(3) [i]Is, in the judgment of the [c]Commissioner, not a part of an occupation previously recognized as [a]Apprenticeable, unless such part is practiced industry-wide as an identifiable and distinct trade;

(4) Requires significant on-the-job training to learn and master.

(a) In a Program using a Time-Based Approach, involves the progressive attainment of manual, mechanical or technical skills and knowledge which [ordinarily]would require[s] a minimum of 4,000 hours of work and on-the-job training.[, which] Such hours may include, at the Commissioner's discretion, the time spent at related and supplemental instruction, except that [at the discretion of the commissioner,] a trade may require a minimum of 2,000 hours if the [c]Commissioner finds, after reviewing written substantiation of the Sponsor and the recommendation of the Apprenticeship Council, that the particular trade can be learned within such time.

(b) In a Program using a Competency-Based or Hybrid Approach, in order for a trade to be considered Apprenticeable, it must be a trade which, if learning were conducted in the traditional Time-Based Approach, would require at least 2,000 hours of on-the-job training;

(5) [r]Requires related and supplemental instruction to supplement the on-the-job training, provided [which instruction shall be given] in accordance with section 812 of the Labor Law; and

(6) [i]Involves the development of skill sufficiently broad to be applicable in like occupations throughout an industry, rather than of restricted application to the products of any one company.

(e) *Apprenticeship Agreement* means a written agreement between an [a]Apprentice and the Sponsor of a registered Apprenticeship Program which contains the terms and conditions of the employment and training of the Apprentice.

(f) *Apprenticeship Council* means the State Apprenticeship and Training Council established pursuant to section 813 of the Labor Law.

The repealed text from section 601.3(b) is amended and added as new text as subsection (g) and amended as follows:

(g) *Apprenticeship Program (or "Program")* means a training program subscribed to by a Sponsor which implements an organized, written plan [conducted or sponsored by the State Department of Correctional Services or other New York State agency, an employer, a single employer and a union, a group of employers, or a Joint Apprenticeship Committee (JAC) representing both employers and a union or unions, and]which contains all terms and conditions for the qualification, recruitment, selection, employment and training of Apprentices in an Apprenticeable Occupation, including such matters as the requirement for a written [a]Apprenticeship Agreement. The following types of programs are eligible and recognized by the Department:

(1) Individual Non-Joint Programs consisting of a single employer without the participation of a union representing employees (irrespective of whether the employees are union represented), in which the employer acts as Sponsor;

(2) Group Non-Joint Programs consisting of a group or association of employers without the participation of a union representing employees, in which the group or association of employers acts as Sponsor, and where the Sponsor and its Signatories are bound by a Department approved agreement signed, collectively or individually, by the Sponsor and all the Signatories;

(3) Individual Joint Programs consisting of a single employer and a union representing employees in accordance with a collective bargaining agreement which provides for participation in an approved Apprenticeship Program;

(4) Group Joint Programs consisting of a group or association of employers and a union representing employees in accordance with a collective bargaining agreement which provides for participation in an approved Program, in which a Joint Apprenticeship Committee (JAC) acts as the Sponsor. JAC means a group composed of an equal number of representatives of the employer and union who are parties to a bona fide collective bargaining agreement and created for the purpose of Sponsoring an Apprenticeship Program(s);

(5) The New York State Department of Correctional Services may sponsor Programs for inmates confined to the custody of the Department of Correctional Services

pursuant to section 803-b of the Correction Law without the participation of an employer or union.

A new Section 601.3(h) of the regulations of the Commissioner of Labor is added as follows:

(h) *Approach* means the method used by each individual Program to determine the means by which Apprentices progress through the Program. There are three permissible Approaches: the Time-Based, the Competency-Based, and the Hybrid Approach.

The repealed text from section 601.3(a) is amended and added as section 601.3(i):

(i) *Commissioner* means the Commissioner of Labor of the State of New York.

Sections 601.3(j), (k), and (l) are added as follows:

(j) *Competency* means the attainment of manual, mechanical, or technical skills and knowledge, as specified by the training outline and demonstrated by appropriate, nationally and industry recognized, written and hands-on proficiency measurements. All testing and evaluation of the identified competencies shall occur in a controlled learning environment that permits accurate and verifiable results and shall be conducted by an competent, independent, third-party provider approved by the department such as, but not limited to, trade associations, community colleges, and industry recognized experts.

(k) Completion Rate means the percentage of Apprentices registered to each Program who receive their Certificate of Apprenticeship Completion within one year of the projected completion date.

(l) *Department* means the Department of Labor of the State of New York.

The repealed text from sections 601.3(g) and (e) are amended and added as Sections 601.3(m) and (w). Subsections (n),(o),(p),(q),(r),(s), (t), (u), (v), (x), (y), (z) and (aa) are added as follows:

(m) *Electronic [m]Media* means any medi[a]um of communication that utilizes electronics or

electromechanical energy for the end user (audience) to access the content; and includes, but [are]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.

(n) *Inactive Program* means a registered Program that has not had an Apprentice for a period of more than one (1) year, which has submitted a request in writing and received approval from the Department to maintain its registration for an additional period of time.

(o) *Journeyworker* means a worker who has mastered the skills, abilities and competencies recognized within a given trade as essential to the trade, and is qualified to supervise and train Apprentices.

(p) *Probation* means provisional approval by the Department of an Apprenticeship Program for a two-year period following its initial registration.

(q) *Projected Completion Date* means a date computed by adding the Program duration (stated in months) to an Apprentice's start date (commonly known as the "date of indenture").

(r) *Re-certification* means the designation granted to a registered Program by the Department following its review at or about the time that the Program completes its first training cycle following Program registration, and at least every five years thereafter, to ensure its compliance with Apprenticeship training standards set forth in Parts 600 and 601 of this Title.

(s) *Reciprocal Approval* means recognition of a Program registered with another state registration agency or the federal Office of Apprenticeship. For Sponsors in the construction industry, such recognition is limited to working Apprentices on projects that are funded, at least in part, with federal money.

(t) *Reinstatement of a Program* means the registration of an Apprenticeship Program after it has been Deregistered. Programs requesting Reinstatement shall file a new

application for registration and meet all the requirements of this Part, including Probation.

(u) *Reinstatement of an Apprentice* means the re-registration of an Apprentice in a new Program, or back into his/her original Program, after having exited a prior Program. Reinstated Apprentices shall receive appropriate credit for prior training received under this Part.

(v) *Signatory* (Signatories) means a person, employer, association, organization, or company executing a written agreement with a Program Sponsor, or with an association which is itself a Signatory to a Sponsor, and who has agreed to be bound by the terms, standards and conditions of the Program.

(w) *Sponsor* means an employer, a single employer and a union, a group of employers, the New York State Department of Correctional Services, or a Joint Apprenticeship Committee (JAC) representing both employers and a union or unions, which has the ability to train Apprentices, and which is recognized as such by the Commissioner through the registration of a Program.

(x) *State* shall mean the State of New York.

(y) *Substantially Owned-Affiliated Entity* means:

(1) The parent company of an employer;

(2) Any subsidiary of the employer; or

(3) Any entity in which the parent of the employer owns more than fifty percent of the voting stock; or

(4) An entity in which one or more of the top five shareholders of the employer individually or collectively also owns a controlling share of the voting stock; or

(5) An entity which exhibits any other indicia of control over the employer or over which the employer exhibits control, regardless of whether or not the controlling party or parties have any identifiable or documented ownership interest. Such indicia shall include, power or responsibility over employment decisions, access to and/or use of the relevant entity’s assets or equipment, power or responsibility over contracts of the entity, and

influence over the business decisions of the relevant entity.

(z) *Transfer* means the re-assignment of an Apprentice from one employer to another within the same registered Program, or from one Program to another within the same trade.

