September 2, 2025

Susan Frazier
Acting Assistant Secretary for Employment and Training
U.S. Department of Labor
Employment & Training Administration
200 Constitution Avenue NW, Room N–5641
Washington, DC 20210

Submitted via the Federal Rulemaking Portal at regulations.gov

Re: RIN 1205-AC21, "Prohibiting Illegal Discrimination in Registered Apprenticeship Programs"

Dear Ms. Frazier,

The National Taskforce on Tradeswomen's Issues ("Tradeswomen's Taskforce" or "the Taskforce") and the undersigned organizations submit these comments in response to the Department of Labor's ("DOL" or "Department") Notice of Proposed Rulemaking ("NPRM"), Docket No. ETA-2025-0006, RIN 1205-AC21, *Prohibiting Illegal Discrimination in Registered Apprenticeship Programs*, published in the Federal Register on July 2, 2025.[1] We write to express our strong opposition to the Proposed Regulations and urge the Department to withdraw this proposal.

Founded in 2011, the Tradeswomen's Taskforce unites tradeswomen with local, regional and national experts and advocates to support tradeswomen in achieving access, opportunity, and equity in the construction industry and other nontraditional skilled trades occupations. The Taskforce's work includes a federal public policy platform and national advocacy initiatives to promote best practices in apprenticeship, training, workforce development, career tech, nontraditional employment, and job site equity. As a general matter, we support equal employment opportunity (EEO) policies, including the current 29 CFR Part 30 ("29 CFR 30" or "29/30") regulations, as a means of improving access for women and other historically excluded groups to apprenticeship and higher-wage careers in the trades.

Although women comprise nearly half of the labor force, only 14.4 percent of active registered apprentices in fiscal year 2024 were women.[2] In that same period, women represented just five percent of registered apprentices in the construction industry in the U.S. DOL's RAPIDS database (and construction industry apprenticeships made up 12.8 percent of all active female apprentices, or around 12,514 women), and a mere 2.4 percent of those in utilities.[3] Construction and other skilled, non-traditional trades provide women with wages that provide economic

[1] 90 Fed. Reg. 28947 (proposed July 2, 2025) (to be codified at 29 C.F.R. pt. 30) [hereinafter NPRM].
[2] *Labor Force Statistics from the Current Population Survey (2024),* U.S. BUREAU OF LABOR STATISTICS, https://www.bls.gov/cps/cpsaat11.htm (last accessed Aug. 27, 2025); *Data and Statistics*, APPRENTICESHIP USA, https://www.apprenticeship.gov/data-and-statistics (last accessed Aug. 27, 2025).
[3] *Id.*

security. Over the course of her lifetime, a woman working as an electrician will make over $1 million more than her counterpart working in a traditionally female-dominated job, such as a childcare worker or service worker.[4] We comment on the NPRM through this lens, and with the understanding gained from our members' and partners' direct experience that the low number of women in apprenticeship is not due to lack of interest or ability. Ensuring that women, people of color, and other historically excluded groups have equal access to apprenticeship is beneficial for *all* workers and critical to achieving the goal of "ensuring equality of opportunity for every individual that participates in the labor force."[5]

Our comment in opposition to the proposed rule focuses on the following topics:

1. The proposed rule, if finalized, will be unlawful under the Administrative Procedure Act.
2. The Department's assertion that the current regulations are "legally vulnerable" is inaccurate, relies on misstatements of law, and does not constitute a justification for rescission.
3. The current 29 CFR 30 regulations are necessary because they go beyond the protections of Title VII.
4. The proposed rule's reliance on complaints is no substitute for the affirmative enforcement mechanisms established in the current regulations, especially if the Office of Apprenticeship is to have no role in addressing apprentice complaints.
5. The current regulations and similar diversity initiatives have positively impacted apprenticeship.
6. To the extent that the current regulations have not been more effective to date, it is because they have not been fully implemented, not because the regulations themselves are ineffective.

We explain each of these points in depth below.

I. <u>The proposed rule, if finalized, will be unlawful under the Administrative Procedure Act.</u>

The Administrative Procedure Act ("APA") applies to all federal agencies and establishes procedural requirements for federal administrative rulemaking.[6] Final agency action is subject to judicial review under the APA,[7] as is consistent with the "strong presumption that Congress intends judicial review of administrative action."[8] The APA provides that courts may "hold unlawful and set aside agency action" in several enumerated circumstances, including if the

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[4] DEBBIE REED, ET AL., MATHEMATICA POLICY RESEARCH, AN EFFECTIVENESS ASSESSMENT AND COST-BENEFIT ANALYSIS OF REGISTERED APPRENTICESHIP IN 10 STATES (July 25, 2012), https://www.dol.gov/sites/dolgov/files/ETA/publications/ETAOP_2012_10.pdf.
[5] NPRM, 90 Fed. Reg. at 28947, 28950.
[6] Administrative Procedure Act, 5 U.S.C. § 551 *et seq*. (2018).
[7] 5 U.S.C. §§ 702, 704 (2018).
[8] *Bowen v. Mich. Acad. of Family* Physicians, 476 U.S. 667, 670 (1986).

action is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law" or "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right."[9]

Any Final Rule stemming from the NPRM would be a final agency action subject to judicial review under the APA. Accordingly, we raise concerns that the proposed rule is arbitrary and capricious, as it relies on unsubstantiated concerns about reverse discrimination and unsupported cost estimates. We also raise concerns that the NPRM exceeds statutory authority by limiting the ability of states to take independent action to address illegal discrimination in apprenticeship.

A. The proposed rule is arbitrary, capricious, and otherwise not in accordance with law.

An agency action is arbitrary and capricious if it fails to "examine the relevant data and articulate a satisfactory explanation for [the] action including a 'rational connection between the facts found and the choice made.'"[10] The NRPM entirely fails to meet this standard. The Department's justification for the proposed rule relies more on speculation than actual information, often ignoring relevant available data and settled case law that does not comport with its desired outcome.

1. *The proposed rule fails to provide and consider relevant evidence, instead focusing on the speculative risk of reverse discrimination while ignoring the known impact of ongoing discrimination against women and people of color.*

The lack of rational connection between the available facts and the proposed changes is particularly apparent when considering the NPRM's arguments against the affirmative action requirements contained within current 29 CFR 30. One assertion put forth by the Department is that these requirements may induce Registered Apprentice Programs ("RAPs" or "sponsors") to engage in reverse discrimination against members of majority groups, in violation of Title VII. The proposed rule states that "the non-remedial affirmative action requirements in [current 29 CFR 30] effectively place a finger on the scale for certain apprenticeship applicants based on their race, ethnicity, or sex" and warns that existing regulations "may potentially induce illegal selection of apprentices based on race and sex."[11]

However, the NPRM fails to provide any evidence or citations that would support the Department's assertions about the discriminatory impact of the current regulations. DOL does not include any examples of how these regulations have actually led RAPs to engage in unlawful discrimination, providing only vague suggestions. Moreover, the Taskforce was entirely unable to substantiate the Department's proffered concerns through our own independent research. We did not find any examples of recent Equal Employment Opportunity Commission (EEOC) charges brought against employers for discriminating against white males in apprenticeship programs, construction jobs, or trades jobs. In contrast, there are numerous examples of such

[9] 5 U.S.C. §§ 706(2)(A), (C) (2018).
[10] *Motor Vehicle Mfrs. Ass'n v. State Farm Mutual Automobile Ins. Co.,* 463 U.S. 29, 43 (1983) (quoting *Burlington Truck Lines, Inc. v. United States*, 371 U. S. 156, 168 (1962)).
[11] NPRM. 90 Fed. Reg. at 28947, 28950.

cases concerning discrimination against women and racial minorities.[12] Discriminatory practices against women and people of color, and subtle (or not-so-subtle) preferences for white men, are also the overwhelming experience of the tradeswomen who participate in our Taskforce. Ultimately, the Department lacks a reasonable basis for their assertion that the speculative risk of reverse discrimination is a greater threat than the known discrimination that keeps women and people of color out of apprenticeship programs and the trades.

Along with presenting unsubstantiated claims that affirmative action requirements lead to "reverse discrimination" against majority groups, the Department seems to suggest that there is no need for the requirements of 29 CFR 30 because gender discrimination in apprenticeship is not a significant issue, or at least not a particularly actionable one. For example, the proposed rule states that "the Department's historical records show that it has never initiated deregistration proceedings against a sponsor based on a violation of part 30" and that "the Department has received a relatively small number of complaints over the years from apprentices alleging instances of discrimination."[13]

These assertions are misleading and unsupported by relevant data. Both research and individual Taskforce members' lived experience clearly demonstrate that race and gender discrimination continue to be severe problems within apprenticeship programs, construction work, and the trades.[14] Moreover, the disproportionately low numbers of women and minorities in apprenticeship programs, and the "abysmal" completion rates for women and African Americans in particular, demonstrate an ongoing opportunity gap.[15] Recent charges brought by the EEOC against apprenticeship programs and construction companies for gender and race discrimination confirm that discrimination continues to be a rampant problem and that affirmative action measures are required.[16]

Moreover, DOL misconstrues both the purpose and the requirements of the current 29/30 regulations—particularly the comparison between a sponsor's apprentice workforce and the

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[12] *See e.g.* Press Release, U.S. Equal Employment Opportunity Commission (EEOC), Clarksburg JATC to Pay $150,000 to Settle EEOC Sex Discrimination Charge (Sep. 29, 2023), https://www.eeoc.gov/newsroom/clarksburg-jatc-pay-150000-settle-eeoc-sex-discrimination-charge; Press Release, EEOC, USF Holland to Pay $490,000 and Provide $120,000 in Scholarships to Settle EEOC Sex Discrimination Suit (June 21, 2023), https://www.eeoc.gov/newsroom/usf-holland-pay-490000-and-provide-120000-scholarships-settle-eeoc-sex-discrimination-suit; Press Release, EEOC, EEOC Sues TKO Construction Services for Sex, Race and Age Discrimination, and Constructive Discharge (Sep. 28, 2023), https://www.eeoc.gov/newsroom/eeoc-sues-tko-construction-services-sex-race-and-age-discrimination-and-constructive.

[13] NPRM, 90 Fed. Reg. at 28947, 28951.

[14] *See e.g.* Jessica Kutz, *'We just don't hire women': In the construction industry, discrimination runs rampant*, THE 19TH (July 7, 2023), https://19thnews.org/2023/07/construction-industry-women-people-of-color-discrimination/ (discussing the 2023 EEOC report "Building for the Future," *infra* note 16).

[15] ADVISORY COMM. ON APPRENTICESHIP, BIENNIAL REPORT TO THE SECRETARY OF LABOR 102 (2023), https://www.apprenticeship.gov/sites/default/files/Final%20ACA%20Biennial%20Report%20-%20May%2010%202023.pdf. [hereinafter ACA Biennial Report]

[16] *See e.g.* EEOC, BUILDING FOR THE FUTURE: ADVANCING EQUAL OPPORTUNITY IN THE CONSTRUCTION INDUSTRY (2023), https://www.equalrights.org/wp-content/uploads/2025/08/EEOC-Building-for-the-Future-1.pdf [hereinafter Building for the Future] (note that this report has been removed from the EEOC website); ARIANE HEGEWISCH, INST. FOR WOMEN'S POLICY RESEARCH, NUMBERS MATTER: WOMEN WORKING IN CONSTRUCTION (Quick Figure No. Q120, 2025), https://iwpr.org/numbers-matter-women-working-in-construction-3/ [hereinafter Numbers Matter]. A PDF of the Numbers Matter report is included as Attachment 1.

available local labor force (the "availability analysis") and related actions—when it states that "there are numerous nondiscriminatory factors that may explain differences between a sponsor's workforce and the available local labor force." As 29 C.F.R § 30.5(c) states explicitly, the –

> purpose of the availability analysis is to establish a benchmark against which the demographic composition of the sponsor's apprenticeship program can be compared in order to determine whether barriers to equal opportunity may exist with regard to the sponsor's apprenticeship program.

The availability analysis does not seek to establish discrimination; it merely seeks to establish whether "barriers to equal opportunity may exist." If they do, the current regulations require the sponsor to establish a goal for the underrepresented population(s) based on the availability analysis and then to undertake specific, prescribed targeted outreach and recruitment steps in order to try to reach that goal – not to make hiring decisions that favor underrepresented populations.[17] Indeed, hiring decisions that favor underrepresented populations are *explicitly prohibited* by current § 30.5, and "[a] sponsor's determination … that a utilization goal is required constitutes neither a finding nor an admission of discrimination."[18] The regulations go out of their way to emphasize this point, providing in 29 C.F.R. § 30.6(d) that –

> (1) Utilization goals may not be rigid and inflexible quotas, which must be met, nor are they to be considered either a ceiling or a floor for the selection of particular groups as apprentices. Quotas are expressly forbidden.
>
> (2) Utilization goals may not provide a sponsor with a justification to extend a preference to any individual, select an individual, or adversely affect an individual's status as an apprentice, on the basis of that person's race, sex, or ethnicity.
>
> (3) Utilization goals do not create set- asides for specific groups, nor are they intended to achieve proportional representation or equal results.
>
> (4) Utilization goals may not be used to supersede eligibility requirements for apprenticeship. Affirmative action programs prescribed by the regulations of this part do not require sponsors to select a person who lacks qualifications to participate in the apprenticeship program successfully, or select a less-qualified person in preference to a more qualified one.

