

MEMORANDUM

To: All Interested Parties Concerned About Apprenticeships in Nevada

From: Manny Lamarre, Executive Director of the Governor's Office of Workforce Innovation

Date January 2019

Subject: Background on Apprenticeship Issues in Nevada and the role of OWINN – Possible Loss of Federal Funding and Deregistration

Governed by the United States Department of Labor (U.S. DOL), new federal regulations (29 CFR Part 29) dealing with apprenticeships were finalized in 2008, requiring states to come into compliance in two years. Nevada received the first notice of non-compliance on December 10, 2010 (letter available upon request). In the 2013 legislative session, AB36 was submitted regarding compliance, but the bill was not passed.

In January 2017, another letter from the U.S. DOL was sent to the Governor stating: "the State Apprenticeship Agency (SAA) must be the entity charged with controlling the operation of the state's apprenticeship system" and reiterated Nevada has been out of compliance since 2010 and needed to come into compliance with the National Apprenticeship Act. The consequences for non-compliance are deregistration and considerable loss of funding.

Senate Bill 516 was introduced during the 79th legislative session to bring Nevada into compliance. Several changes were made to comply with 29 CFR Part 29 & 30 such as, alignment with economic development and staffing an agency with an apprenticeship director to implement the law. However, the role of the State Apprenticeship Council (SAC) was a sticking point in Senate Bill 516 during outreach with stakeholders for the bill to move forward. Thus, OWINN agreed to not include language stakeholders found the most problematic, which the U.S. DOL wanted Nevada to include.

Following the passage of Senate Bill 516, OWINN submitted the legislation for recognition to U.S. DOL as is required. U.S. DOL acknowledged the improvements made by Nevada, but stated Nevada was still out of compliance. In preparation for the 2019 legislative session, OWINN considered comments from U.S. DOL to ensure Nevada comes into compliance and included DOL's comments into the legislation, which is now AB68. The key change requested by the U.S. DOL again requires that SAC operate under the direction of the SAA consistent with 29 CFR Part 29.

OWINN's role has simply been from a policy perspective, which is to ensure Nevada is in compliance with the federal regulations 29 CFR Part 29 & 30 to minimize risk of loss of funding to prevent deregistration of Apprenticeship by Nevada. Currently, approximately 96.5% of our state's funding being used to support apprenticeship activities comes from U.S. DOL. That is why OWINN included the recommendations from U.S. DOL in upcoming legislation. In fact, OWINN believes if DOL withdraws funding from Nevada and deregisters Nevada, that will cause much greater harm to Nevada's apprenticeship programs than if the SAC is seen as subordinate to the State Apprenticeship Agency.

I can provide relevant documentation upon request. Again, OWINN is simply including U.S. DOL's recommendations, not trying to cause harm to apprenticeship programs. I am happy to discuss this issue further, so that we are all in agreement moving forward.

Appropriate Citations

Recognition of State Apprenticeship Agencies 29 CFR Part 29

1. 29.13 (a) (*Recognition*) “The Department may exercise its authority to grant recognition to a State Apprenticeship Agency. Recognition confers non-exclusive authority to determine whether an apprenticeship program conforms to the published standards and whether the program is, therefore, eligible for those Federal purposes which require such determination by the Department.”
 - (1) “The State Apprenticeship Agency must submit a State apprenticeship law, whether instituted through statute, Executive Order, regulation, or other means, that conforms to the requirements of 29 CFR parts 29 and 30;”
 - (2) “The State Apprenticeship Agency must establish and continue to use a State Apprenticeship Council, which operates under the direction of the State Apprenticeship Agency.”

(b) (9) – “Submit all proposed modifications in legislation, regulations, policies and/or operational procedures planned or anticipated by a State Apprenticeship Agency, either at the time of application for recognition or subsequently, to the Office of Apprenticeship for review and obtain the Office of Apprenticeship’s concurrence prior to implementation.”

U.S. Department of Labor – Submitted letter to Nevada in 2010 and then directly to the Governor in 2017 regarding this issue and threatened current and future funding and deregistration.

IF WE ARE DEEMED OUT OF COMPLIANCE:

1. 29.14 (H) (1) “Provide all apprenticeship program standards, apprenticeship agreements, completion records, cancellation and suspension records, Equal Employment Opportunity Compliance Review files and any other Compliance Review files and any other documents relating to the State’s apprenticeship programs, to the Department;”
 - a. This would mean complete lost of control and power for those stakeholders given that everything would go through the feds – programs would have to register directly with the feds and Nevada would have little, if any, say or input