Sections 601.4(a) and (b) of the regulations of the Commissioner of Labor are amended and re-ordered as follows. Section 601.4(a)(2) is repealed:

§ 601.4 Eligibility and [p]Procedure for [r]Registration

(a) No [a] Apprenticeship [p] Program [or agreement] shall be eligible for registration by the [c]Commissioner unless the [c]Commissioner finds that:

(1) [i] It complies[is in conformity] with the requirements of this Part[, including section 601.5(g)(1) of this Part];

(2) [i]It complies [is in conformity] with the requirements of the [c]Commissioner's regulation on "Equal Employment Opportunity in Apprenticeship Training" set forth in Part 600.4 of this Title;

(3) [t]The [s]Sponsor has agreed to register all [a]Apprentices in its[his] employ, or, in the case of Group Programs, all Signatories[a Joint Apprenticeship Committee, the participating employers] have agreed to register all of the [a]Apprentices in their employ; [and]

(4) [t]The [s]Sponsor does not require any applicant to pay an application, processing, or other similar fee unless approved by the Department pursuant to Part 600.4 of this Title; and [to be paid by any applicant.]

(5) The Sponsor has a permanent facility located in New York State, which serves as a base of operations for the Program, and where it maintains a plant, office or other facility containing:

(i) Employment records, maintained in the ordinary course of the employer's business, documenting work performed by the

employer's Journeyworkers on job sites within the State of New York;

(ii) Office equipment that demonstrates an ongoing administrative operation; and

(iii) The equipment necessary to fully train Apprentices for the duration of the training Program in accordance with the approved work processes for the trade.

(b) Program Application Requirements:

(1) Applications for registration of Programs shall be submitted for approval on forms prescribed by the Department, shall contain the Sponsor's agreement to comply with the standards for Programs as provided in section 601.5 of this Part, and shall include the Sponsor's certification as to the accuracy and completeness of all information supplied in connection with the application. Every Sponsor shall submit a completed *Program Registration Agreement* and *Sponsor Information Sheet*. Applications for the registration of all group Programs (joint and non-joint) shall:

(i) Identify all current Signatories to the Program by submitting a current list of Program Signatories' names, addresses, Federal Employer Identification Numbers, or New York State Unemployment Insurance Employer Numbers in an electronic format as specified by the Department; and

(ii) Provide written assurances to the Department that the Sponsor will hold all Signatories to the standards of their *Program Registration Agreement*.

(2) All applications will be reviewed by the Department to determine the Sponsor's compliance with State and federal laws and regulations, provision for equal opportunity in employment and ability to employ, train and instruct Apprentices.

(c) Processing of Applications

(1) Violations of State and federal laws or regulations may be grounds for denial of the application.

(2) Applications shall be rejected if information required on the Sponsor Information Sheet, or required disclosures related thereto, is found to be inaccurate or incomplete, or if the applicant is not of good character and responsibility.

(i) Applications rejected for failing to disclose information required on the Sponsor Information Sheet may be resubmitted within sixty (60) days of the date of denial.

(ii) Rejected applications which are not resubmitted within sixty (60) days, or which upon resubmission the Sponsor Information Sheet, or required disclosures related thereto, is found to be inaccurate or incomplete, may not be resubmitted, nor may the applicant submit a new application, for a period of one year.

(iii) Failing to provide full, accurate, and complete information in an application shall be taken into account in evaluating future Program applications.

(3) The Department will conduct a review of the Applicant's history of liens and judgments to determine if the applicant has shown the type of fiscal responsibility necessary to continue the Program through to graduation.

(4) Applicants for all Group Programs (Joint and Non-Joint) shall make signed copies of their union collective bargaining agreements or Group/Association membership agreements (Agreements) available to the Department for review, upon request. Such Agreements shall include language that makes the provisions included on the *Program Registration Agreement* applicable to their Signatories, either in the terms of the Agreement itself, or in an ancillary agreement that is approved by the Department. If the applicant does not have written Agreements or approved ancillary agreements with its members, it may submit signed copies of the Department's *Ancillary Group-Sponsor Signatory Agreement*.

(5) Applicants whose applications are denied shall receive written notification and the grounds for the denial.

(6) A denial of an application for registration of a Program may be appealed by filing a written request to the Commissioner within thirty (30) days of notification of the denial, stating the reasons why the application should have been granted.

(7[b]) The Commissioner may refuse to accept an [Program proposed]application for registration if, in his/her judgment, the Program, the Sponsors, or any of its signatories are unable to conduct the Program in accordance with this Part, the Equal Employment Opportunity regulations (Part 600 of this Title) or Article 23 of the Labor Law.

Sections 601.4(c); 601.4(d) and 601.4(h) are repealed.

Sections 601.4 (e),(f)(g),and (i) of the regulations of the Commissioner of Labor are re-ordered and amended as follows:

(d[e]) Approved [a] Apprenticeship Programs shall be accorded registration, evidenced by a [notification of registration] fully executed *Program Registration Agreement*.

(e[f]) Any modification or change in the essential elements of a [registered p]Program[s] as indicated in Part 601.5(c)(15) of this Title shall be [promptly] submitted [by program sponsors] to the Commissioner, [and, if] acknowledged or approved[,] by the Commissioner within ninety (90) days of receipt, and [shall be] recorded as an amendment to [such program] the *Program Registration Agreement* upon approval.

(f[g]) Under a [p]Program proposed for registration by an employer or employers' association, which is a party to a collective bargaining agreement:

(1) [w]Where employees are represented by a union and the standards, collective bargaining agreement, or other instrument describing the relationship between the parties provides for participation by [a]the union in the Program,

the employer or employers association shall furnish the union with a copy of its application for registration of the Program. The participating union shall provide written acknowledgment of its concurrence by signing the Program Registration Agreement in order for the Department to process the application [any manner in the operation of the substantive matters of the apprenticeship program, written acknowledgment by the union of the union agreement or "no objection" by the union to the registration is required].

(2) Where employees are represented by a union but [no such] union participation is not sought in establishing the Program, the employer or employers' association shall simultaneously furnish [to] the union with [local, if any, which is the collective bargaining agent of the employees to be trained,] a copy of its application for registration [and] of the [apprenticeship p]Program when it submits its application to the Department. [In addition, upon receipt of the application and apprenticeship program, the commissioner shall promptly send by certified mail to such union local another copy of the application and of the apprenticeship program, together with a notice that u] Union comments will be accepted for a period of [30]forty-five (45) days [after] from the date [of] that the [agency] employer or employers' association transmitted the application to the Department [transmittal]. The union may waive its right to submit comments, but must do so in writing.

(g)[(i)]A written public comment period is required for all new Apprenticeship program applications, applications seeking Reciprocal Approval, proposed new trades[and], [new apprenticeship program applications] training outlines (i.e. the combined work process and related instruction outline) for new Approaches to existing trades, and certain training outline updates. Such updates shall include, but not be limited to, changes to the duration of the Program, or the addition or elimination of job skills or Related and Supplemental instruction topics that are essential to the integrity of the trade.

(1) A list of all such [proposed]new trades, Approaches, training outlines, and [new apprenticeship program]applications will be posted on the Department's website for a minimum period of thirty (30) calendar days. The posting shall include the U.[nited]S.[tates] postal and e-mail addresses to which comments may be submitted and the

last date by which any public comment must be received [for each application or proposed trade].

(2) All comments [must]shall be submitted in writing and [must]shall include: the name, title, and organization name, if applicable, of the party submitting the comment(s). Comments may be submitted via mail or e-mail.

(3) Comments received will not be individually acknowledged, but will be reviewed in connection with the [considered as part of the Department's review of the application or proposed trade] issue in question.

(4) Written comments received will be posted on the Department's website at the end of the time period provided, with appropriate redactions to protect privacy and decorum.