Further, the current regulation is carefully tailored to ensure that the availability analysis *excludes* nondiscriminatory factors that may explain differences between the two. Availability is determined solely by one of two factors: "(i) The percentage of individuals who are eligible for enrollment in the apprenticeship program within the sponsor's relevant recruitment area broken down by race, sex, and ethnicity" for positions for which the sponsor accepts applicants who are not already its current employees; and "(ii) The percentage of the sponsor's employees who are eligible for enrollment in the apprenticeship program broken down by race, sex, and ethnicity"

[17] 29 C.F.R §§ 30.5(d), 30.6 (2024).
[18] 29 C.F.R § 30.6(b).

for positions for which the sponsor accepts applicants who *are* already its current employees.[19] Key here is the phrase "eligible for enrollment." Individuals are eligible for enrollment in a RAP if they have achieved the minimum requirements established by the RAP – for example, they are a high-school graduate or have a GED. People who do not possess that qualification would be denied entry into the RAP for that nondiscriminatory reason, and are similarly excluded from the local labor force considered available for purposes of the comparison with the RAP's apprentice workforce. Moreover, the parameters of the comparison — "the sponsor's relevant recruitment area," defined as "the geographical area from which the sponsor usually seeks or reasonably could seek apprentices,"— ensures an apples-to-apples comparison: people who do not live in that area would be denied entry into the RAP for that nondiscriminatory reason, and are similarly excluded from the availability analysis.[20]

2. *The Department provides unsupported cost estimates that overstate the cost of the current regulations and understate the true cost of the proposed changes.*

The Department asserts that the NPRM will have significant economic benefits for a relatively modest cost.[21] Although the Department presents a fiscal analysis as required, this analysis relies on inaccurate and exaggerated estimates that do not align with the experiences and expectations of the RAPs they claim will be benefitted. One needs only to glance at the numbers underlying the Department's calculations to question the rationality of their fiscal assertions. The Department estimates that the NRPM will cost only $9.11 million, all incurred within the first year, and have a monetized benefit between $748.76 and $891.95 million.[22] On its face, the disparity between the asserted costs and benefits is not credible. Examination of these figures reveals that in fact, they rely on an unsupportable minimization of cost calculations and maximization of savings calculations.

For example, in its analysis of the cost saving benefits of eliminating the anti-harassment training requirement currently in 29 CFR 30, the Department estimates that a Human Resources manager (paid at a rate of $107.04/ hour) at each RAP spends two hours annually developing and updating the training materials.[23] Ultimately, the Department estimates that eliminating this requirement will create $54.66 million in savings in the first year. In contrast, when analyzing costs associated with implementing the new rule, the Department estimates that updating compliance standards in response to the proposed regulatory changes will take an administrative assistant (paid at a rate of $35.39) only 20 minutes.[24] The first-year cost estimate for these updates comes out to $329,194.

These estimates are ill-informed at best. The Taskforce has consistently heard from RAPs that the NPRM estimates do not reflect their expectations and experience, and that the Department has dramatically underestimated the time and effort it will take to respond to these regulatory changes. It is simply not credible to conclude that updating compliance standards in response to

[19] 29 C.F.R. § 30.5(c)(3).
[20] 29 C.F.R. § 30.5(c)(4).
[21] *See e.g.* NPRM, 90 Fed. Reg. at 28947, 28961.
[22] *Id.*
[23] NPRM, 90 Fed. Reg. at 28947, 28963.
[24] NPRM, 90 Fed. Reg. at 28947, 28965.

federal regulations will take only 20 minutes, even when responding to dramatic regulatory cuts, and that this project would be the responsibility of an administrative assistant. Updating compliance standards is not a simple matter of deleting revoked rules in a document; it requires the time and attention of management and key stakeholders, and the total cost to RAPs will ultimately far exceed $330,000. On the other hand, making routine updates to anti-discrimination training materials does not require the same amount of time as creating them from scratch, nor does this task need to be done by a senior employee. The dramatic difference between the total estimates for a significant policy change versus a routine annual training highlights the kind of logical fallacies that appear throughout the NPRM's fiscal analysis.[25]

Similarly, the NPRM greatly overstates the cost to RAPs of complying with the current regulations. The Urban Institute found that complying with the current 29 CFR 30 regulations costs a miniscule 0.13% of the total cost of administering a RAP, and uncovered *no* evidence that RAPs find 29/30 compliance to be burdensome or costly.[26] Indeed, only 15% of American Apprenticeship Initiative grantees found regulatory compliance costs – which included compliance with all the regulatory requirements, not just with the current 29 CFR 30 regulations – to be a barrier to creating apprenticeship programs.[27]

B. The NPRM exceeds the statutory authority established in the National Apprenticeship Act by preempting state regulations that go beyond the requirements of the proposed rule.

The APA also requires courts to overturn agency actions if they are "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right."[28] The NPRM is in excess of statutory authority as it restricts the ability of states to go and above and beyond the federal rules when combating and preventing discrimination against women and people of color in apprenticeship programs, and instead requires all state plans for nondiscrimination in apprenticeship to "conform ***only*** to the requirements" of the proposed rule.[29]

Although Congress has the ability to preempt all state regulation in this field, they declined to do so in the context of apprenticeship standards. The National Apprenticeship Act, the implementing statute for the apprenticeship regulations enacted at 29 CFR Parts 29 and 30, clearly contemplates a governance model in which state agencies have the authority to promulgate and enforce apprenticeship standards for their own jurisdictions so long as federal requirements are also met.[30] That statute states that the "Secretary of Labor is hereby authorized and directed to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprenticeships . . . [and] **to cooperate with State agencies engaged in the**

[25] In this regard, we cite with approval the findings of the Urban Institute that the NPRM's cost estimates are much too low, and their benefit estimates much too high. Deborah Kobes et al., Urban Institute, Public Comment, *Re: ETA–2025–0006, RIN 1205-AC21, Prohibiting Illegal Discrimination in Registered Apprenticeship Programs* (forthcoming Sep. 2025).
[26] *Id.*
[27] *Id.*
[28] 5 U.S.C. § 706(2)(C).
[29] NPRM, 90 Fed. Reg. at 28947, 2975; proposed 29 C.F.R § 30.7 (emphasis added).
[30] National Apprenticeship Act, ch. 663, 50 Stat. 664 (1937) (codified at 29 U.S.C. § 50).

formulation and promotion of standards of apprenticeship."[31] Under the plain meaning of the text, this statute does not provide that the federal agency has the sole power to establish regulations in this area; instead, it indicates that state agencies also have their own authority to effectuate standards of apprenticeship. Accordingly, federal standards are rightfully the floor states must meet in their own apprenticeship programs, not a ceiling they are prohibited from going beyond.

Despite the clear statutory intent of Congress, the proposed rule would restrict the ability of states to develop and enforce their own apprenticeship standards by preempting state requirements that go beyond the federal regulations. Under this proposal, many of the states that have a State Apprenticeship Agency ("SAA") would be forced to eliminate any anti-discrimination and affirmative action requirements that they have already independently established for their own RAPs and that provide more protection to apprentices than the federal ones.[32] Because the applicable federal statute does not grant the Department the authority to restrict states from establishing additional protections for apprentices, the proposed rule is in excess of statutory authority and is presumptively invalid.

II. <u>The Department's assertion that the current regulations are "legally vulnerable" is inaccurate, relies on misstatements of law, and does not constitute a justification for rescission.</u>

A. The Department's characterization of the Supreme Court's holding in *Students for Fair Admissions* and its application to the 29 CFR 30 regulations is inaccurate and misleading.

The Department asserts that the current regulations' affirmative action requirements should be rescinded because they are "legally vulnerable," particularly in light of the Supreme Court's decision in *Students for Fair Admissions v. President & Fellows of Harvard College* ("*Students for Fair Admission*").[33] DOL claims that, following *Students for Fair Admission*, any program that "place[s] a finger on the scale for certain apprenticeship applicants based on their race, ethnicity or sex" is vulnerable to an Equal Protection challenge.[34] The Department argues that the current 29 CFR 30 regulations must be rescinded because they "incentivize and induce the adoption of certain practices that can lead to disparate treatment in employment decisions based on race, color, ethnicity, or sex" and therefore violate the Equal Protection Clause.[35] The DOL's characterization of the Supreme Court's holding in *Students for Fair Admissions* and its

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[31] *Id.* at 1 (emphasis added).
[32] According to DOL, currently, 25 states adopt independent state regulation of apprenticeship. *See State Apprenticeship Agencies*, U.S. DEP'T OF LABOR, EMPLOYMENT & TRAINING ADMIN., https://www.dol.gov/index.php/agencies/eta/apprenticeship/contact/state-agencies (last visited Aug. 26, 2025).
[33] NPRM, 90 Fed. Reg. at 28947, 28951; *Students for Fair Admissions v. Pres. & Fellows of Harv. Coll*, 600 U.S. 181, 214-16 (2023).
[34] NPRM, 90 Fed. Reg. at 28947, 28951.
[35] *Id.*

application to the 29 CFR 30 regulations is inaccurate and unsupported, and does not constitute a viable reason for rescission.[36]

The Supreme Court's decision in *Students for Fair Admissions* applied specifically to race-based admissions programs adopted by Harvard and the University of North Carolina, in which race was explicitly considered as one factor in admissions decisions. The Court held that these specific admissions programs did not satisfy the strict scrutiny standard because these specific processes were not narrowly tailored to achieve a compelling governmental interest.[37] The Court recognized that race-based action may be permissible in certain circumstances,[38] and it did not prohibit the use of race in higher education admissions entirely, ruling that universities can still consider an applicant's discussion of how race impacted their life.[39]

The Supreme Court's holding in *Students for Fair Admissions* is narrow and does not apply outside the context of race-based admissions programs in higher education. The Court did not address the use of race-based processes outside of the higher education admissions context, nor did it overturn existing precedent governing employment or contracting. The decision also only addressed race-based programs and did not address practices that take into account gender or other protected characteristics.

This decision has no bearing on the 29 CFR 30 regulations, which concern apprenticeship and are clearly distinguishable from the race-based admissions programs in *Students for Fair Admissions*. While the current regulations do require certain RAPs to set numeric goals for participation in their apprenticeship programs based on race, sex, and ethnicity,[40] these goals are aspirational: the regulations specifically state that they are to serve as "objectives or targets" rather than requirements.[41] Moreover, unlike the programs at issue in *Students for Fair Admissions*, the current regulations do not permit race, sex, or ethnicity to be used as a factor in decision-making. The current rules also prohibit RAPs from giving preferences based on an individual's race, sex, or ethnicity in order to meet participation goals.[42]

Rather than strictly holding sponsors to participation goals, the current regulations merely require RAPs to make good faith efforts to meet the goals. The regulations make clear that participation goals cannot serve as quotas or set-asides, noting that "[q]uotas are expressly forbidden."[43] Unlike in a quota system, RAPs are not found responsible for misconduct or sanctioned for falling short of the established target.[44] The regulations expressly note that a

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[36] Our analysis focuses on sex, race, and national origin given that the Department's arguments in the NPRM address the legality of the affirmative action requirements as to these protected characteristics. Much of the analysis, however, applies with equal force to the ADA and ADEA.
[37] *Students for Fair Admissions*, 600 U.S. at 214-16.
[38] *See id.* at 207.
[39] *Id.* at 230.
[40] 29 C.F.R § 30.6.
[41] 29 C.F.R § 30.6(c).
[42] 29 C.F.R § 30.6(d)(2).
[43] 29 C.F.R 30.6(d)(1).
[44] In an analogous context, a federal court rejected a challenge to affirmative action program regulations—currently the subject of a parallel rescission proposal by DOL—that required good faith efforts to meet a specific aspirational goal for employees with disabilities. In that case, the court reasoned that "the utilization goal is not a quota" because there was no sanction for failing to meet it. As the court explained, "any contractor that engages in significant

determination that a "utilization goal is required constitutes neither a finding nor an admission of discrimination."[45] Instead, RAPs that must establish such goals are tasked with engaging in specified outreach, recruitment, and retention steps "that are likely to generate an increase in applications for apprenticeship and improve retention of apprentices from" the underutilized group.[46] The required steps include, among others: "[d]isseminat[ing] information [about its apprenticeship opportunities] to organizations serving the underutilized group" such as local high schools, community colleges and workforce system partners; "[a]dvertising openings for apprenticeship opportunities … in appropriate media which have wide circulation in the relevant recruitment areas;" and "[e]valuat[ing] … after every selection cycle for registering apprentices the overall effectiveness of [its] activities."[47] Taking such race- and gender-neutral steps to ensure fair and equal access is entirely consistent with non-discriminatory hiring and other employment practices. Again, the 29 CFR 30 regulations merely require good faith efforts and action steps, not preferential treatment.

In devising the current regulations, the Department determined that demographic goals were necessary to ensure RAPs could take advantage of the widest pool of potential employee talent and to protect apprentices and prospective apprentices from invidious employment discrimination following an analysis that considered "the history, demographic patterns, and documented experiences in apprenticeships of members of certain underrepresented groups [that] demonstrate the continuing obstacles to the full participation of these groups in registered apprenticeship programs."[48] DOL carefully considered and put into place multiple parameters to narrowly tailor the need to establish such goals. For example, demographic goals are not required for all RAPs; rather, RAPs must only establish goals when there is a "significant disparity" in the "Major Occupation."[49] Further, RAPs with fewer than five apprentices are exempt from the

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affirmative-action efforts, but falls short of [the utilization goal] because it is faced with too few qualified applicants with disabilities could arguably have complied with the Rule. No contractor is required to hire any unqualified individual and all that occurs if the benchmark is not met is that the contractor must examine its hiring practices to determine if they are excluding qualified individuals with disabilities." *Associated Builders & Contractors, Inc. v. Shiu*, 30 F. Supp. 3d 25, 46 (D.D.C. 2014), *aff'd*, 773 F. 3d 257 (D.C. Cir. 2014).

[45] 29 C.F.R. § 30.6(b).

[46] 29 C.F.R. § 30.8(a).

[47] 29 C.F.R. § 30.8(a).

[48] Notice of Apprenticeship Programs; Equal Employment Opportunity, 81 Fed. Reg. 92026, 92027-92028 (finalized Dec. 19, 2016) (codified at 29 C.F.R. pts. 29 and 30) [hereinafter 2016 Final Rule]. As a result of these analyses, the Office of Apprenticeship (OA) found the following: lower than expected enrollment rates in registered apprenticeships among women and specific minority groups; to the extent that women and minorities participate in registered apprenticeships, concentration of these groups in apprenticeships for lower- paying occupations; and significantly lower apprenticeship completion rates among specific minority groups and lower construction apprenticeship completion rates among minority groups and women. *Id.* at 92028.

[49] 29 C.F.R § 30.5. It is important to note that demographic-conscious goals are required only for those races and ethnicities that are underutilized, not for "minorities" in the aggregate. Moreover, the calculation of demographic-conscious goals depends on the availability of workers who possess the minimum qualifications required for the particular apprenticeship for which the RAP is recruiting. For construction-trade apprenticeships, for example, the minimum qualification is often having a high-school degree or GED; the goal is computed based on the percentage of those in the Relevant Recruitment Area who meet that qualification and who are from the relevant race, ethnicity, or gender category. Further, by requiring the demographic-conscious goals to be updated regularly, the regulations ensure that goals are derived from the most recently available, reasonably up-to-date statistical data (29 C.F.R § 30.7(d)(2)(ii) requires RAPs to update their workforce analyses and compare them to their utilization goals at least every three years).

requirement to establish demographic goals.[50] Nothing in the Supreme Court's decision in *Students for Fair Admissions* prohibits the specifically targeted apprenticeship efforts described in the 29 CFR 30 regulations.

B. The NPRM both misapplies and minimizes the protections of Title VII

Although the Department uses Title VII to justify the rescission of the current rule, this argument is inadequately supported both by relevant case law and by the NPRM itself. The Department argues that the current 29 CFR 30 regulations violate Title VII because they require placement goals and action-oriented steps for "only women and minorities."[51] The DOL cites the Supreme Court's decision in *Ames v. Ohio Department of Youth*, which held that the standard for unlawful discrimination under Title VII is the same for all plaintiffs bringing suits under Title VII, regardless of whether they are a member of a historically disadvantaged group.[52] Title VII prohibits employers from engaging in discrimination by altering the terms of employment based on race, sex, national origin or other protected characteristics.[53] As previously discussed in this section, these regulations do not alter any terms or conditions of employment based on race, ethnicity or sex, nor do they allow RAPs to do so; in fact, they prohibit RAPs from making any discriminatory employment decisions. The regulations simply require RAPs to set aspirational goals and make good faith efforts to expand equal opportunity through fair processes. Title VII and *Ames* do not prohibit these regulations.

The Department also claims that the affirmative action requirements in 29/30 may cause employers to engage in disparate treatment based on race, ethnicity or sex, in violation of Title VII; however, as established above in Section I, the Department provides no supporting citation or evidence for this assertion.[54] Title VII prohibits discrimination based on race, sex, national origin, and other protected classes in terms and conditions of employment and "in admission to, or employment in, any program established to provide apprenticeship or other training."[55] As previously explained in this section, the regulations expressly prohibit sponsors from taking any discriminatory employment action, including in recruitment, outreach and selection procedures, or extending any preference based on race, sex or ethnicity.[56] To the extent that any such

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[50] 29 C.F.R § 30.4(d)(1). OA estimated that fully 75% of RAPs are exempt under this size restriction. 2016 Final Rule, 81 Fed. Reg. at 92026, 92085. RAPs that already have an Affirmative Action Program that covers apprentices are also exempt. 29 C.F.R § 30.4(d)(2).

[51] NPRM, 90 Fed. Reg. at 28947, 28951.

[52] NPRM, 90 Fed. Reg. at 28947, 2895 (citing *Ames v. Ohio Dep't of Youth*, No. 23–1039, 05 U.S. __, (2025) (slip op.)).

[53] 42 U.S.C. § 2000e-2(a)(1).

[54] NPRM, 90 Fed. Reg. at 28947, 28951; 29 C.F.R. §§ 30.4(a)(5), 30.6. To the extent DOL may also make this argument as to disability and the ADA, the NPRM similarly fails to present any legitimate legal or policy arguments.

[55] 42 U.S.C. § 2000(e) *et seq.* (1964); 42 U.S.C. § 2000e-2(a), (d). Under Title VII, employers may take race or gender into account in employment decisions when needed to "correct the effects of past discrimination.…" *See, e.g.*, 29 C.F.R. § 1608.1 ("Voluntary affirmative action to improve opportunities for minorities and women must be encouraged and protected in order to carry out the Congressional intent embodied in [T]itle VII. Affirmative action under these principles means those actions appropriate to overcome the effects of past or present practices, policies, or other barriers to equal employment opportunity.") (internal citations omitted); *Johnson v. Transp. Agency,* 480 U.S. 616, 628–29 (1987); *United Steelworkers of Am. v. Weber*, 443 U.S. 193 (1979).

[56] 29 C.F.R. § 30.3(a)(1).

discrimination may occur, the RAPs would be acting in violation of current program regulations as well as Title VII and other applicable state and federal civil rights protections, and any apprentice or potential apprentice who faces such discrimination would have the option to pursue legal remedies. Therefore, DOL's assertion that the 29 CFR 30 regulations must be rescinded because they may induce unlawful discrimination has no merit.

Even as the Department improperly uses Title VII to justify certain arguments, it pointedly disregards the clear applicability of Title VII in another context. The DOL proposes eliminating references to gender identity in 29 CFR 30 for the sake of comporting with Executive Order (EO) 14168 ("Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government"), which requires state agencies to enforce sex-based protections according to sex assigned at birth.[57] However, the Department fails to acknowledge that this executive order defies settled Title VII case law. In *Bostock v. Clayton County, Georgia,* the Supreme Court held that discrimination based on gender identity is a form of sex discrimination protected by Title VII.[58] As Executive Orders cannot override Supreme Court case law, *Bostock* remains the supreme law of the land.[59] Furthermore, if the Department intends to interpret and enforce 29 CFR 30 in accordance with EO 14168 rather than *Bostock*, this would in turn violate Title VII.

III. The current 29 CFR 30 regulations are necessary because they go beyond the protections of Title VII.

Contrary to the government's assertion, Title VII alone is insufficient to provide substantive nondiscrimination protections to, or prevent discrimination towards, apprentices; the regulations go well beyond Title VII in those regards.

In the NPRM, DOL asserts that –

> [T]he proposed changes are intended to bring the regulation into alignment with nondiscrimination law. These revisions would eliminate a duplicative and outdated equal employment opportunity framework that applies only to registered apprenticeship.[60]

and

> [T]he protected characteristics contained in § 30.3(a) of the current part 30 rule are duplicative of the nondiscrimination requirements contained in a number of Federal civil rights statutes, including Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), and the Age Discrimination in Employment Act (ADEA).[61]

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[57] NPRM, 90 Fed. Reg. at 28947, 28955.
[58] *See Bostock v. Clayton County, Georgia*, 590 U.S. 544 (2020).
[59] *See Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952).
[60] NPRM, 90 Fed. Reg. at 28947, 28949.
[61] *Id.* at 28950.

But the current 29 CFR part 30 regulations do not duplicate Title VII; to the contrary, they go well beyond Title VII in providing substantive protections from discrimination and mechanisms for preventing discrimination, in a number of key ways.[62]

A. Unlike 29 CFR 30, Title VII likely does not apply to all apprenticeship sponsors, or to all the apprenticeship activities of sponsors.

Title VII applies to employment discrimination by "employers, labor unions, and joint labor-management committees controlling apprenticeship or other training or retraining, including on-the-job training programs," and makes it unlawful for such entities "to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training."[63] In contrast, 29 CFR 30 applies to "sponsors of apprenticeship programs registered with either the U.S. Department of Labor or a recognized SAA."[64] A "sponsor" is "any person, association, committee or organization operating an apprenticeship program, and in whose name the program is (or is to be) registered or approved."[65] Although sponsors of RAPs are always ultimately responsible for "admission to" and "employment in" the programs they operate,[66] they also are responsible for functions having to do with all other aspects of the apprenticeship, such as determining the curriculum for the related instruction (RI), operating the RI classes, hiring, scheduling, and supervising the instructors, and evaluating the apprentices' work in RI. As the proposed regulation limits responsibility for discrimination to what is covered under Title VII, it is unclear, at best, whether Title VII's prohibition of discrimination "in admission to or employment in" a registered apprenticeship program covers all sponsor activity.[67] Under current 29/30, a sponsor would be clearly held responsible if, for example, a biased instructor in the sponsor's apprenticeship school regularly graded female apprentices more harshly than their comparably performing male counterparts. The proposed rule does not provide the same clarity.

If, as the NPRM proposes, all discrimination violations by sponsors must be those that fall under Title VII, the covered apprenticeship entities are only those that meet the definitions of "employers, labor unions, and joint labor-management committees controlling apprenticeship or other training or retraining." Title VII's definitions of "employer,"[68] and "labor union,"[69] both contain a 15-employee or 15-union member threshold. Thus, if the NPRM were adopted as proposed, those sponsors that are not "joint labor-management committee[s] controlling apprenticeship or other training or retraining" and/or do not have at least 15 employees or

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[62] We confine these comments' analysis to comparisons of 29 C.F.R. part 30 with Title VII, because it is Title VII that prohibits the race and sex discrimination in employment with which the Taskforce is primarily concerned. Much of the analysis, however, applies with equal force to the ADA and ADEA.
[63] 42 USC § 2000e-2(d).
[64] 29 § C.F.R. § 30.1(b).
[65] 29 § C.F.R. § 30.2.
[66] Sponsors are not always apprentices' employers, however; many if not most Joint Apprenticeship and Training Committees (JATCs), for example, arrange their apprentices' employment with participating employers but are not the apprentices' employers of record.
[67] 42 USC § 2000e-2(d).
[68] 42 USC § 2000e(b).
[69] 42 USC § 2000e(d), (e).

members would not be covered by any anti-discrimination law, and so would not be prohibited from discriminating against apprentices.[70]

B. 29 CFR 30, unlike Title VII, requires RAPs to take affirmative steps to prevent discrimination.

Although preventing discrimination is part and parcel of prohibiting discrimination, Title VII itself does not mandate preventative measures. In contrast, the current 29 CFR 30 regulations establish a number of specific steps that RAPs must take to prevent discrimination, including:

(a) Holding anti-harassment trainings for apprentices and everyone who regularly works with them;[71]
(b) Adopting an Equal Opportunity Pledge;[72]
(c) Holding initial and periodic sessions on equal employment opportunity for apprentices and everyone who regularly works with them;[73]
(d) Doing universal outreach whenever a program has an opening;[74]
(e) Assigning responsibility for ensuring EEO within the RAP;[75]
(f) Adopting Affirmative Action Plans;[76] and
(g) Record-keeping obligations.[77]

As DOL found when it promulgated the current 29 CFR 30 regulations in 2016, each of these steps is necessitated by "the history, demographic patterns, and documented experiences in apprenticeships of members of certain underrepresented groups [which] demonstrate the continuing obstacles to the full participation of these groups in registered apprenticeship programs."[78] These steps were specifically found to be "necessary" because –

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[70] Title VII's definitions section contains no definition of "joint labor-management committee controlling apprenticeship or other training or retraining," and thus no similar size limitation.
[71] 29 C.F.R. § 30.3(b)(4)(i).
[72] 29 C.F.R. §§ 30.3(b)(2)(i), (ii).
[73] 29 C.F.R. § 30.3(b)(2)(iii).
[74] 29 C.F.R. § 30.3(b)(3).
[75] 29 CFR § 30.3(b)(1).
[76] 29 C.F.R. § 30.4(b)
[77] 29 C.F.R. § 30.12
[78] 2016 Final Rule, 81 Fed. Reg. at 92026, 92027-92028. Per the 2016 Final Rule at 92028 –

> In evaluating the need for this rule, OA analyzed participant demographics in apprenticeship programs in construction and non-construction industries and the demographics of the national labor force. OA reviewed apprenticeship data from OA's Registered Apprenticeship Partners Information Data System (RAPIDS) and analyzed national labor force data from the Current Population Survey (CPS). Using the data from these sources to compare the demographic characteristics of the national workforce to the demographics of individuals enrolled in apprenticeships makes clear that notable disparities exist in apprenticeship participation and completion.

> despite the progress that [had] been made in some segments of the workforce since the promulgation of the [previous] part 30,[79] the residual impact of longstanding discrimination continue[d] to exclude historically disadvantaged worker groups from participation in registered apprenticeship.[80]

DOL's analysis was based on –

> public input, [Advisory Committee on Apprenticeship] consultation, as well as OA's analysis of demographic patterns in apprenticeship … and a literature review regarding barriers to entry, underutilization, and discrimination in apprenticeship and nontraditional occupations for women and minorities, and best practices to address these challenges.[81]

Thus, DOL proposed the current required steps –

> to improve the effectiveness of program sponsors' required affirmative action efforts and of Registration Agencies' efforts to enforce and support compliance with this rule by, among other things, detailing specific mandatory actions a sponsor must take to satisfy its affirmative action obligations, including mandating certain actions that are merely suggested in the existing regulations.[82]

Further, DOL found that addressing these obstacles can be successful: "women do participate and succeed in apprenticeship programs at higher levels when provided equal opportunity and support."[83] The proposed steps were among those that the Department "designed to improve the effectiveness of program sponsors' required affirmative action efforts and of Registration Agencies' efforts to enforce and support compliance with this rule."[84] As we demonstrate elsewhere in these comments, these obstacles continue, though they have been, perhaps, somewhat reduced by the implementation of 29 CFR 30. To the extent the Department has determined that the current regulations are unduly burdensome or confusing for sponsors and potential sponsors,[85] clarifying the requirement(s) at issue and improving related processes to make them less burdensome are far better remedies than eliminating these rules entirely.