(5) Nothing in this section shall be construed as creating an entitlement on the part of the party submitting public comment to further participation in the deliberation or determination regarding the application [for apprenticeship program or], trade, or training outline at issue, except as deemed appropriate by the Department.

A new Section, 601.4(h) is added to the regulations of the Commissioner of Labor, as follows:

(h) Apprentices submitted for registration after Program approval shall be recruited using the approved recruitment method. Programs not registering their first Apprentice within six (6) months of Program approval shall be deemed Deregistered.

Repealed section 601.5(i) of the regulations of the Commissioner of Labor is amended and moved to new section 601.5(c)(4)(iv); sections 601.5(a), (b) and (c) of the regulations of the Commissioner of Labor are amended as follows:

§ 601.5 Standards for [a]Apprenticeship [p]Programs.

No [a]Apprenticeship [training p]Program shall be registered or recertified unless the [c]Commissioner determines that the [p]Program meets all [of]the following standards [prescribed for an apprenticeship program]:

(a) The [p]Program [must] shall be conducted under an organized, written plan embodying the terms and conditions of employment, training, and supervision of one or more [a]Apprentices in an [a]Apprenticeable [o]Occupation, as defined in this Part, and subscribed to by a [s]Sponsor who has undertaken to carry out the [apprentice training p] Program.

(b) The [p]Program documents [must] shall contain the equal opportunity pledge prescribed in section[Part] 600.4 of this [t]Title and, in [p]Programs having five (5) or more registered [a] Apprentices:

(1) [a]An affirmative action plan in accordance with [such]section[Part] 600.5, and

(2) [a]A selection method authorized in [such] section[Part] 600.6.

(c) The [p]Program plan[must] shall incorporate the following standards and[contain] provisions[describing the following]:

(1) [t]The employment and training of the [a]Apprentice in a skilled trade, and the required minimum qualifications for persons entering the Program, including an eligible starting age of not less than sixteen years, except where a higher minimum age standard is fixed by law;

(2) [t]The term of [a]Apprenticeship, and the Approach to be utilized pursuant to section 601.7 of this Part[in a trade shall be not less than two years or 4,000 hours, consistent with training requirements established by industry practice as determined by the commissioner, except that, at the discretion of the commissioner, the term of apprenticeship in a trade may be established as not less than one year or 2,000 hours if the commissioner finds after review of written substantiation of the sponsor and the recommendation of the Apprenticeship Council that the particular trade may be learned within such time];

(3) [t]The work processes in which the [a]Apprentice will receive supervised work experience and training on the job, and the allocation of the approximate time to be spent in each major process;

(4) A [the organized] comprehensive plan for the related and supplemental instruction in technical subjects related to the trade which will be provided to each [a]Apprentice, as required by [s]Section 812 of the Labor Law, with prescribed minimum periods of instruction as determined by the State Education Department, but not less than 144 hours per year;

(i) The designation of related and supplemental instruction providers, and the medium for providing such instruction, shall be identified for the entire period of the Apprentice's Program;

(ii) All [R]related and supplemental [I]instruction providers, and the medium for providing the instruction, [must] shall be identified on a form designated by the Department [AT-8] and approved by the State Department of Education or its Designated Local Education Agency as provided for in 8 NYCRR Part 160.

(iii) Any modifications or changes to the provider of related and supplemental instruction must be submitted within thirty (30) days for approval.

(iv) Medium for providing related instruction: Related and supplemental instruction may be provided in person or via electronic media. The Sponsor shall provide the following information in order to be granted approval for the use of electronic media:

(a) The rationale for implementing electronic media;

(b) The type(s) and availability of electronic media to be utilized;

(c) A list of the courses, description, and the number of hours required to complete each course being delivered by electronic media; and

(d) A description of how testing and evaluation will be administered.

(5) [t]The progressively increasing schedule of wages to be paid the [a]Apprentice consistent with the skill acquired. The entry wage shall be not less than the minimum wage prescribed by Federal or State minimum wage law, unless a higher wage is required by other applicable Federal law, State law, their respective regulations, or by [a] collective bargaining agreement;

(6) [t]The [s]Sponsor's plans for a periodic review and evaluation of the [a]Apprentice's progress in job performance and related and supplemental instruction, and the manner in which the [s]Sponsor[s] will maintain records for each [a]Apprentice;

(7) [t]The numeric ratio of [a]Apprentices to [j]Journey[men]workers under the [p]Program as determined by the [c]Commissioner and posted on the Department website, [consistent with]taking into consideration: proper supervision, training, [and] continuity of employment, safety, and applicable provisions in collective bargaining agreements;

(8) [t]The [s]Sponsor's [statement]certification that the [s]Sponsor will comply with applicable Federal, State and local occupational safety and health standards, including the [s]Sponsor’s willingness to provide adequate and safe equipment and facilities for training and supervision, and safety training for [a]Apprentices on the job;

(9) [t]The probationary period for [a]Apprentices[,]; [which shall be of reasonable length, as determined by the commissioner;]

(10) [t]The placement and registration of an [a]Apprentice in accordance with the provisions of section 601.6 of this Part. The [a]Apprenticeship [a]Agreement shall directly, or by reference, incorporate the standards of the [p]Program as part of the agreement;

(11) [t]The manner, if any, by which the [s]Sponsor proposes to grant advance standing or credit for previously acquired experience, training, skills, or aptitude for all Time-Based Program applicants equally. Advanced standing for Competency-Based and Hybrid Program Apprentices shall be based solely upon Competency-based testing given prior to the date upon which the Apprentice is registered. Minimum

time requirements will be waived for such pre-registration testing in Hybrid Programs. [, and the manner in which] W[w]ages will be adjusted if any advance standing or credit is granted;

(12) [t]The manner in which the [sponsor] Apprentice may be [will permit the] transferred to another [of] employer['s] or Program, [training obligation to another employer, where warranted,] with full credit to the [a]Apprentice for satisfactory time spent and training learned;

(13) [t]The [s]Sponsor's assurance that all training will be conducted by qualified training personnel, and that such personnel who provide related and supplemental instruction shall:[;]

(i) Meet the State Department of Education's requirements for a vocational-technical instructor, or be a subject matter expert, which is an individual, such as a Journeyworker, who is recognized within an industry as having expertise in a specific occupation; and

(ii) Have training in teaching techniques and adult learning styles which may occur before or after the Apprenticeship instructor has started to provide the Related and Supplemental Instruction;

(14) [t]The [manner in which the s]Sponsor's assurance that it will [grant recognition for] provide proof when the Apprentice has successfully completed[ion of] the [a]Apprenticeship, such that [which recognition must include the presentation of]an appropriate New York State certification of completion may be issued[for all who complete the program];

(15) [t]The [s]Sponsor's assurance that it[he] will notify the Department in accordance with section 601.4(e[d]) of this Part and will not implement [promptly submit any] modifications to essential [aspects] elements [or amendment] of the [registered p]Program such as type of Apprentice wage progression, [p]Program duration, work process, change of ownership, affirmative action plan, Apprentice recruitment, or decreases in Apprentice wages without first submitting such modification to the

Department and obtaining [prior to]Department approval.[, and shall submit] Any other modifications or amendments to the Program (such as Sponsor name change, change of address, increase in Apprentice wages, Sponsor representative, union representative) shall be submitted to the Department within thirty (30) days of its effective date. The ratio of Apprentices to Journeyworkers to can be changed only for the entire trade and such changes can only be made by the Commissioner;

(16) [t]The [s]Sponsor's agreement to [promptly] notify the [c]Commissioner of all Apprentice registrations, cancellations, transfers, and of all persons who have successfully completed their [apprenticeship p]Program[s] within thirty (30) days of such event;

(17) [t]The [s]Sponsor's willingness to give [not less than five days'] reasonable notice to the [a]Apprentice of any proposed adverse action, and cause therefore, with a reasonable [stated] opportunity for [to] the [a]Apprentice to undertake [during such period for] corrective action, where warranted, unless a[n otherwise acceptable] substantially similar procedure is provided for in the collective bargaining agreement;

(18) [t]The [s]Sponsor's statement that the [p]Program will be conducted, operated and administered in conformity with all applicable provisions of this Part; and

(19) [t]The [s]Sponsor's agreement to promptly record, maintain and submit to the Department[commissioner] such records concerning [a]Apprenticeship as may be required by the Department pursuant to Article 23 of the Labor Law, Parts 600 and 601 of this Title, [the commissioner] and such other [applicable] laws or regulations as may apply.