Each affirmative step to prevent discrimination provided for in 29/30 plays a distinct, important, and necessary role:

(a) Anti-Harassment Training. The current regulations' requirement that all sponsors conduct anti-harassment training[86] is one of the few, and perhaps the only, affirmative requirements of anti-harassment training in federal law. It was necessary when promulgated, and

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[79] That version of 29 C.F.R. part 30 had been in effect in exactly the same form since 1978. Apprenticeship Programs; Equal Employment Opportunity, 80 Fed. Reg. 68908, 68909 (proposed November 6, 2015) [hereinafter 2015 NPRM].
[80] *Id.* at 68911.
[81] *Id.*
[82] *Id.*
[83] 2016 Final Rule, 81 Fed. Reg. at 92026, 92030.
[84] *Id.* at 92034.
[85] *See e.g.* NPRM, 90 Fed. Reg. at 28947, 28951
[86] 29 C.F.R. § 30.3(b)(4)(i).

continues to be necessary now, because sex- and race-based harassment, intimidation, bullying, and retaliation were and are so prevalent, severe, and pervasive conditions of work in the construction trades, including construction-trades apprenticeships. As one witness at EEOC's 2022 meeting on discrimination in the construction industry testified –

> the construction work culture is not like an average office workplace. Yelling, cussing, hazing, raunchy behavior, off color jokes, bullying are the norms. A "macho culture," or what some might call the "locker room" culture, is typically the norm for behavior, communication, and practices in our workplaces. This means an environment where sexualized conversations, jokes, stories, graffiti, and pornography are commonplace. Even equipment, tools and parts can be referred to in sexual terms. For many tradeswomen it can feel unwelcoming and uncomfortable.[87]

Such conditions have been documented since the current part 30 was promulgated in 2016. Notably, the Institute for Women's Policy Research's (IWPR) 2021 survey of tradeswomen and women apprentices in the trades, *A Future Worth Building: What Tradeswomen Say about the Change They Need in the Construction Industry* ("IWPR Tradeswomen Survey"), found that –

> More than a quarter of respondents (26.5 percent) report that they are always or frequently harassed just for being a woman; 23.6 percent report always or frequently face sexual harassment; 21.0 percent of women of color report that they are always or frequently racially harassed.[88]

The number of charges of harassment and/or sexual harassment filed with the Equal Employment Opportunity Commission under Title VII (in all jobs) rose from 20,362 in FY 2021 to 29,029 in FY 2024.[89] The EEOC itself found that "[h]arassment is pervasive on many [construction] jobsites and poses a significant barrier to the recruitment and retention of women and workers of color in the industry."[90] Respondents to the IWPR survey identified workplace policies like anti-harassment policies as "'very important' to [their] success in the trades by over four in ten respondents (44.6 percent)."[91]

Of particular importance is the requirement that the anti-harassment training be delivered to "*all* individuals connected with the administration or operation of the apprenticeship program, including all apprentices and journeyworkers who regularly work with apprentices."[92] Apprentice tradeswomen are regularly racially and sexually harassed not just by their supervisors, but also by the other journeyworkers whom they work with, their instructors, and

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[87] Testimony of Japlan "Jazz" Allen, Chicago Women in Trades, at EEOC Meeting, *Knocking Down Walls: Discrimination and Harassment in Construction* (May 17, 2022), https://www.eeoc.gov/es/node/134352.
[88] ARIANE HEGEWISCH & EVE MEFFERD, INST. FOR WOMEN'S POLICY RESEARCH, A FUTURE WORTH BUILDING: WHAT TRADESWOMEN SAY ABOUT THE CHANGE THEY NEED IN THE CONSTRUCTION INDUSTRY 14 (2021), https://iwpr.org/wp-content/uploads/2022/02/A-Future-Worth-Building_What-Tradeswomen-Say_FINAL.pdf [hereinafter IWPR Survey].
[89] *Enforcement and Litigation Statistics: Charge Statistics, Statutes/ Bases by Issue (Title VI) (FY 2021–FY 2024)*, EEOC, https://www.eeoc.gov/data/enforcement-and-litigation-statistics-0 (last visited Aug. 27, 2025).
[90] Building for the Future, *supra* note 15, at 5.
[91] IWPR Survey, *supra* note 76, at 31.
[92] 29 C.F.R. § 30.3(b)(4)(i) (emphasis added).

even administrative staff who work for their RAP. This regulatory requirement is unique in addressing that reality of apprentice tradeswomen's experience.

(b) Equal Opportunity Pledge. The current regulations' requirement that sponsors adopt, publish, and post an Equal Opportunity Pledge[93] is one mechanism by which DOL ensures that sponsors are serious and intentional about their commitment to providing apprentices with equal opportunity and that they communicate that seriousness and intent to their apprentices and other employees. Given the continued prevalence of harassment and other forms of discrimination based on race, sex, and ethnicity, this requirement was and remains necessary.

(c) Information Sessions on Equal Employment Opportunity. Similarly, the current regulations' requirement that sponsors hold –

> orientation and periodic information sessions for individuals connected with the administration or operation of the apprenticeship program, including all apprentices and journeyworkers who regularly work with apprentices, to inform and remind such individuals of the sponsor's equal employment opportunity policy with regard to apprenticeship[94] –

was and remains necessary, both to underline sponsors' commitment to EEO and to communicate that commitment internally to all affected parties. Like the anti-harassment training, these sessions must be delivered to *all* individuals "connected with the administration or operation of the apprenticeship program, including all apprentices and journeyworkers who regularly work with apprentices." The requirement achieves its goals in part by making sure that the information session isn't just a "one-off" – it has to be held periodically.

(d) Universal Outreach. The current regulations require that all sponsors conduct "universal outreach and recruitment … to all persons available for apprenticeship within the sponsor's relevant recruitment area without regard to race, sex, ethnicity, or disability" every time they have an opening for an apprentice in their program.[95] This provision was necessary to correct the problem that DOL found when it proposed the current part 30 that –

> [t]he construction trades have traditionally used informal networks and referrals and word of mouth to recruit for open apprenticeships. Similarly, personal introductions and recommendations (as well as nepotism policies in the past) continue to be significant factors in selection for construction apprenticeships and work. The problem of underrepresentation then perpetuates itself; because women have historically been underrepresented in construction apprenticeships and jobs, many of them may not have the connections necessary to receive information concerning these opportunities and be selected for them.[96]

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[93] 29 C.F.R. §§ 30.3(b)(2)(i), (ii).
[94] 29 C.F.R. § 30.3(b)(2)(iii).
[95] 29 C.F.R. § 30.3(b)(3).
[96] 2015 NPRM, 80 Fed. Reg. at 68908, 68913-68914 (footnote omitted).

Thus, the purpose of the provision was to "foster awareness of opportunities for apprenticeship among all individuals" and "meet the Department's vision of promoting and protecting opportunity for all workers and employers."[97]

(e) Assignment of Person Responsible for EEO. The current regulations' requirement that "the sponsor … identify a point person for overseeing its commitments to equal employment opportunity" was put into place as being necessary "to facilitate the administration and accountability of the program."[98] Moreover, "[the] designation [was] expected to facilitate a sponsor's compliance with part 30 by creating a self-monitoring mechanism within each registered apprenticeship program, therefore institutionalizing each sponsor's commitment to equal opportunity."[99] Again, given the continued prevalence of harassment and other forms of discrimination, this requirement is an essential cornerstone of equal opportunity in apprenticeship programs.

(f) Affirmative Action Plans. The current regulations' requirement that certain RAPs adopt Affirmative Action Plans (AAP) is an "integral tool in the pursuit of equal employment opportunity for all."[100] An AAP has five components:

> (1) utilization analyses for race, sex, and ethnicity;
> (2) establishment of utilization goals for race, sex, and ethnicity, if necessary;
> (3) establishment of utilization analyses and goal setting for individuals with disabilities;
> (4) targeted outreach, recruitment, and retention, if necessary; and
> (5) a review of personnel processes.[101]

According to the Final Rule, the specific AAP-related regulatory changes were "designed to improve the effectiveness of program sponsors' required affirmative action efforts and of Registration Agencies' efforts to enforce and support compliance with this rule."[102] Doing so was necessary because –

> [w]hile progress has been made in some segments of the workforce since the promulgation of the [previous] part 30, [the AAP requirements] were proposed [and adopted] to address the ongoing widespread underutilization of historically disadvantaged worker groups in apprenticeship [and] the Department's … compelling interest in ensuring that its approval of a sponsor's apprenticeship program does not serve to support, endorse, or further promote discrimination.[103]

Indeed, as noted above, tradeswomen feel that diversity goals are key contributors to their success in the trades: more than 35% of IWPR survey respondents identified "having an

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[97] 2015 NPRM, 80 Fed. Reg. at 68908, 68918-68919.
[98] 2016 Final Rule, 81 Fed. Reg. at 92026, 92045; 29 CFR § 30.3(b)(1).
[99] 2015 NPRM, 80 Fed. Reg. at 68908, 68918.
[100] *Id.* at 68920. RAPs that have five or more apprentices and do not already have qualifying AAPs are subject to this requirement once they have been registered for two years. 29 C.F.R. §§ 30.4(d), (e).
[101] *Id.*
[102] 2016 Final Rule, 81 Fed. Reg. at 92026, 92034.
[103] *Id.* at 92034-92035.

employer committed to diversity goals … and project owners with incentives or hiring goals for women" as "very important" to that end.[104]

See Section II-A, above for discussion of why the AAP provisions of current 29 CFR 30 do not violation the Equal Protection Clause under the Supreme Court's holding in *Students for Fair Admission.*

(g) Data-collection and Record-keeping Requirements. Current section § 30.12 requires RAPs to undertake data collection and record-keeping requirements that are specific to apprenticeship. In particular, RAPs are required to "collect such data and maintain such records as the Registration Agency finds necessary to determine whether the sponsor has complied or is complying with the requirements of this part," including those relating to selection for apprenticeship, job assignments in all components of the occupation, conditions of work, hours of work, and hours of training provided.[105]

Importantly, for all such records, sponsors are required to "be able to identify the race, sex, ethnicity (Hispanic or Latino/non- Hispanic or Latino), and when known, disability status of each apprentice, and where possible, the race, sex, ethnicity, and disability status of each applicant to apprenticeship" so that they can "supply this information upon request to the Registration Agency."[106] Sponsors must keep these records for five years "from the date of the making of the record or the personnel action involved, whichever occurs later."[107]

But the Department proposes to delete this requirement. It also proposes modifying the text of § 29.7(l) by removing the specific references to the apprentice's race, sex, ethnicity, and disability status, and replacing these categories with the requirement that the Apprenticeship Agreement contain a general "request for demographic data about the apprentice." "Demographic data" is not defined.

With no categories specified, data requested will be wildly inconsistent from sponsor to sponsor. Comparisons will be meaningless, trends will be undetectable, and no one – not sponsors, not the Registration Agencies, and not the public – will have any idea whether apprenticeship opportunities are available to all regardless of race, color, national origin, religion, sex, age, disability, or genetic information. The proposed data collection and reporting requirements significantly weaken the effectiveness of 29 CFR part 30. There is no way that this change promotes the welfare of apprentices.

[104] IWPR Survey, *supra* note 76, at 31.
[105] 29 C.F.R. § 30.12(a).
[106] 29 C.F.R. § 30.12(b)
[107] 29 C.F.R. § 30.12(d).

IV. The proposed rule's reliance on complaints is no substitute for the affirmative enforcement mechanisms established in the current regulations, especially if the Office of Apprenticeship is to have no role in addressing apprentice complaints.

Proposed § 30.4 would send all complaints of discrimination to the EEOC, US DOJ, or, "for an SSA, to its Fair Employment Practices Agency," leaving the Office of Apprenticeship ("OA") with no role whatsoever in addressing discrimination complaints.[108] Further, the proposal would restrict the EEO compliance reviews authorized by the current regulations and conducted by OA to those where there had been a complaint and final determination of a discrimination violation, effectively eliminating the compliance-reviews mechanism altogether.

It is true that the current regulations give OA the choice of referring discrimination complaints to the EEOC, DOJ, or a like agency, and doing so is the agency's current practice. But the proposed regulations leave the agency no discretion to address a complaint itself, in special circumstances or if circumstances should change in the future. For instance, what would happen if EEOC's budget were to shrink so drastically that it cannot handle additional complaints that OA refers?[109]

A. Referring complaints of discrimination will mean that sponsors that discriminate will virtually never face the consequence of deregistration.

Under current regulations, findings of a violation in complaint investigations by OA can result in a consequence to the sponsor's registration: the deregistration of a program that fails to come into compliance and live up to its obligations.[110] This mechanism is key to the entire registered-apprenticeship regulatory scheme, which protects the interests of apprentices by creating a government "seal of approval" for apprenticeship programs. Prospective apprentices – and their parents – know that those apprenticeship programs that are registered with OA or an SAA

[108] NPRM, 90 Fed. Reg. at 28947, 28975; proposed 29 C.F.R. § 30.4(c). One problem with referring all discrimination complaints in SAA states to their fair employment practice (FEP) agencies is that two SAA states, Alabama and Arkansas, do not have a state FEP agency. In other SAA states, there are multiple FEP agencies – in Maryland, for example, there are the state Maryland Commission on Civil Rights, the Baltimore Community Relations Commission, the Howard County Office of Human Rights and Equity, the Montgomery County Office of Human Rights, and the Prince George's County Human Relations Commission – but the regulation does not specify to which of these complaints should be referred.

[109] This is not such a far-fetched scenario. The EEOC's FY 26 budget request projects a 22% workforce reduction (500 workers out of the approximately 2,250 people on payroll in late 2024) by the fall of 2026. Anne Cullin, *'Devastating' Cuts Would Put EEOC Workforce At 45-Year Low*, LAW360 , June 12, 2025, reprinted at https://www.tullylegal.com/our-firm/news/devastating-cuts-would-put-eeoc-workforce-at-45-year-low/. The agency is apparently considering closing eight field offices. Caroline Colvin, *House Dems Question EEOC Plans to End Leases for 8 Field Offices*, HR DIVE, Mar. 27, 2025, https://www.hrdive.com/news/eeoc-field-office-lease-termination-democrats/743766/.

[110] 29 C.F.R. §§ 30.13(d), 30.15. As an alternative less drastic than deregistration, OA can suspend the program's right to register any new apprentices until the program comes into compliance. 29 C.F.R. § 30.15(b).

provide quality instruction and training that will prepare them for a well-paying career in a marketable trade or mid-level to high skill-set, and do so on a non-discriminatory basis.[111]

Under both the current and proposed regulations, OA uniquely has the authority to impose consequences regarding a program's registration. But under the NPRM, OA will be able to exercise that authority only where (a) there is a final determination and (b) OA becomes aware of it.[112] As will be demonstrated, this is so unlikely to occur that such consequences will be virtually nonexistent.

B. The proposed rule virtually eliminates agency-initiated compliance reviews of 29 CFR 30 compliance, and thereby removes a key enforcement tool.

The proposed rule would virtually eliminate the proactive mechanisms (called "EEO compliance reviews" in the current regulations[113]) by which Registration Agencies monitor and enforce compliance. The current regulations require Registration Agencies to undertake initial and periodic reviews of compliance with the EEO requirements (in addition to accepting and investigating complaints of discrimination).[114] Such compliance reviews involve "comprehensive analyses and evaluations of each aspect of the apprenticeship program."[115] They are initiated by the agency and do not require the filing of a complaint by an apprentice.

The proposed rule does authorize Registration Agencies to assess RAPs' compliance with 29 CFR 30 as part of their reviews under 29 CFR part 29.[116] But as discussed above, Registration Agencies' authority in reviewing 29/30 compliance would be severely limited: they would be authorized to "initiate enforcement actions against a sponsor for failure to comply with the nondiscrimination requirement" *only* --

> where a final determination of a violation of an applicable nondiscrimination law, without any remaining right to appeal, has been made by an enforcement entity or court with jurisdiction over a matter, and authority to issue a final determination, relating to an apprentice or an applicant to an apprenticeship

has been made.[117]

But there is essentially no way such a final determination will be made by an enforcement entity or court without someone having filed a complaint. Thus, although proposed § 30.5(a) states that registration agencies will assess programs for compliance with part 30, the proposed § 30.5(b) restriction on OA's and SAAs' findings of discrimination violations means that these compliance reviews are *completely* dependent on whether a complaint has been filed – because without a

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[111] Programs that are registered are also entitled to certain benefits under federal law, including to pay less than the prevailing wage to apprentices working on Davis-Bacon-covered federally funded construction contracts. Apprentices in RAPs are also entitled to certain benefits, such as certain subsidies under the GI bill.
[112] 29 C.F.R. § 30.13(a).
[113] 29 C.F.R. § 30.13.
[114] 29 C.F.R. §30.13.
[115] 29 C.F.R. §30.13(a).
[116] NPRM, 90 Fed. Reg. at 28947, 28975; proposed 29 C.F.R. § 30.5(a). Indeed, proposed §30.5(a) *requires* Registration Agencies to assess 29 CFR 30 compliance during 29 CFR 29 reviews.
[117] NPRM, 90 Fed. Reg. at 28947, 28975; proposed 29 C.F.R. § 30.5(b).

complaint, no "final determination by an enforcement entity or court with jurisdiction over [the] matter and authority to issue a final determination" can have been made.[118]

And even when a complaint is filed with the main federal entity enforcing employment nondiscrimination laws, the EEOC, there is no final determination, because the EEOC does not make final determinations of violations of the laws it enforces. In the vast majority of cases involving private or state-government employers, the EEOC process begins with an individual filing a complaint (called a "charge") of discrimination with the EEOC or their state or local fair employment practices agency ("FEP"), which investigates the charge and may make a determination of whether there is "reasonable cause" or "no reasonable cause" to believe that discrimination occurred.[119] A cause or no-cause determination is not a final determination because the EEOC and charging parties retain the right to go to federal court for *de novo* review of EEOC's findings;[120] indeed, an EEOC finding of cause is enforceable only by a federal court.[121] Similarly, where the employer is the federal government, EEOC does make findings, but they are reviewable by a federal court.[122]

C. Complaints are uncommon.

Because of fear of retaliation and lack of confidence that their complaints will be taken seriously, complaints of discrimination by apprentices (and other employees) are rare. Only a small proportion of employees who have suffered discrimination file complaints.[123] In the construction trades, only between 6 and 13 percent of harassment incidents, for example, are formally reported.[124]

A primary reason for this is that employees are afraid of retaliation by their employers or co-workers for filing a complaint.[125] This is a very reasonable fear for any employee who faces

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[118] NPRM, 90 Fed. Reg. at 28947, 28975; proposed 29 C.F.R. § 30.5(b).

[119] In some instances, the EEOC can act on a charge that one of its Commissioners initiates. In these cases, it is not necessary for an individual to have filed a charge. However, Commissioner-initiated charges are extremely rare. In FY 24, there were 33 such charges; in FY 23, 35; in FY 22, 29; and in FYs 21 and 20, only 3 charges each year. *Commissioner Charges*, EEOC, https://www.eeoc.gov/commissioner-charges (last visited Aug. 27, 2025). These numbers are miniscule compared to the total numbers of charges filed by individuals those years: in FY 24, 88,531; in FY 23, 81,055; in FY 22, 73,485; in FY 21, 61,331; and in FY 20, 67,448. *Enforcement and Litigation Statistics: Charge Statistics, Charge Receipts (FY 2020-2024)*, EEOC, https://www.eeoc.gov/data/enforcement-and-litigation-statistics-0 (last visited Aug. 27, 2025).

[120] The proposed regulations do not make clear whether an EEOC determination of cause or no-cause that the charging party does not go to federal court to enforce or challenge is a "final determination" once the time for filing a federal lawsuit (90 days from issuance of the cause or no-cause determination) expires.

[121] 42 U.S.C. § 2000e-5(f)(1).

[122] 42 U.S.C. § 2000e-16.

[123] DONALD TOMASKOVIC-DEVEY & CARLY MCCANN, CENTER FOR EMPLOYMENT EQUITY, UNIVERSITY OF MASSACHUSETTS AMHERST, WHO FILES DISCRIMINATION CHARGES? 7 (2021), https://www.umass.edu/employmentequity/sites/default/files/2025-01/Who%20Files%20Discrimination%20Charges_0.pdf?1753209589.

[124] IWPR Survey, *supra* note 76, at 18 (citation omitted). *See also* F. HABTEMICHAEL, ALESSANDRA EGRO & BOB KRILE, U.S. DEP'T OF TRANSP., FED. MOTOR CARRIER SAFETY ADMIN., CRIME PREVENTION FOR TRUCKERS STUDY 50 (2022), https://rosap.ntl.bts.gov/view/dot/64915 [hereinafter Truckers Study] (finding that respondents who had experienced harassment did not report it about half the time).

[125] A 2021 study found that–

discrimination – retaliation is extremely common, and can take many forms, all of them threatening an employee's livelihood and some of them downright dangerous: exclusion from the industry; denial of work assignments; denial of on-the-job training or supervision; termination; denial of promotion; negative evaluations; physical intimidation, bullying, and violence; and exposing apprentices to dangerous conditions. "[M]any respondents [to the IWPR Tradeswomen Survey] explained that they had not officially reported incidents of harassment or discrimination because they feared retaliation and ostracism."[126] Retaliation is the largest category of charges that the EEOC receives – in FY 2024, almost half (47.8%) of all charges received included claims of retaliation.[127]

Discrimination victims also often believe that filing a complaint will make no difference because of prior experiences. This explanation is supported by both the IWPR Tradeswomen Survey and the FMCSA Crime Prevention for Truckers Study.[128] The IWPR Tradeswomen Survey found that –

> [A] high 55.7 percent of respondents report at some point notifying a supervisor or foreman, human resource manager or other company official, their business agent (senior union official) or staff overseeing their apprenticeship program [of harassment or other form of discrimination, but] [t]he majority (57.9 percent) of those who stepped up and notified someone in authority say that the incident of harassment or discrimination was not addressed effectively.[129]

Similarly, the FMCSA Crime Prevention for Truckers Study found that the reason given for not reporting incidents "was that the truckers did not think that it would make a difference (29 to 38 percent depending on gender minority status)."[130]

Indeed, "nearly four in ten respondents (38.8 percent) [to the IWPR Tradeswomen Survey said] that they [were] driven out of the trades because the problems they raised were not taken seriously."[131]

D. Final determinations of violations are rare and lengthy to reach.

> at least 63% of workers who filed a complaint of discrimination based on sex, race, disability, national origin, or age eventually lost their job. That number was even higher for workers who filed a disability-related claim, at 67%. And about 40% of workers report experiencing employer retaliation, such as verbal abuse or being passed over for work opportunities like training or promotion, for filing a claim. At 46%, employer retaliation was most common for sex discrimination cases.

Donald T. Tomaskovic-Devey et. al, *63% of Workers Who File an EEOC Discrimination Complaint Lose Their Jobs*, GOVERNMENT EXECUTIVE, July 19, 2021, https://www.govexec.com/workforce/2021/07/63-workers-who-file-eeoc-discrimination-complaint-lose-their-jobs/183849/.

[126] IWPR Survey, *supra* note 76, at 18.

[127] *Enforcement and Litigation Statistics: Charge Statistics, Statutes/ Bases by Issue (All Statutes) (FY 2024)*, EEOC, https://www.eeoc.gov/data/enforcement-and-litigation-statistics-0 (last visited Aug. 27, 2025).

[128] *See* IWPR Survey, *supra* note 76; Truckers Study, *supra* note 108.

[129] IWPR Survey, *supra* note 76, at 18.

[130] Truckers Study, *supra* note 108.

[131] IWPR Survey, *supra* note 76, at 18.

As explained above, under the proposed regulations, OA can only act on evidence of discrimination if a complaint has resulted in a final determination of a violation by an agency or court with jurisdiction. If complaints are rare, it follows that final determinations of violations are even rarer.

Under Title VII, a charging party can file a lawsuit in federal court after completing the prerequisite administrative requirements.[132] But the percentage of federal EEOC or state FEP agency charges that result in a federal-court lawsuit is very small. Most of the time after the agency issues a right-to-sue letter, further legal process does not occur – people do not pursue their discrimination cases. There are many reasons why they may do this:

- They are not able to find a lawyer by the 90-day deadline;
- They cannot afford a lawyer;
- They otherwise lack the time and resources to pursue their case;
- They are just too demoralized; and/or
- They have moved on with their life, have a new job, do not want to spend time on this unpleasant thing that happened in the past, or similar emotional reasons.

Thus, it is not surprising that in FY 24, fewer than 13,000 Title VII cases were filed in federal court[133] – less than 16% of the 88,531 charges that were filed that year.[134] Of these, only a small proportion become final through a court decision where an appeal is not filed, because most cases are settled.[135]

Even when there is a "final determination of a violation," it generally takes a long time for that determination to be reached. An EEOC charge has to be filed; the charging party has to wait 180 days before she can file a lawsuit in federal court,[136] and often longer if she waits for EEOC to issue a cause or no-cause decision; lawsuits in federal court can take two years or more to come to trial and for a judge or jury to issue a final judgment; even if the sponsor and employer decide

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[132] A charging party may not go directly to federal court to obtain a final determination. Title VII cases may only be brought in federal court after an EEOC (or FEP agency) charge has been filed, the agency has had at least 180 days to address the charge, and the agency has issued a right-to-sue letter. As noted above, it is unclear whether an EEOC decision of cause or no-cause that is not brought to a federal court is a "final determination" within the meaning of the proposed regulation.

[133] As reported by the Center for Workplace Compliance (CWC), the total number of lawsuits filed under Title VII, ADEA, Section 1981, and GINA combined in FY 24 was 13,526. *Employment-Related Lawsuits Filed In Federal Court Increased Again In FY2024*, CWC (April 8, 2025), https://www.cwc.org/CWC/Updates/2025/Employment-Related-Lawsuits-Filed-In-Federal-Court-Increased-Again-In-FY2024. (Apparently this statistic is not available by individual statute.) We conservatively estimate that as many as 13,000 of the 13,526 total were Title VII suits, on the safe assumption that at least 526 of those suits were under the ADEA, Section 1981, and GINA. (Indeed, probably the number of suits under these three statutes was well more than 526.)

[134] *Enforcement and Litigation Statistics: Charge Statistics, Statutes/ Bases by Issue (All Statutes) (FY 2024)*, EEOC, https://www.eeoc.gov/data/enforcement-and-litigation-statistics-0 (last visited Aug. 27, 2025).