Repealed section 601.4 (c) of the regulations of the Commissioner of Labor is amended and inserted as section 601.5 (d) below; sections 601.5 (d) and (h) are renumbered as sections 601.5 (e) and (g).

Sections 601.5(e) (f), (g), and (i) are repealed with new text added as subsection (f) as follows:

(d) The Sponsor shall register each Apprentice:

(1) By filing a fully executed copy of the Apprenticeship Agreement with the Department for each Apprentice enrolled in the Program; or

(2) By filing a master copy of an Apprenticeship Agreement approved by the Commissioner along with a list of the name(s), address(es) and other data required by the Department for registration of each individual Apprentice.

[(d)](e) All [s]Sponsors of Time-Based or Hybrid Approach [apprenticeship training p]Programs, and their [s]Signatories, if any, [are required to] shall ensure that each of their [a]Apprentices maintains a record that documents task rotation and the skills acquired through the [p]Program. The [a]Apprentice [must] shall maintain this record in a format and in a manner approved by the [New York State] Department [of Labor]. The [a]Apprentice's Blue Book is an acceptable method of recording task rotation and acquisition of skills through the [p]Program. Any alternative method of recording task rotation and skills acquisition shall be submitted to the [New York State]Department [of Labor] by the [program s]Sponsor for approval prior to implementing its use by [a]Apprentices. The [a]Apprentice's immediate worksite Journeyworker/supervisor, or an authorized representative of the Sponsor who can attest to the hours and type of work performed by the Apprentice during the period in question, is required to verify that the information contained in the record is accurate and shall do so by signing the record at least [weekly]monthly. All sponsors of Competency-Based and Hybrid Programs shall maintain a record for each Apprentice of the dates and results of any written or hands-on proficiency measurements administered.

(f) Transfer of Apprentices:

(1) Intra-Program Transfers - a Sponsor may re-assign an Apprentice from one Signatory to another Signatory within the same Program. The Sponsor is not required to report that Transfer to the Department, nor seek the approval of the Apprentice.

(2) Inter-Program Transfers – an Apprentice registered with one Sponsor, may be re-assigned to a different Sponsor within the same trade.

(i) The Apprentice and the Sponsors must all agree to the Transfer.

(ii) Reporting the Transfer:

(a) When an Inter-Program Transfer takes place, the transferring Sponsor shall file an Apprenticeship Agreement terminating the Apprentice, and the new Sponsor shall execute a new Apprenticeship Agreement and file it with the Department in order to complete the Transfer.

(b) *Apprenticeship Agreements* need to be filed with the Department within thirty (30) days of a Transfer.

(iii) Transferring Apprentices shall be provided with a transcript of on-the-job training and related and supplemental instruction by the current Sponsor for submission to the new Sponsor, including accomplishments, credits, and hours of training received by category/class name.

(3) Apprentices who leave one trade and register in another trade are not considered to be transfers. Such Apprentices must meet the new Sponsor's qualifications for the new trade. Credit for advanced standing will be given only for that portion of the on-the-job training and related and supplemental instruction time as may be determined by the new Sponsor as appropriate for that trade and approved by the Department.

([h]g) [Inter-Registration/Recertification] Signatory [Reporting] Updating Requirements.

All [s]Sponsors of group-joint and group non-joint programs shall notify [must provide] the Department [with notification] when an employer a[ssoc]ffiliates with, or dis[ssoc]affiliates itself from, a [p]Program, and [must]shall do so within ninety (90) days [time]of the effective date. Such notification [must] shall include the employer's name, address, and either the employer's Federal Employer Identification Number (FEIN) or Unemployment Insurance Employer Number in an electronic format, as

specified by the Department. Employers are considered to be associated with a program even if such association is through some intermediary organization. Employer inactivity in a program shall not, in and of itself, constitute disassociation. Programs that use the *Ancillary Group-Sponsor Signatory Agreement*, rather than a Department approved agreement drafted by the Sponsor, must provide copies of the completed *Ancillary Group-Sponsor Signatory Agreements* along with such notification.

A new Section 601.5(h) of the regulations of the Commissioner of Labor is added as follows:

(h) All Apprentices, irrespective of prior credit or advanced standing, must work in the Program for a minimum of 2000 hours for Time-Based Programs.

Section 601.6 of the regulations of the Commissioner of Labor is amended as follows:

§ 601.6 [Standards for a]Apprenticeship [a]Agreements.

Each registered [a]Apprentice [must] shall receive from the [program s]Sponsor a copy of the [a]Apprenticeship [a]Agreement. The [c]Commissioner [must]shall also receive from the [program s]Sponsor a copy of the [a]Apprenticeship [a]Agreement as required by section 601.5(c)(16) of this Part. The individual [a]Apprenticeship [a]Agreement between the [s]Sponsor and the [a]Apprentice [must] shall contain:

(a) Names, complete addresses and signatures of the contracting parties (apprentice, and the [program] Sponsor [registrant] or employer), and the name, address and signature of a parent or guardian if the apprentice is [a minor]under 18 years of age;

(b) The date of birth of the [a]Apprentice;

(c) Name and address of the [program]Sponsor [registrant] and [registration agency] the Department;

(d) A statement of the trade [or craft]in which the [a]Apprentice is to be trained;[taught, and] the [beginning]start date [and term (duration)]of [a]Apprenticeship; and the duration -- i.e. the length of a

Time-Based Program, or for Hybrid and Competency-Based Programs the period of time it would take to complete the program if it were a Time-Based Program;

(e) A statement showing:

(1) [t]The number of hours to be spent by the [a]Apprentice [in] working on the job in a Time-Based Program; or a description of the skill sets to be attained by completion of a Competency-Based Program, including the on-the-job learning component; or the minimum number of hours to be spent by the Apprentice and a description of the skill sets to be attained by completion of Hybrid Program;[, and]

(2) [t]The number of hours to be spent in [r]Related and [s]Supplemental [i]Instruction in technical subjects related to the trade. For Time-Based Approaches a minimum of 144 hours per year is required. For other Approaches, the Apprentice must be registered for at least 144 hours of Related and Supplemental Instruction courses but may test out earlier; and

(3) The Apprentice Probation period, in months.

(f) A statement setting forth a schedule of the work processes in the trade or industry divisions in which the [a]Apprentice is to be taught and the approximate time to be spent at each process;

(g) A statement of the graduated scale of wages to be paid the [a]Apprentice and whether or not the required school time spent in related and supplemental instruction will be compensated;

(h) A reference incorporating as part of the Apprenticeship [a]Agreement the standards of the [a]Apprenticeship [p]Program as it exists on the date of the agreement and as it may be amended during the period of the agreement;

(i) A statement that the [a]Apprentice will be accorded equal opportunity in all phases of [a]Apprenticeship employment and training, without discrimination because of race, color, religion, national origin, or sex;

(j) A statement that if the [s]Sponsor is unable to fulfill his obligations under the [a]Apprenticeship

[a]Agreement, the agreement may, with the consent of the [a]Apprentice, be transferred to another [s]Sponsor [or participant under the registered program] with written notice of the [t]Transfer to the [c]Commissioner and with full credit for the satisfactory period of the served [a]Apprenticeship;

(k) A statement that:

(1) During Apprentice Probation the Apprenticeship Agreement may be cancelled by either party to the agreement upon written notice to the Department;

(2) After Apprentice Probation, the Agreement may be:

(i) Cancelled at the request of the Apprentice; or

(ii) Suspended or cancelled by the Sponsor, for good cause, with reasonable notice to the Apprentice, a reasonable opportunity for corrective action, and with written notice to the Apprentice and to the Department of the final action taken; and

([k]l) The name and [The] address of the Department Apprenticeship Training [Program] Office [of the Department] where Apprentices, or their representatives, [sponsors, participants and apprentices] may file requests for review of any controversy that cannot be adjusted locally or in accordance with a collective bargaining agreement. [disposition of controversies or differences arising out of the apprenticeship agreement. Such request may be filed only when the controversies or differences cannot be adjusted locally or resolved in accordance with the established trade procedure or applicable collective bargaining provisions; and]

A new section 601.7 is added to the regulations of the Commissioner of Labor, as follows:

§ 601.7 Approaches to Skill Attainment & Training.