[135] Two studies concluded that only 14-20% of decisive trial-court judgments in employment cases are appealed, and that of those that are appealed, only 11-15% went to final determination by an appellate court. (The remainders, presumably. are settled before appeal or final determination.) Kevin M. Clermont & Stewart J. Schwab, *Employment Discrimination Plaintiffs in Federal Court: From Bad to Worse?* 3 HARV. L. & POL'Y REV. 103, 107-108 n.16 (2009); *see also id.* at 110 (Display 2, showing appeal rates in employment discrimination cases between 1988 and 2004).

[136] 42 U.S.C. § 2000e-5(f)(1).

not to appeal, the plaintiff has to wait until their appeal rights expire before the judgment is considered a "final determination of a violation" under the proposed regulations.

E. Restricting OA's ability to act without a final determination of violation is particularly damaging when combined with the NPRM's proposed withdrawal of the protection against retaliation for making a charge or participating in related processes.

The NPRM proposes to delete current 29 CFR § 30.17, which protects against an apprentice being -

> intimidated, threatened, coerced, retaliated against, or discriminated against because the individual has: (1) Filed a complaint alleging a violation of this part; (2) Opposed a practice prohibited by the provisions of this part or any other Federal or State equal opportunity law; (3) Furnished information to, or assisted or participated in any manner, in any investigation, compliance review, proceeding, or hearing under this part or any Federal or State equal opportunity law; or (4) Otherwise exercised any rights and privileges under the provisions of this part.[137]

The rationale for this proposal is that § 30.17 is duplicative of the same prohibition of retaliation contained in Title VII. However, because of the restriction on OA taking any action without a final determination of a violation, the result is that an apprentice who has been retaliated against by the sponsor for, for example, serving as a witness in a discrimination case will have to undergo what is now guaranteed to be a lengthy process before OA takes any action against the sponsor – if OA is able to take any action at all.

F. The proposed regulations provide no mechanism to ensure that OA knows about final determinations of violations.

Even if a complaint is filed by an apprentice and it results in a final determination of a violation, there is no guarantee that OA will find out about it. In fact, the proposed regulations provide for no mechanism whereby OA gets any feedback whatsoever about the resolution of a complaint that it refers to EEOC or an FEP agency. The only way OA would know about a final determination of a violation is if the apprentice who filed the charge reports back to OA and asks the Office to act on that final determination. The likelihood of this happening is probably quite small, if for no other reason than the apprentice may not even remember that they went to OA in the first place; by the time the apprentice receives the final determination, it is likely to be years after their initial charge was filed with OA.

G. Compliance reviews serve important functions in an enforcement scheme that are not—and cannot be—served by relying solely on complaints.

Importantly, apprentices and applicants are not always aware of discriminatory practices; this is especially true with regard to recruitment and hiring decisions. Compliance reviews can uncover such practices. Compliance reviews can also uncover failures to comply with the regulations in ways that are not in themselves discriminatory practices (and therefore will not be the subject of

[137] 29 C.F.R. § 30.17(a).

a complaint), such as a RAP's failure to provide the required anti-harassment training. Furthermore, compliance reviews cover a sampling of all RAPs, not just those against which complaints happen to be filed. If, during a review, the Registration Agency finds noncompliance, it must offer technical assistance and require a compliance plan by which the sponsor can correct its deficiencies.[138] These are not required steps when a complaint is filed (even if the EEOC or FEP agency to which the complaint was referred had the authority to take these steps, which they do not).

Moreover, the proposed reliance on complaints means that Registration Agencies would have no authority to take any action if they observe blatant discrimination that violates part 30 while they are conducting a part 29 review unless and until there is a final determination as defined in proposed § 30.5(b). For example –

- On a 29 CFR 29 compliance review, OA staff sees a noose hanging prominently in the workshop where apprentices work. No complaint has been filed.
- Several apprentices who have witnessed and/or experienced severe and pervasive sexual harassment calls the registration agency and tells them about it, but they refuse to file any sort of complaint for fear of retaliation. They just want the registration agency to do something about it.
- When reviewing a RAP's apprenticeship records during a 29 CFR 29 compliance review, OA staff sees that all the black female apprentices have been refused advancement to the next level, while everyone else (all the males and all the other, non-black females) have been advanced. No complaint has been filed.

- During a 29 CFR 29 compliance review, the RAP's representative tells the OA Apprenticeship and Training Representative that it is the RAP's policy not to admit women to their apprenticeship program.

In such circumstances, despite the obvious, visible, or even admitted discrimination, registration agencies would not be permitted to "work with the sponsor to develop a compliance plan,"[139] because that section authorizes them to do so only "[u]pon learning of a final determination" (as defined in proposed § 30.5(b)).[140]

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[138] 29 C.F.R. § 30.15(a); 29 C.F.R. § 30.13(c).

[139] NPRM, 90 Fed. Reg. at 28947, 28975; proposed 29 C.F.R. § 30.5(c).

[140] NPRM, 90 Fed. Reg. at 28947, 28975. Since the NPRM is silent on whether they may, at least, provide technical assistance, it *may* be subject to the interpretation that technical assistance would be allowed. The language in proposed § 30.5(b)—"[f]or the purpose of determining compliance under this part, the Registration Agency may initiate enforcement actions against a sponsor for failure to comply with the nondiscrimination requirement … in instances where a final determination … has been made" — similarly suggests that the standard for determining compliance *could* be different if the registration agency plans to provide technical assistance. *Id.* On the other hand, DOL's so-called rationale for entirely removing the responsibility for determining whether discrimination has occurred from registration agency staff – that registration agency staff do not have the necessary expertise to determine if discrimination has occurred -- suggests that even in obvious circumstances such as those posited here, and even just for the purpose of offering technical assistance, RAs would not have the authority to act without a "final determination" of an agency that enforces employment-discrimination law or of a court. NPRM, 90 Fed. Reg. at 28947, 28958. If, despite our objections, DOL goes ahead with finalizing this proposal but does intend to allow Registration Agencies to provide technical assistance in such circumstances, it should state so clearly.

Finally, it is both unfair and ineffective to rely solely on complaints-driven civil rights compliance. Such an approach puts the burden of creating discrimination-free apprenticeship programs on the most marginalized, most vulnerable, and least well-resourced. Registration Agencies need not fear loss of their livelihoods if they identify a potentially discriminatory practice. And registration agencies have the resources, the tools, and the authority to investigate potentially discriminatory practices. Individual apprentices are simply not in a similar position.

H. DOL's reasons for proposing these changes to the enforcement scheme do not stand up to scrutiny.

DOL claims that its reason for limiting registration agencies' authority in this way is that Registration Agency staff do not have the required expertise. Specifically, it says, Registration Agency staff are experts in, and are –

> focused primarily[,] on matters pertaining to apprenticeship quality, [and] are not well-positioned, and are not suitably equipped, to make the legal determinations necessary to assess registered apprenticeship programs' adherence to the elaborate nondiscrimination, EEO, and affirmative action requirements found in the existing part 30 regulation.[141]

This rationale makes no sense, for three reasons.

First, DOL underestimates registration agency staff's abilities and knowledge. OA and the SAAs have been training their staff on nondiscrimination and the 29/30 requirements at least since the current regulations went into effect in early 2017. Indeed, a number of signatories to these comments have personally engaged in such training, as either DOL staff or DOL subcontractors. OA staff have followed a comprehensive Manual for Registered Apprenticeship Reviews since 2022; this Manual is available online for SAAs to adapt if they would like.[142] Moreover, Registration Agencies are deeply familiar with apprenticeship and are better equipped to understand the context in which discriminatory practices may occur than the EEOC and state and local FEP agencies. Registration agency staff are certainly capable of recognizing the blatant discrimination in such (unfortunately not uncommon) apprenticeship situations as those hypothesized above. To the extent staff need further training, there is no reason that the Registration Agencies cannot continue to provide it.

Second, DOL has extensive resources in other departments—primarily in the Solicitor's Office[143]—to provide training, back-up, assistance, and legal analysis to OA staff as they encounter discrimination issues in compliance reviews; a system could be developed to elevate similar questions from SAAs to DOL's Solicitor. The Department did not evaluate utilizing the

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[141] NPRM, 90 Fed. Reg. at 28947, 28958. We object to DOL's implication here that "apprenticeship quality" is different from, and doesn't include, nondiscrimination, EEO, and affirmative action requirements. Under no circumstances should a RAP that discriminates on the basis of race or (or other protected characteristics) be considered to be a "quality" program.

[142] OFFICE OF APPRENTICESHIP, MANUAL FOR REGISTERED APPRENTICESHIP PROGRAM REVIEWS (2022), https://www.apprenticeship.gov/sites/default/files/apr-and-eapr-manual.pdf.

[143] In addition, DOL's Civil Rights Center and Office of Federal Contract Compliance Programs have extensive experience investigating and evaluating discrimination, and in training their staff to do so; perhaps they, too, could potentially be called upon to provide OA with assistance.

Solicitor's or other existing resources as an alternative to simply abandoning OA's role in reviewing RAPs' noncompliance with 29/30.

Third, DOL's proposed substitution of the judgment of staff of the EEOC and other enforcement entities or courts with jurisdiction over nondiscrimination relies on the assumption that those entities are better positioned to investigate possible discrimination in RAPs than Registration Agency staff are. While such entities may well have more expertise in discrimination law and practice, they are very unlikely to have expertise specifically in apprenticeship. Apprenticeship is a very specialized area, involving robust administrative systems, complex legal structures around sponsor responsibilities, specialized terms of art, in-depth workplace practices, and often decades of workplace tradition that are unfamiliar to most people. EEOC staff may not have this familiarity, especially if the discrimination goes beyond the scope of Title VII, as discussed above. To understand how discrimination might take place in this specialized context requires expertise of its own kind – expertise that, as DOL acknowledges, Registration Agency staff have.[144]

I. DOL found that the current regulations were necessary in 2016, and offers no new evidence to justify their withdrawal now.

In 2016, DOL found that all these elements—the additional substantive steps that RAPs must take, beyond simply not discriminating; compliance reviews by the Registration Agencies; the remedy of deregistering RAPs that do not comply; the requirement that SAAs provide at least the same level of protection for apprentices that the federal regulations do—were necessary to address the long history of sex and race discrimination in registered apprenticeship. In proposing to rescind these elements now, DOL asserts that it —

> has determined that part 30, as currently structured, is overly prescriptive and unnecessarily restrictive, characteristics which impede the diversification of industries within the registered apprenticeship ecosystem and are not necessary to safeguard the welfare of apprentices[145]

and that —

> [A] separate oversight, investigative, and enforcement framework specific to registered apprenticeship is not necessary. While the current part 30 regulation imposes substantial administrative burdens—which may deter employers from registering apprenticeship

[144] From the Preamble to the NPRM: Registration agency staff are "subject-matter experts in the various apprenticeship program-related topics that are set forth in the 'Labor standards for the registration of apprenticeship programs' regulation at 29 C.F.R. part 29." NPRM, 90 Fed. Reg. at 28947, 28958. These topics include such specialized and (to a non-subject-matter expert, arcane) topics as apprentice ratios, completion rates, the contents of contracts of apprenticeship, the different jurisdiction of state and federal registration agencies, what constitutes progressive wages, work processes, how and when apprenticeship advancement occurs, the definitions of joint vs. non-joint and group vs. non-group apprenticeship committees, and the role of collective bargaining agreements in apprenticeship.

[145] NPRM, 90 Fed. Reg. at 28947, 28950.

programs—it has not demonstrated clear benefits in terms of improved protections against unlawful discrimination for apprentices.[146]

Yet the Department offers no evidence showing that these regulatory requirements have been ineffective or are no longer necessary, and ignores evidence to the contrary. As explained in section I.A, above, the Department has the burden of establishing that their decision-making is properly supported by the available information. Withdrawing provisions of the current rule without substantiated justification is an arbitrary and capricious action by the Department that may be overturned by a reviewing court.

V. The current regulations and similar diversity initiatives have positively impacted apprenticeship

Analysis of federal RAPIDs data conducted by the Institute for Women's Policy Research (IWPR) indicates that the current 29 CFR 30 regulations have had a positive impact on the gender and racial diversity of apprenticeship programs. Between 2014—two years before the 29/30 regulations were made final—and 2023, the number of women apprentices grew at twice the rate of men.[147] Growth during this period was particularly strong for women of color: the number of Latina and Asian women apprentices grew most, by 349 and 302 percent respectively,[148] while the number of black women apprentices grew by 222 percent.[149] Similarly, IWPR's regularly updated analysis of RAPIDs data from 37 states reveals that the numbers of women working as apprentices in construction and extraction occupations increased from 3,789 in 2015—the year before the finalization of 29 CFR 30—to 10,834 in 2024, representing an 185.9% change.[150] As noted in the report, that increase does not fully represent the presence of women in trade apprenticeships; states that have some of the most intentional programs targeted to increasing women in the trades, including Oregon and Washington, are not included.[151] The substantial increase in these numbers strongly indicates that the federal regulations contributed to increased racial and gender diversity in apprenticeship, especially in programs like construction that have historically been overwhelmingly white and male.

This increase may be partially the result of apprenticeship programs eager to implement EEO provisions to strengthen their programs and mitigate their own risk. The current 29/30 regulations provide a roadmap for how registered apprenticeships can actively address these barriers and affirmatively provide equal opportunity across gender, race, and ethnicity. Improving a shared understanding of how discrimination can show up in apprenticeship and promoting best practices—including conducting a utilization analysis and goals, instituting targeted outreach and recruitment, the creation or revision of policies, providing anti-harassment

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[146] *Id.* at 28951.
[147] Ariane Hegewisch, INST. FOR WOMEN'S POLICY RESEARCH, AS APPRENTICESHIPS EXPAND, BREAKING DOWN OCCUPATIONAL SEGREGATION IS KEY TO WOMEN'S ECONOMIC SUCCESS 11 (2024), https://iwpr.org/wp-content/uploads/2024/03/IWPR-Apprenticeship-Report-March-2024.pdf.
[148] *Id.* at 12.
[149] *Id.* at 13.
[150] Numbers Matter, *supra* note 15.
[151] *Id.*

training, and nondiscriminatory selection procedures—create a framework for equal opportunity that apprenticeship programs can adopt. The proposed language focusing on Title VII requirements puts the burden on the worker and apprentice to suffer the results of discrimination rather than providing employers and RAPs with the tools to prevent the discrimination from occurring.