(a) There are three Approaches to determine the progression of an Apprentice through a Program. They are:

(1) The Time-Based Approach;

(2) The Competency-Based Approach; and

(3) The Hybrid Approach.

(b) The Approach taken is specific to the Program. The determination of the Approach is made by the Sponsor, subject to approval by the Commissioner that the Approach is appropriate to the trade for which the Program is registered. A Program can utilize only one Approach at a time, may not change Approaches without Department approval, and may not change its Approach while on Probation.

(c) Time-Based Approach.

(1) Sponsor documentation for purposes of establishing such a Program shall include statements setting forth:

(i) The term (length) of the Program;

(ii) The work processes in which the Apprentice will receive supervised work experience and training on-the-job and the allocation of the approximate amount of time to be spent learning each skill;

(iii) An outline of the topics to be covered in Related and Supplemental Instruction; and

(iv) The Apprentice Probation period, in months.

(2) Documentation required for purposes of authenticating an Apprentice's progress in attaining the skills and knowledge of the trade shall include, but not be limited to:

(i) A Blue Book or approved alternative; and

(ii) Copies of transcripts of classes taken from Related and Supplemental Instruction providers, or documentation of in-house instruction including but not limited to attendance records, class instruction outlines, and copies of tests.

(d) Competency-Based Approach.

(1) Apprentices in Competency-Based Programs shall participate in on-the-job training and Related and Supplemental Instruction until they have demonstrated a competency for each skill in the Work Process and each topic on the Related Instruction Outline.

(2) Sponsor documentation for purposes of establishing such a Program shall include statements setting forth:

(i) The term of the Program (the term is determined by the length of an equivalent Time-Based Program in the same trade);

(ii) An outline of the Work Processes in which the Apprentice will receive supervised work experience and on-the-job training, which shall identify each of the competencies to be mastered;

(iii) An outline of the topics to be covered in Related and Supplemental Instruction;

(iv) The identification of a nationally and industry recognized means of testing and evaluation to measure knowledge and proficiency in each of the required competencies, as well as a qualified, independent, third-party provider that will do the testing, including:

(a) A description of the written proficiency measurement instrument(s) to be used; and

(b) A description of the hands-on proficiency measurement instrument(s) to be used;

(v) A description of the controlled learning environment in which the proficiency measurement instruments will be administered; and

(vi) The Apprentice Probation period, in months.

(3) Competency shall be demonstrated by both appropriate written and hands-on proficiency measurements. Administration of these measurements shall be at the Sponsor’s expense.

(4) Documentation for purposes of authenticating an Apprentice's progress in attaining the skills and knowledge of the trade shall include, but not be limited to:

(i) Identifying the written proficiency measurement instrument used;

(ii) Identifying the hands-on proficiency measurement instrument used;

(iii) Identifying the controlled learning environment in which the instruments were administered;

(iv) Identifying the third-party expert(s) who conducted the hands-on evaluation of skills, and detailing his/her qualifications;

(v) Identifying the third-party proctor(s) who administered any written examinations, including his/her qualifications;

(vi) The results on both the written and hands-on measurements of the Apprentice's competencies, including a detailed description of each Apprentice's individual, hands-on, competency evaluation; and

(vii) Documentation that demonstrates that the Apprentice has engaged in at least 1000 hours of on-the-job training.

(e) Hybrid Approach.

(1) The Hybrid Approach is a Competency-Based Program that also requires a minimum number of hours of on-the-job training to be spent in the attainment of each skill prior to testing.

(2) Sponsor documentation for purposes of establishing such a Program shall include all the documentation requirements for a Competency-Based Program plus a training outline that delineates the minimum hourly requirements for completion of each skill.

(3) Documentation required for purposes of authenticating what an Apprentice has accomplished shall include, but not be limited to:

(i) All the documentation requirements for a Competency-Based Program;

(ii) A Blue Book or an approved alternative; and

(iii) Related and Supplemental Instruction attendance records.

Existing sections 601.7(a)-(c) are renumbered as section 601.9, then reconfigured and amended.

Existing section 601.7(d) is amended and renumbered as section 601.8(e) of the regulations of the Commissioner of Labor. Subsection (a) and (c) are added to 601.8; repealed sections 601.5(e) - (g) are amended, reconfigured, and added as subsections (b) and (d) as follows:

§ 601.8 Program Probation, Monitoring, Re-Certification & Performance.

(a) During any twelve (12) month period, every Active Program must have at least one (1) registered Apprentice.

(b) Program Probation:

(1) Newly approved Programs shall undergo a two year Probation beginning on the first Apprentice's start date or the Program approval date, whichever comes later. Sponsors of newly approved Programs shall be advised that their Programs are being approved contingent upon successful completion of Probation. During Probation, a Sponsor may not submit any new [apprenticeship p]Program applications, nor change its Approach.

(2) The performance of provisionally approved Programs shall be evaluated by the Department during Probation based upon the Sponsor's and Signatories' compliance with the following factors:

(i) The continuous enrollment of Apprentice(s);

(ii) The payment of wages as specified in the Apprenticeship Agreement, and the availability of such documentation for review by the Department;

(iii) Verifiable documentation of task rotation and skill development;

(iv) Verifiable documentation of participation in related and supplemental instruction;

(v) The proper supervision of Apprentices, including maintenance of an appropriate ratio of Apprentices to Journeyworkers, and documentation that such ratios have been maintained on the jobsite;

(vi) The provision of a safe work environment as prescribed by the Occupational Safety and Health Act (OSHA) and the regulations thereto;

(vii)The terms and conditions/provisions as indicated on the *Program Registration Agreement*;

(viii)The provisions of Labor Law, Article 23 and Parts 600 and 601 of this Title; and

(ix) Articles 8 and 9 of the Labor Law, the Workers' Compensation Law, and all other federal or State laws governing the terms and conditions of employment.

(3) Probation Review Options:

(i) The Department may cancel the registration of any Program at any point during Probation for violating any of the regulations contained in this Part;

(ii) After a review of the new Program's performance during Probation, the [s]Sponsor will be notified whether it:

(a) Passed Probation; or

(b) Will have its Probation extended for a period of no more than one year; or

(c) Failed Probation.

(iii) A Sponsor of a [p]Program that has had its Probation extended pursuant to this section, or that has failed Probation, shall be informed of the reasons why this decision was made.

(iv) A Sponsor whose Program has been placed on an extended Probation shall be required to submit a proposed corrective action plan addressing the deficiencies identified in the notice and a proposed time frame for its implementation. Both components of the proposed corrective action plan must receive Department approval.

(v) A Sponsor whose Program fails [p]Probation may file a written appeal of the decision by sending a letter to the Commissioner within thirty (30) days of written notification of the determination, setting forth the grounds for contesting the Department's determination.