The benefits of diversifying the trades through both the workforce and apprenticeship programs go beyond legal protections and compliance. The business case for a diverse workforce has been well-established by research for several years. A McKinsey and Company report shows that companies with the most gender-diverse executive teams outperform less diverse teams; the most gender-diverse executive teams are 25% more likely to have above-average profitability than the least gender-diverse executive teams.[152] The same report shows that the executive teams that are the most ethnically diverse are 36% more likely to have above-average profitability.[153] Diversity also benefits innovation: a Boston Consulting Group report shows that companies with more diverse leadership teams report higher revenue from launching new products and services than companies with less diverse teams.[154]

Diversity also has been shown to positively impact worker satisfaction and longevity. This is a key issue in the field of construction, which has historically accounted for a majority of all apprenticeships and struggles with projected labor shortages and problems retaining workers. A recent survey from the Associated General Contractors of America shows gaps in hiring for nearly every skilled trade, and that difficulties finding qualified workers and keeping them are the primary causes of difficulties filling positions.[155] In such an environment, creating worksites and training opportunities that are inclusive and welcoming could address these barriers. One study found that isolation at work – particularly racial isolation– predicts higher turnover.[156] Similarly, a 2020 global survey revealed that having a sense of belonging at work is the strongest driver of employee engagement.[157]

Surveys and feedback from tradeswomen have shown that racial isolation is a recurring issue in the construction trades, particularly for women. A report from Chicago Women in Trades ("CWIT") found that Latinas have about a 1-in-100 chance of being on a worksite with another Latina, and Black women have a less than 1-in-100 chance to work with another Black

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[152] *Diversity Wins: How Inclusion Matters*, MCKINSEY & COMPANY (May 19, 2020), https://www.mckinsey.com/featured-insights/diversity-and-inclusion/diversity-wins-how-inclusion-matters.
[153] *Id.*
[154] Rocío Lorenzo et. al, *How Diverse Leadership Teams Boost Innovation*, BCG (January 23, 2018), http://bcg.com/publications/2018/how-diverse-leadership-teams-boost-innovation.
[155] ASSOCIATED GENERAL CONTRACTORS OF AMERICA, 2024 WORKFORCE SURVEY RESULTS 1, 4 (2024), https://www.agc.org/sites/default/files/users/user21902/2024_Workforce_Survey_National_FINALIZED.pdf.
[156] Jonathan S. Leonard & David I. Levin, The Effect of Diversity on Turnover: A Large Case Study, 59 ILR Rev. 547, 559 (2006), https://faculty.haas.berkeley.edu/levine/papers/Leonard%20&%20Levin%20ediversity%20&%20turnover%20ILRR.pdf.
[157] Cecilia Herbert, *Belonging at work: The top driver of employee engagement*, QUALTRICS (Sep. 16, 2022), https://www.qualtrics.com/blog/belonging-at-work/.

woman.[158] A 2021 survey conducted by IWPR of 2,635 tradeswomen and non-binary trades people showed that a significant number, including nearly 3 in 10 tradeswomen of color, rarely or never work with other tradeswomen of color.[159] In addition, the survey found that more than four in ten seriously considered leaving the trades, with nearly half of these reporting a lack of respect and harassment as the reason.[160] Those wanting to leave were also more likely to report unequal treatment in hiring and work assignments.[161]

There are many apprenticeship programs that understand the benefits of diversity and inclusion, and have been leading on implementing these practices. The interest and excitement on the part of certain registered apprenticeships to make the most of these regulations are evident in local examples. Since the promulgation of the current 29 CFR 30 regulations, there has been a notable uptick in registered apprenticeship programs connecting with organizations like CWIT, in order to conduct affirmative outreach to populations underrepresented in the construction trades. In the Chicago area, this has included four new women-focused, industry-specific pre-apprenticeship programs with construction trade apprenticeship programs, all implemented since 2022.

In the last four years, there have also been two new direct-entry pathways formally created in the Chicago area between local trade union apprenticeship programs and local pre-apprenticeship programs that are working to prepare individuals from underrepresented populations to successfully compete to enter the construction trades under local selection procedures, including CWIT. Chicago Women in Trades has also provided anti-harassment training to two trade apprenticeship programs in order to facilitate compliance with the regulations and create safe and respectful worksites for all apprentices. Without the current regulatory requirements of 29 CFR 30, these innovative practices are significantly less likely to continue to build a strong pipeline of a new generation of apprentices in the local construction trades, and other apprenticeship programs may be reluctant to or unsure how to pursue similar recruitment partnerships.

In July 2024, CWIT hosted a roundtable with the EEOC Vice Chair Jocelyn Samuels to hear from industry leaders on the prevalence of harassment and discrimination in the construction trades. General contractors and subcontractors attended, as did staff from union apprenticeship programs. Attending sponsors shared the efforts they were making through the framework of the current 29/30 regulations that were improving their recruitment and retention of apprentices from diverse gender, racial and ethnic backgrounds, including recruitment and outreach events in partnership with community organizations, introducing new selection processes that include direct entry, and providing anti-harassment training to apprentices and staff. These RAPs had embraced the regulations from OA and EEOC and were succeeding in putting them into practice, to the benefit of their programs.

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[158] CHANDRA CHILDERS, ARIANE HEGEWISH & LARK JACKSON, CHICAGO WOMEN IN TRADES, HERE TO STAY: BLACK, LATINA, AND AFRO-LATINA WOMEN IN CONSTRUCTION TRADES APPRENTICESHIPS AND EMPLOYMENT 3 (2025), https://cwit.org/wp-content/uploads/2025/02/Here-to-Stay-CWIT-brief.pdf (based on 2016-2018 data).
[159] IWPR Survey, *supra* note 76, at 10.
[160] *Id.* at 17.
[161] *Id.* at 18.

VI. To the extent that the current regulations have not been more effective to date, it is because they have not been fully implemented, not because the regulations themselves are ineffective.

We readily agree with critics of current 29 CFR 30 who say that the regulations have not been as effective as hoped at improving the lot of apprentices who are women and people of color, or at eradicating unlawful discrimination against them. But the current regulations' ineffectiveness to date is far more attributable to 29/30's prolonged phase-in and OA's failures of implementation than to the regulations themselves.

A. The prolonged phase-in of the regulations means they have lacked sufficient time to reach full effect.

To begin with, because they provided for phase-in to occur over a prolonged period of time, the regulations have not been in full effect for the entire eight years since their promulgation. The applicable timeline for OA and sponsors registered with OA was as follows:

- Publication of Final Rulemaking – December 19, 2016
- Effective date – January 18, 2017 (30 days after publication)
- Obligations under § 30.3 – July 18, 2017 (180 days after effective date)
- Affirmative-action plan obligations for already-registered sponsors (§§ 30.4(e), 30.5(b), 30.7(d)(2), 30.9, and 30.11) – January 18, 2019 (2 years after effective date)
- Affirmative-action plan obligations for sponsors registered on or after effective date (§§ 30.4(e), 30.5(b), 30.7(d)(2), 30.9, and 30.11) – 2 years after registration
- Sponsors' calculation of goals under §§ 30.5(c) and 30.6 – at each sponsor's first compliance review after effective date

The applicable timeline for the SAAs and sponsors registered with SAAs was as follows:

- Publication of Final Rulemaking – December 19, 2016
- Effective date – January 18, 2017 (30 days after publication)
- SAA submission of draft state EEO plan that conforms with revised 29/30 regulations – January 18, 2019 (§ 30.18(a))
- OA review of draft state EEO plan – no deadline
- SAA final adoption of approved conforming state EEO plan – no deadline
- Effective date of state EEO plan – no set date; dependent on when SAA finally adopted the approved state EEO plan
- Obligations under § 30.3 – 180 days after effective date of state EEO plan
- Affirmative-action plan obligations for sponsors registered before effective date (§§ 30.4(e), 30.5(b), 30.7(d)(2), 30.9, and 30.11) – 2 years after effective date of state EEO plan
- Affirmative-action plan obligations for sponsors registered on or after the effective date (§§ 30.4(e), 30.5(b), 30.7(d)(2), 30.9, and 30.11) – 2 years after registration
- Sponsors' calculation of goals under §§ 30.5(c) and 30.6 – at first compliance review after effective date of state EEO plan

Thus, RAPs registered with OA were not required to fully implement all the current provisions of 29 CFR 30 until, at the earliest, their first compliance review after January 18, 2019. Since compliance reviews occur on an approximately five-year cycle, it is possible that a particular sponsor's first such compliance review would not have occurred until 2024. For RAPs registered with an SAA, this timeframe is even more delayed. Indeed, as discussed below, there may well be some states in which an approved state EEO plan consistent with 29/30 has not *yet* – fully eight and a half years after the rule's effective date – been finally adopted.

With such a prolonged phase-in period, full implementation of the regulations would, at best, not be expected to begin until a number of years after the effective date.

B. The regulations' effectiveness was further undermined by OA's inadequate implementation efforts.

Furthermore, OA's efforts to implement current 29 CFR 30 have been inadequate at best. Here are some of the ways in which OA either simply did not implement 29/30 or did not implement it until years after the regulations were promulgated:

- While OA did some training of its staff on the new requirements after their adoption in 2016, its practice was merely to offer the training to interested staff, not to *require* all relevant staff to participate in all of the trainings. Nor did OA have a consistent plan to ensure that all SAA staff were trained on all aspects of the new regulations (once they were adopted by the SAAs).
- OA failed to update its manual instructing its staff how to conduct EEO compliance reviews under the revised part 30 until December of 2021.[162] During the interim between the effective date of the revised part 30 and issuance of the manual, we believe that OA did not conduct any part 30 compliance reviews.
- When the 2016 Final Rule was adopted, OA promised to make a data analysis tool available to make it easier for RAPs to conduct utilization analyses (a required part of their Affirmative Action Plans),[163] but did not do so for a number of years.[164] Even when it was developed, the tool was not available to a RAP until the RAP had been registered for two years, making it impossible for a newer RAP to predict whether it would need to do targeted outreach and recruitment or even to understand what would be involved with doing the utilization analysis when preparing for the future.[165]

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[162] The updated APR Manual was issued on December 16, 2021. U.S. DEP'T OF LABOR, EMPLOYMENT & TRAINING ADMIN., OA BULL. NO. 2022-31, ANNOUNCEMENT OF THE REGISTERED APPRENTICESHIP PROGRAM REVIEW MANUAL AND RELATED MATERIALS; AND OVERVIEW OF PROGRAM REVIEW PROCEDURES (2021), https://www.dol.gov/index.php/agencies/eta/apprenticeship/bulletins.

[163] Per the Preamble to the 2016 Final Rule, DOL" intends to build … a data tool that will assist sponsors with conducting their utilization analysis approximately every five years." 81 Fed. Reg. at 92026, 92084.

[164] The earliest public announcement of the Demographic Analysis Tool that we could find was in an OA Circular issued on November 17, 2022. U.S. DEP'T OF LABOR, EMPLOYMENT & TRAINING ADMIN., OA CIRCULAR 2023-01, GUIDANCE – EQUAL EMPLOYMENT OPPORTUNITY IN REGISTERED APPRENTICESHIP (2022), https://www.apprenticeship.gov/sites/default/files/bulletins/circular-2023-01_0.pdf.

[165] The tool was available as part of the Affirmative Action Plan Builder in RAPIDS.

- Similarly, when the Final Rule was adopted, OA promised to provide sample Selection Procedures that met the requirements of the new regulation.[166] No such sample has been provided. Instead, OA published what it called a "Quick Reference Guide" that explains nondiscriminatory selection procedures but does not provide sponsors with even one ready sample that they can adapt for their use.[167]
- When the 2016 regulations were adopted, they conflicted with a number of Circulars and Bulletins that OA had issued pursuant to the previous EEO regulations. For example, Circular 2016-05, "Selection Procedures,"[168] was completely superseded by current §30.10. A serious effort to implement the revised regulations would have immediately rescinded that circular, removed it from the website, and replaced it with an updated one. However, Circular 2016-05 had not been rescinded and was still showing on the website as active as late as February 21, 2023. Similarly, Circular 2016-04, "Affirmative Action and Good Faith Efforts," was not rescinded until June 4, 2020.[169]
- Both the first and second Trump Administrations cancelled (or failed to renew) the charter of the Advisory Committee on Apprenticeship (ACA).[170] This Committee, which was originally authorized in the 1937 Fitzgerald Act, is the only –

> single organization or group with the broad representation of labor, employers, and the public available to consider the complexities and relationship of apprenticeship activities to other training efforts or to provide advice on such matters to the Secretary [of Labor].[171]

- The 2016 Final Rule required states with SAAs to adopt state EEO plans that conform to the revised part 30. Section 30.18(a) established a deadline of January 18, 2018, for states to submit drafts of such plans to OA.[172] While many if not most SAAs met that deadline

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[166] 2016 Final Rule, 81 Fed. Reg. at 92026, 92084. DOL elaborated on the technical-assistance products it planned to provide to the regulated community in a fact sheet, titled "Technical Assistance Strategy for Apprenticeship Equal Employment Opportunity (EEO) Regulations, 29 C.F.R. Part 30," issued as part of its rollout of the current regulations in December 2016. The fact sheet stated at page 2 that "DOL will develop additional guidance and sample selection procedures that provide sponsors of apprenticeship program a range of options that meet the requirements of this regulation." This fact sheet is no longer available on DOL's website; it is attached to these comments as Attachment 2.