(4) Sponsors of Programs whose registrations are cancelled during Probation, deemed Deregistered, or fail Probation shall not reapply, seek Reinstatement, or apply for a new Program for a period of one (1) year following notification by the Department. This period additionally applies to applications for registration of any Apprenticeship Program by any owner, officer, successor or Substantially Owned-Affiliated Entity of/to the Sponsor.

(c)Program Evaluation and Monitoring.

(1) Every registered Program will be monitored periodically by the Department for the quality of its performance in providing Apprenticeship training, including, but not limited to:

(i) Compliance with federal and State laws;

(ii) Providing equal opportunity in employment;

(iii)Compliance with Department standards for Apprenticeship Programs as outlined in section 601.5 of this Part; and

(iv) Completion Rates:

(a) For purposes of federal reporting, Completion Rates shall be calculated annually by cohort (class of Apprentices).

(1) Each cohort's Completion Rate shall be compared to the national average for Completion Rates as determined by the U.S. Department of Labor.

(2) Apprentices who leave before the expiration of their Probation shall not be included when calculating this Completion Rate.

(3) Programs with Completion Rates below the national average shall be offered such technical assistance as may be required.

(b) In evaluating a Program's performance, the Department shall not be limited to the cohort method of calculating Completion Rates, but may take into account additional factors such as period of time over which rate is calculated, seasonality, regional differences, Program size, and general economic conditions affecting employee retention.

(2) To the extent that correctable deficiencies are found, the Department shall offer technical assistance to the Program Sponsor as necessary to bring the program into compliance. If reasonable efforts to bring the Program into compliance fail, or if the deficiencies are such that the Department does not find that they are correctable, the Department shall seek Program Deregistration.

(d)Re-certification:

(1) All Apprenticeship Programs shall undergo a Re-certification process at or about the time that the Program completes its first training cycle following Program registration, and at least every five years thereafter.

(2) Each Sponsor seeking Re-certification shall complete an updated *Program Registration Agreement* , *Sponsor Information Sheet*, and update any other Program information that may be out of date.

(3) Signatories:

(i) Each Sponsor of a Group Joint or Group Non-Joint Program shall submit a current list of Program Signatories' names, addresses, and Federal Employer Identification Numbers or New York State Unemployment Insurance Employer Numbers in an electronic format as specified by the Department.

(ii) The Department must be notified of the association or disassociation of a Signatory within 90 days, pursuant to section 601.5(g).

(iii) The Sponsor shall provide assurances in writing to the Department that the Sponsor will hold all Signatories to the standards of their State *Program Registration Agreement*.

(4) Each Sponsor undergoing Re-certification must agree to comply with section 601.4(a)(4), which forbids a Sponsor from requiring an applicant to pay an application, processing, or similar fee.

(5) Applicants for all Group Programs (Joint and Non-Joint) shall make available to the Department signed copies of their union collective bargaining agreements or Group/Association membership agreements for review, upon request. Such agreements must include language that makes the requirements on the *Program Registration Agreement* applicable to their Signatories, either in the terms of the agreement or in an ancillary agreement that is approved by the Department. If the applicant does not have a written agreement with its Signatories, it must submit the *Ancillary Group-Sponsor Signatory Agreement* provided by the Department.

(6) Based on a review of the Sponsor's performance during the period prior to Re-certification, the Sponsor will receive notification that:

(i) The Sponsor's Apprenticeship Program has been renewed; or

(ii) The Sponsor was found to have committed the violations specified, and is required to submit a Corrective Action Plan to the Department which addresses the deficiencies identified in the notice with a proposed time frame for the Plan's implementation. Both components of the Plan require Department approval. Formal [d]Deregistration will be pursued if corrective action is not approved by the Department; or the Sponsor has not taken the approved corrective action to resolve all issues within a reasonable period of time approved by the Department; or

(iii) The Sponsor's Apprenticeship Program has been recommended for Deregistration, and the reasons therefor.

(e) Programs [W]with No Apprentices:

(1) Any [p]Program, except [for p]Programs operated by [the] State [Department of Correctional Services] agencies and those granted Inactive status, that has not had an [a]Apprentice registered with the [New York State]Department [of Labor] for a period of twelve (12) consecutive months shall be deemed [to have been voluntarily d]Deregistered [by its sponsor]. The Department will follow up such [d]Deregistration with a letter acknowledging that the [p]Program has been [voluntarily d]Deregistered. The letter will include the effects that such [d]Deregistration may have on an employer and the effective date of the Deregistration. In order for a [s]Sponsor to reinstate [re-register] a program which was [voluntarily d]Deregistered under this section, the [s]Sponsor must reapply and meet all the requirements contained in Article 23 of the Labor Law and Parts 600 and 601 of this Title.

(2) No later than thirty (30) [Within sixty (60)] days before the conclusion of the twelve (12) month period referred to in subdivision (1), a [s]Sponsor, who would otherwise be "deemed [to have voluntarily d]Deregistered," may request that its [p]Program be placed in [i]Inactive status (Inactive Program).

(i) The [c]Commissioner, in his/her discretion may grant Inactive [such] status only to [s]Sponsors found to be [otherwise] in compliance with Article 23 of the Labor Law, Parts 600 and 601 of this Title, and other State and Federal laws for the protection of workers.

(ii) If granted, [i]Inactive status shall run from the end of the twelve (12) month period referred to in subdivision (1).

(iii) An employer who is associated with an Inactive Program shall not be deemed to have a registered New York State [apprentice training p]Program for purposes of work performed pursuant to Articles 8, 8A, and 9 of the Labor Law[under that program].

(iv) An Inactive Program shall be deemed reactivated upon completion of all of the following:

(a) The registration of an [a]Apprentice by filing [form AT-401] an Apprenticeship Agreement;

(b) The filing of newly updated [AT-9] *Sponsor Information Sheet* and [AT-10] *Program Registration Agreement* forms, and such other form(s) as the [c]Commissioner may require, by the [s]Sponsor; and

(c) The review and approval of such forms by the Department.

(v) After a period of twelve (12) months of [i]Inactive status, [i]Inactive [p]Programs will be deemed [voluntarily d]Deregistered [by its sponsor], unless this period is extended at the discretion of the Commissioner due to circumstances related to extended periods of unemployment, an economic downturn, or other circumstances warranting a longer period of time.

(vi) Programs on Probation are not eligible for Inactive status.

§ 601.[7]9 Voluntary and [f]Formal [d]Deregistration of [r]Registered [p]Programs.

Deregistration of a [p]Program may be effected by: [(a)] the Sponsor's voluntary written request [action of the registrant requesting, in writing,] for the cancellation of [the]its registration;[, or (b) by] the Sponsor's failure to register an apprentice within six months of Program approval under section 601.4(h) of this Part; the Sponsor's failure to register an Apprentice within a period of twelve (12) consecutive months under section 601.8 (e) of this Part; or [the commissioner instituting f]Formal [d]Deregistration proceedings initiated by the Commissioner in accordance with the provisions of this Part.

(a) [*Voluntary request by registrant*] Voluntary Deregistration:[.]

(1) The [c]Commissioner may cancel the registration of a[n apprenticeship p]Program upon receipt of [by] a written [acknowledgement of such] request from the Sponsor.[stating, but not limited to, the following matters:]

(2) Sponsor requests for the Voluntary cancellation or Deregistration of a Program shall include the status of all Apprentices in the Program, arrangements for transferring or terminating the Apprentices, and a statement that the Apprentices have been notified of the following:

([2]i) The Deregistration/cancellation and the [That, within 15 days of the date of the acknowledgement, the registrant must notify all apprentices of such cancellation and the] effective date thereof;

([3]ii) That such cancellation automatically deprives the [a]Apprentice of his individual registration.[; and]

[(4) that the deregistration of the program removes the apprentice from coverage for State purposes.]

(3) Such Deregistration shall become effective upon the Department sending an acknowledgement to the Sponsor which contains, but is not limited to, the following:

([1]i) The registration is cancelled at the Sponsor's [registrant's] request, and the effective date thereof.[;] If no effective date is stated, the date of the request shall be deemed to be the effective date;

(ii) The Sponsor must cooperate with the Department's Office of Apprenticeship Training and provide all completed documentation for each Apprentice's progress in the Apprenticeship Program in the event the Apprentice seeks transfer or employment in another registered Apprenticeship Program;

(iii) The Deregistration of the Program does not require the termination of employment of any Apprentice, but the employer must pay prevailing wages where required in accordance with the provisions of Articles 8 and 9 of the Labor Law to all their former Apprentices on or after the date of Deregistration.

(b) [*Formal deregistration*] Formal Deregistation. The [c]Commissioner may [d]Deregister any [apprenticeship training p]Program if he/she finds that the [registrant,][s]Sponsor[,] or any [participating sponsor] Signatory has:

(1) [v]Violated a Federal or State law;

(2) [s]Subverted the [p]Program [intent] by assigning work generally performed by [a]Apprentices to [hiring] workers such as helpers, shop workers, trainees, or similar classifications[other titles and assigning to them work generally performed by apprentices];

(3) [n]Not conducted, operated, and administered the [p]Program in accordance with the [intent] provisions of [a]Article 23, [or the registered provisions, or] the requirements of this Part or the terms and conditions of the Apprentice Training Program Registration Agreement,[except that deregistration proceedings for violation of equal opportunity requirements shall be

processed in accordance with the provisions of 12 NYCRR Part 600 of Title 12 of the Official Compilation of Codes, Rules and Regulations of the State of New York.] including, but not limited to:

(i) Failing to provide on-the-job training;

(ii) Failing to provide related and supplemental instruction;

(iii) Failing to pay its Apprentice(s) a progressively increasing schedule of wages consistent with the skills acquired;

(iv) Demonstrating an ongoing pattern of inadequate or low Completion Rates when compared to the national average or the Department's assessment of Completion Rates as described in section 601.8(c)(1)(iv)(b); or

(v) Showing no substantial improvement in the areas previously identified by the Department during monitoring as requiring corrective action;

(4) [m]Made a false or misleading statement in connection with the material elements [registration] of the [p]Program, or is not a person of good character and responsibility;

(5) Failed to provide a safe working environment; or

(6) Was debarred from bidding on public contracts in the State of New York.

(c) Procedure for [f]Formal [d]Deregistration.

(1) Where it appears that sufficient cause exists for [d]Deregistration, the [c]Commissioner shall send a notice to the Sponsor [registrant] by [registered or] certified mail, return receipt requested, stating the following:

(i) The notice is sent pursuant to this section[;] . Where warranted, the notice may include an opportunity for the Sponsor to undertake corrective action upon such terms and conditions as may apply;

(ii) The ground or grounds on which it is proposed to [d]Deregister the [apprenticeship training p]Program; [and]

(iii) That the [p]Program will be [d]Deregistered unless, within 10 calend[e]ar days of the receipt of this notice, the Sponsor [registrant] files [with the commissioner] a written request for a hearing with the Commissioner.

(2) If the Sponsor [registrant] requests a hearing, the [c]Commissioner shall convene a hearing and issue his/her determination in accordance with section 601.[9]11 of this Part.

[(3) In such determination, the commissioner may allow the registrant a reasonable time to achieve voluntary corrective action.]

([4]3) In each case in which Formal [d]Deregistration is ordered, the [c]Commissioner shall [publish promptly in newspapers of general circulation] notify the Sponsor and post a notice of the order on the Department's website. [and shall notify the registrant.] In addition, the [c]Commissioner shall promptly notify all registered [a]Apprentices of the [d]Deregistration of the [p]Program; the effective date thereof; that such cancellation automatically deprives the [a]Apprentice of his individual registration; [and that the deregistration removes the apprentice from coverage for State purposes.] and the name and address of the regional Apprenticeship Training office which may provide information about potential transfers.

(4) Deregistration proceedings for the violation of equal opportunity requirements shall be processed in accordance with the provisions of section 600.14 of this Title.

Sections 601.8 through 601.12 of the regulations of the Commissioner or Labor are renumbered as 601.10 through 601.14 and amended as follows:

§ 601.[8]10 Effects [Reinstatement] of [p]Program Deregistration on Program Participants.

(a) Any [apprenticeship program] Sponsor, member, employer, union participant, or Signatory; including any successor, subsidiary or Substantially Owned-Affiliated Entity thereto; of/to any Program formally [d]Deregistered pursuant to sections 601.9 (b) and (c) of this Part shall[may] not apply for reinstatement of registration, nor may any of the above, except those Signatories who were not materially involved in the issue that led to the Deregistration, become a Signatory to another Program, [be reinstated] for a period of three (3) years in the same or any other trade. [, nor shall the sponsor or any employer or union participant be eligible to register any apprenticeship training program under any other name for such period.]

(b) Any Sponsor, member, employer, union participant, or Signatory: including any successor, subsidiary or Substantially Owned-Affiliated Entity thereto; of any Program that has voluntarily Deregistered pursuant to this Part after having been served with a Notice of Proposed Deregistration, or which has been deemed deregistered pursuant to section 601.8 (e), shall not apply for reinstatement or registration for a period of one (1) year in the same or any other trade.

(c) Voluntary Deregistered programs under section 601.9 (a) of this Part may apply for Program reinstatement or registration at any time.

§ 601.[9]11 Hearings.

Upon receipt of a request for a hearing under section 601.[7]9(c) of this Part, the [c]Commissioner shall request the chair of the Apprenticeship [Training] Council to designate a panel from among the members of the Apprenticeship Council to conduct such hearing. The panel shall consist of at least three (3) members and be composed of an equal number of representatives of employers and of employee organizations, and also may include the chair.

(a) [Reasonable n]Notice of the hearing shall be served [given] by [registered] certified mail, return receipt requested, to the [appropriate] [s]Sponsor at least thirty (30) days prior to the date of the hearing. [and the complainant, if any. Such] The notice shall include the date, [a reasonable] time and place of the hearing, a

statement of the legal authority and purpose for the hearing, [provisions of this Part pursuant to which the hearing is to be held,] and a concise statement of the factual matters which form [pursuant to which the action forming] the basis for the Department's action. [of the hearing is proposed to be taken.]

(b) Hearings shall be conducted informally and a record made of the sworn testimony and exhibits introduced. The [complainant] Sponsor [, and every party to the proceeding] shall have the right to counsel, and a full opportunity to be heard, including such cross-examination as may be appropriate. [in the circumstances.]

(c) The hearing panel shall [, on the basis of the record made in the proceeding,] submit its report and recommendations to the [c]Commissioner on the basis of the record made in the proceeding.[,] After [who after] reviewing [such] the record, report and recommendations, the Commissioner shall issue his/her determination within thirty (30) days after receipt of the hearing panel's report.

§ 601.1[0]2 Limitations.

Nothing in this Part or in any Program [r]Registration Agreement or [a]Apprenticeship [a]Agreement shall operate to invalidate:

(a) Any [a]Apprenticeship provision in any collective bargaining agreement between employers and employees [setting up] establishing higher [a]Apprenticeship standards; or

(b) Any special provisions for veterans, minority persons, or females in the standards, [a]Apprentice qualifications, or operation of the [p]Program, or in the [a]Apprenticeship [a]Agreement, which is not otherwise prohibited by law, executive order, or authorized regulation.

§ 601.1[1]3 Complaints.

(a) Any person, firm, corporation, association, [or] labor organization, or public contracting entity may file a written complaint alleging that a registered [apprenticeship p]Program is not operating in accordance

with [a]Article 23 of the Labor Law, [or] of any provision of this Part, or with the [equal employment opportunity regulation, or with the a]Apprenticeship [a]Agreement. The [c]Commissioner shall investigate such complaints, and [shall] resolve them in accordance with the provisions of this Part.

(b) Any person, firm, corporation, association, labor organization or public contracting entity may file a written complaint alleging [concerning] discrimination or other equal opportunity violation in connection with a Program. Such complaints [matter] shall be submitted, processed, and resolved in accordance with the applicable provisions in Part 600 of this Title[12 of the Official Compilation of Codes, Rules and Regulations of the State of New York].

(c) Except for matters covered under subdivision (b) of this section, any controversy or difference arising under an [a]Apprenticeship [a]Agreement which cannot be adjusted locally, and which is not covered by a collective bargaining agreement, may be submitted by an [a]Apprentice, or his/her authorized representative, to the [c]Commissioner for review. Matters covered by a collective bargaining agreement [, however,] shall be determined[submitted and processed] in accordance with the terms of that agreement, and are not subject to such review. [procedures therein provided, and once so submitted, may not be submitted to the commissioner as a complaint.]

(d) A complaint must be submitted in writing and signed by the complainant, or his/her authorized representative. It shall set forth the specific matters complained of, together with all relevant facts and circumstances. Copies of all pertinent documents and correspondence shall accompany the complaint.

(e) The [c]Commissioner shall render a determination within ninety (90) days after receipt of a complaint under subdivision (c) of this section, based upon such investigation of the matters submitted as he/she may find necessary. However, the Commissioner may extend the [During such] ninety (90)- day period during the pendency of an investigation of any alleged Labor Law violation by the Sponsor. During such ninety (90)-day period the [c]Commissioner shall make reasonable efforts to effect a

satisfactory resolution between the parties involved. If so resolved, the parties shall be notified that the case is closed. If the [c]Commissioner determines that sufficient cause does not exist for [d]Deregistration, he/she shall dismiss the complaint. If the [c]Commissioner determines that sufficient cause exists for [d]Deregistration, he/she shall proceed in accordance with section 601.[7]9(c) of this Part. Where a determination is rendered, copies of same shall be sent to all interested parties.

(f) All complaints shall be acknowledged within ten (10) business days of receipt. The Commissioner will conduct such investigation or make referrals of the matters contained in the complaint as necessary in his/her sole discretion. Interested parties will receive such updates on the status of the investigation as are deemed appropriate. Should the investigation not be completed within ninety (90) days, the complainant will be updated on the status of the investigation.

(g) If the Commissioner determines that sufficient cause does not exist for Deregistration or corrective action, he/she shall dismiss the complaint. If the Commissioner determines that sufficient cause exists for Deregistration he/she shall proceed in accordance with section 601.9 (c) of this part.

(h[g]) Nothing in this Part shall operate to prohibit an [a]Apprentice from electing to institute appropriate court proceedings including relief afforded in accordance with provisions of Article 20-C of the Labor Law.

§ 601.1[2]4 Records and reports.

Each [program]Sponsor [registrant] shall keep adequate records relative to all phases of the operation of the [apprenticeship p]Program, including but not limited to job assignments, promotion, demotion, lay-off or termination, rates of pay or other form of compensation or conditions of work, and any other records pertinent to a determination of compliance with [a]Article 23 of the Labor Law and this Part, in such manner and form as may be required by the Department [commissioner]. In addition to information provided during regular [d]Department field inspections each [program s]Sponsor, and each [a]Apprentice shall promptly submit such reports to the [d]Department as

the [c]Commissioner in his/her discretion shall require. Such reports shall be made on forms prescribed by the [c]Commissioner.

Existing sections 601.13 and 601.14 of the regulations of the Commissioner of Labor are renumbered as sections 601.16 and 601.18.

A new section 601.15 is added to the regulations of the Commissioner of Labor as follows:

§ 601.15 Reciprocal Approval.

(a) A Sponsor whose Program has been registered with another state registration agency or the federal Office of Apprenticeship, and which has been made permanent or has passed Probation, may seek Reciprocal Approval from the Department. When reviewing an application for Reciprocal Approval, the Department will look for the following:

(1) The Sponsor is not ineligible to seek Reciprocal Approval pursuant to Section 601.15(g);

(2) The Sponsor submitted a complete application;

(3) The Sponsor submitted proof of coverage for State Unemployment, Disability, and Workers' Compensation Insurance coverage;

(4) The Sponsor's original registration agency has verified the information in the Sponsor's application is correct with regard to the original registration state;

(5) The Sponsor submits an acceptable plan for providing any in-State Related and Supplemental Instruction, not Related and Supplemental Instruction that is provided in the original registration state or via Electronic Media under a plan approved by the original state;

(6) The Sponsor submits copies of registration documents for any out-of-State Apprentices that may work in the state, and a list of any Signatories that may work in the State including name, address, and federal employer identification number;

(7) The Department does not find any omissions or inaccuracies in the information provided in the application; and

(8) If the Trade is in the construction industry, neither the Sponsor, nor one of the Sponsor's submitted Signatories has been debarred from bidding public work projects in any state or with the federal government.

(b) Application denials may be appealed pursuant to Article 78 of the Civil Practice Rules and Regulations (CPLR), but only if brought within 30 days of the date of such denial.

(c) Sponsors in the construction industry that are granted Reciprocal Approval are considered registered in New York State only to the extent that they work on projects funded, in whole or in part, with federal money. Such projects shall include those which take place on federal property. Work on all such projects shall be subject to State determined Apprentice rates of pay and Apprentice/Journeyworker ratios. Work on State and Municipal prevailing wage projects that include federal monies are, among other things, subject to Articles 8 and 9 of the Labor law and Chapter III of this Title.

(d) Apprentices of Sponsors granted Reciprocal Approval, whose registration documentation has been filed with the State shall be considered registered, except as to apprentices in the construction industry. Apprentices in the construction industry are registered for federal purposes only.

(e) Updates: Sponsors shall update their lists of Apprentices and/or Signatories with the Department prior to the commencement of work by any such Apprentice or Signatory in this State.

(f) New work location or project: prior to the commencement of work by an apprentice on a new construction site/project, or at a new employment location, the Sponsor shall notify the Department of the new work location or project.

(g) Recertification – Reciprocal Approval shall be granted for two-year periods. Sponsors seeking to continue Reciprocal Approval must reapply biennially.

(h) Ineligibility.

(1) Sponsors and their signatories found to have violated State or federal labor laws, including any of the following acts, may have their reciprocal approval withdrawn and may be found ineligible to reapply for Reciprocal Approval for a period of five (5) years for:

(i) Working Apprentices out of ratio;

(ii) Working unregistered Apprentices;

(iii) Unregistered Signatories;

(iv) Failing to notify the Department of a new work location or project;

(v) Underpaying prevailing (Articles 8 and 9 of the Labor Law), Davis-Bacon (40 U.S.C. §§ 3141-48), or other required wages; or

(vi) Maintaining an unsafe work site.

(2) Sponsors found to be ineligible for reciprocal approval shall have a right to a hearing, if requested within ten (10) days of the date of notice, pursuant to Part 701 of this Title and the State Administrative Procedure Act.

Former section 601.13 is renumbered and amended as follows:

§ 601.1[3]6 Consultation with Apprenticeship Council.

All determinations relating to the construction of [this] Parts 600 and 601 of this Title, and any revisions or changes [of] to [this] Parts 600 and 601 of this Title, shall be made by the [c]Commissioner after consultation with the Apprenticeship Council.

A new section 601.17 is added to the regulations of the Commissioner of Labor as follows:

§ 601.17 Severability.

If any provision of this Part or the application to any person or circumstance is held invalid, the remainder

of this Part and the application of such provision to other persons or circumstances shall not be affected thereby.

Former section 601.14 is renumbered and amended as follows:

§ 601.1[4]8 Effective [d]Date.

This Part shall become effective upon [filing in the office of the Secretary of] adoption in the State Register.