[167] OFFICE OF APPRENTICESHIP, SELECTING APPRENTICES FOR REGISTERED APPRENTICESHIP PROGRAMS (n.d.), https://www.apprenticeship.gov/sites/default/files/sponsor-quick-reference-guide-selection.pdf

[168] U.S. DEP'T OF LABOR, EMPLOYMENT & TRAINING ADMIN., OA CIRCULAR 2016-05, SELECTION PROCEDURES (2016), https://www.dol.gov/sites/dolgov/files/ETA/apprenticeship/pdfs/Circular_2016-05.pdf.

[169] U.S. DEP'T OF LABOR, EMPLOYMENT & TRAINING ADMIN., OFFICE OF APPRENTICESHIP, CIRCULAR 2020-01, RESCISSION OF PREVIOUSLY-ISSUED OA CIRCULARS CONSTITUTING OUTDATED OR INVALID AGENCY GUIDANCE PURSUANT TO EXECUTIVE ORDER 13891 (2020), https://www.apprenticeship.gov/about-us/legislation-regulations-guidance/circulars.

[170] The Biden Administration reestablished the Advisory Committee on Apprenticeship. Notice of Intent To Reestablish the Advisory Committee on Apprenticeship (ACA) Charter and Request for Member Nominations, 86 Fed. Reg. 23741 (March 7, 2025). https://www.govinfo.gov/content/pkg/FR-2021-05-04/pdf/2021-09267.pdf. The second Trump Administration subsequently disbanded the ACA that the Biden Administration had appointed. *See* Sara Weissman, *The Future of Apprenticeships Under Trump*, INSIDE HIGHER ED (March 7, 2025), https://www.insidehighered.com/news/government/politics-elections/2025/03/07/future-apprenticeships-under-trump.

[171] Notice of Intent To Reestablish the Advisory Committee on Apprenticeship, *supra* at note 149.

[172] OA does not publish a list of or links to SAAs' state EEO plans. Some states adopt their state EEO plans via legislation or regulation; others' EEO plans are not made public.

(or came close to it), delays in OA's review and approval of the state EEO plans and in states' formally adopting the approved plans have been substantial. For example –

- Oregon's conforming state EEO plan was not approved by DOL until May 2021.[173]
- Colorado's conforming regulation was not effective until June 30, 2023.[174]
- Kansas' conforming state EEO plan was not effective until June 3, 2024.[175]

Indeed, it appears that some states have not yet adopted a conforming state EEO plan even now, a full eight and a half years after the revised part 30 rule's effective date. A search conducted for Pennsylvania's state EEO plan on August 11, 2025, for example, failed to identify legislation, regulations, or guidance for apprenticeship EEO dated more recently than 1971; a search conducted for Maryland's state EEO plan, similarly, failed to identify legislation, regulations, or guidance for apprenticeship EEO dated more recently than 1992 (with just one section amended more recently, in April 2016).

The first Trump Administration's highest priority in the apprenticeship field was development of Industry-Registered Apprenticeship Programs (IRAPs), which are apprenticeship programs that are overseen by non-governmental third-party entities rather than a governmental agency, and do not require any EEO or affirmative-action compliance beyond what is required by Title VII, the ADA, and the ADEA. Because that was the Administration's priority, for four full years, we believe that large proportions of OA staff-time resources were diverted from registered apprenticeship (including from 29 CFR Part 30 implementation and compliance) to the development of IRAPs.

C. The Department did not have the funds and personnel necessary to fully implement the current regulations, in part because it did not consistently request them.

The proper implementation of any new regulation requires an investment. Based on budget documents and staffing histories, it appears the Department did not have the funds (and therefore the people) they needed to fully effectuate 29 CFR 30, both because DOL failed to request such funds in most years and because Congress declined to appropriate them for that purpose in others.

Although OA claims that it reviews each RAP every five years, it is quite unlikely that they have the enough staff to actually accomplish that. Program reviews are conducted by Apprenticeship and Training Representatives (ATRs). In 2021, there were the equivalent of 127[176] full-time OA

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[173] OREGON BUREAU OF LABOR & INDUS., APPRENTICESHIP AND TRAINING DIVISION GUIDE TO IMPLEMENTING THE OREGON PLAN (2021), https://www.oregon.gov/boli/apprenticeship/Documents/ATD-Guide-to-Implementing-the-Oregon-Plan-Full-Text-04-05-2022.pdf.

[174] 7 COLO. CODE. REGS. § 1108-1.6 (effective Jun. 20, 2023).

[175] KANSAS OFFICE OF REGISTERED APPRENTICESHIP, KANSAS EQUAL OPPORTUNITY IN EMPLOYMENT PLAN (2024), https://ksapprenticeship.org/wp-content/uploads/2025/01/3.-KS-State-EEO-Apprenticeship-Plan-Full-Document_Final-1.pdf.

[176] U.S. DEP'T OF LABOR, FY 2023 CONGRESSIONAL BUDGET JUSTIFICATION, EMPLOYMENT AND TRAINING ADMINISTRATION PROGRAM ADMINISTRATION PA-37 (2022) ,https://www.dol.gov/sites/dolgov/files/general/budget/2023/CBJ-2023-V1-09.pdf.

staff ("FTE").[177] Of the 127 staff, there were approximately 13 employees in the national office who are not ATRs (one Administrator; two Deputy Administrators, four division chiefs, and six administrative staff); six regional offices, each of which had approximately 5 employees who are not ATRs (a regional administrator, deputy regional administrator, administrative officer, multi-state director, and at least one clerical/administrative staffer); and 27 state offices, each of which has at least one employee who is not an ATR (a state director). That's a total of approximately 68 managers and other non-ATR staff throughout the agency.[178] If all the remaining 59 staff were ATRs and if each spent half their time (4 hours/workday) conducting program reviews, and if the average program review took 16 hours, they would be able to review 3,614 programs in a year.[179] This is substantially short of the 5,477 programs that OA would need to review each year in order to review all 27,385 RAPs over five years.[180] In reality, we believe that OA conducts far fewer reviews a year than 3,614. According to ETA's Program Administration Congressional Budget Justification for Fiscal Year ("FY") 2018, OA conducted a grand total of 425 EEO compliance reviews in FY 2016, when they had 154 FTE and 21,339 RAPs, and set a target of only 350 such reviews for FY 2017.[181]

Moreover, DOL requested only small funding increases to implement 29 CFR 30. In FY 2016, OA had 154 staff (measured in full-time equivalence, or FTE); the appropriation for FY 2017 was also for 154 staff. [182] But for FY 2018, the first full fiscal year after the current 29/30

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[177] For purposes of this calculation, we assume "full-time" means 8 hours a day and 49 weeks in a year (allowing for 3 weeks of vacation and holidays).

[178] Estimates provided by former DOL employee. Note that some of the state offices share a director.

[179] While program reviews vary in length according to the size and complexity of the RAP being reviewed, a quick perusal of the Registered Apprenticeship Program Review Manual shows that even a simple program review involves a number of steps: planning and scheduling the review, reviewing information on the RAP that is on file, preparing interview questions, preparing for the in-person audit, meeting with the sponsor's representative, interviewing apprentices and others, visual inspections of apprentices' workplaces and related-instruction venues, completing seven checklists, drafting findings, developing recommendations, reviewing findings and recommendations with the sponsor's representative, and updating the files. OFFICE OF APPRENTICESHIP, MANUAL FOR REGISTERED APPRENTICESHIP PROGRAM REVIEWS (2022), https://www.apprenticeship.gov/sites/default/files/apr-and-eapr-manual.pdf. For this reason, we believe our estimate of an average of 16 hours for a review is valid.

Our estimated 16 hours per review is also consistent with OA's estimate, in the NPRM Preamble, that a sponsor's Human Resources manager would need 8 hours to complete an internal program review. NPRM, 90 Fed. Reg. at 28947, 28964. That's because an HR manager would know their program better than an ATR, so would require less preparation and familiarization time; because the HR manager's review would occur annually, so they would have less information to review than the ATR, who would be reviewing five years' worth of information; and because an internal program review is likely to be less searching than a review by an ATR working for a RA. Indeed, when considered in this light, it seems that our 16-hour figure is an underestimate.

[180] *FY 2021 Data and Statistics, Table: National Registered Apprenticeship Results*, U.S. DEP'T OF LABOR, EMPLOYMENT & TRAINING ADMIN., https://www.dol.gov/agencies/eta/apprenticeship/about/statistics/2021 (last visited Aug. 27, 2025). This is the most recent year for which we could find data on numbers of RAPs in the registered apprenticeship system.

[181] U.S. DEP'T OF LABOR, FY 2018 CONGRESSIONAL BUDGET JUSTIFICATION, EMPLOYMENT AND TRAINING ADMINISTRATION PROGRAM ADMINISTRATION PA-23, PA-28 (2017) https://www.dol.gov/sites/dolgov/files/general/budget/2018/CBJ-2018-V1-09.pdf; *FY 2020 Data and Statistics, Table: National Registered Apprenticeship Results*, U.S. DEP'T OF LABOR, EMPLOYMENT & TRAINING ADMIN.https://www.dol.gov/agencies/eta/apprenticeship/about/statistics/2020 (21,339 figure).

[182] FY 2018 CONGRESSIONAL BUDGET JUSTIFICATION. at PA-5.

regulations went into effect, DOL's funding request was for only 150 OA staff.[183] It is true that for FY 2019, DOL's request was for 174 OA staff,[184] but these monies were not requested for 29/30 implementation; instead, as the request explained, these monies would –

> be used to advance implementation of the President's 2017 Executive Order on Expanding Apprenticeship [because] ETA will assume a range of new responsibilities, including supporting Industry-Recognized Apprenticeships. The Department expects to support and promote Industry-Recognized Apprenticeship efforts by dramatically expanding these sector-led approaches; bringing apprenticeships to scale through the use of streamlined approval processes; and enabling certifiers and employers to leverage technology that facilitates job matching and validate credentials of apprentices. Employer demand for apprenticeship support services have significantly increased over the past year with the announcement of the EO on apprenticeship, coupled with greater State and Federal investment in this earn and learn workforce development strategy.[185]

The request for FY 2020 was actually for fewer staff (168 FTE).[186] By the end of the first Trump Administration (FY 2021), OA's FTE was down to 127.[187]

In the Biden Administration, OA did request increases in staffing, and actual staffing increased from 133 FTE in FY 2021 to 161 FTE in FY 2024, commensurate with the 18.5% increase in apprentices during that period.[188] However, during the Biden Administration, Congress never appropriated enough funds to support the full FTE request that the Administration thought was necessary for OA to accomplish its mission.

A final indicator of OA's faulty implementation of part 30 is the long list of common-sense recommendations for improving implementation that have been made but not carried out. For example, in their meeting with the OA Administrator in May 2021, tradeswomen's groups from this Taskforce recommended that OA make 29/30 a priority by developing an overall strategic plan and putting resources into carrying out that plan. But this recommendation was not, we believe, ever put into place. Specific elements of our recommended plan that were not implemented included the following:

1. Using the bully pulpit to send a message—e.g., through virtual town halls, webinars, a guidance letter—to remind RAPs of their new 29 CFR 30 obligations.

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[183] *Id.*
[184] U.S. DEP'T OF LABOR, FY 2019 CONGRESSIONAL BUDGET JUSTIFICATION, EMPLOYMENT AND TRAINING ADMINISTRATION PROGRAM ADMINISTRATION PA-5 (2018), https://www.dol.gov/sites/dolgov/files/general/budget/2019/CBJ-2019-V1-09.pdf.
[185] *Id.* at PA-26.
[186] U.S. DEP'T OF LABOR, FY 2020 CONGRESSIONAL BUDGET JUSTIFICATION, EMPLOYMENT AND TRAINING ADMINISTRATION PROGRAM ADMINISTRATION PA-5 (2019), https://www.dol.gov/sites/dolgov/files/general/budget/2020/CBJ-2020-V1-09.pdf.
[187] U.S. DEP'T OF LABOR, FY 2023 CONGRESSIONAL BUDGET JUSTIFICATION, EMPLOYMENT AND TRAINING ADMINISTRATION PROGRAM ADMINISTRATION PA-37 (2022), https://www.dol.gov/sites/dolgov/files/general/budget/2023/CBJ-2023-V1-09.pdf.
[188] The total number of apprentices increased from 573,311 in FY 2021 to 679,105 in FY 2024. *Apprentices by State*, APPRENTICESHIPUSA, *https://www.apprenticeship.gov/data-and-statistics/apprentices-by-state-dashboard* (last visited Aug. 27, 2025).

2. Assigning overall responsibility for the policy, compliance, and contractual technical assistance aspects of 29/30 implementation to one person who has sufficient resources and authority and who reports directly to the OA Administrator.
3. Developing a plan for strategically targeted, timely, frequent, and effective reviews of compliance with 29 CFR part 30.

Other EEO-related recommendations that have not been fully implemented are many that were made by the Advisory Committee on Apprenticeship (ACA) in its final Biennial Report, issued May 10, 2023.[189] There, the ACA recommended that OA and, where applicable, the SAAs –

1. Revise the definition of "apprenticeable occupation" in 29 CFR § 29.4 to add to it a requirement that, for an occupation to be apprenticeable, the prospective sponsor must demonstrate that the wage profile for that occupation by the last stage of the apprenticeship prior to completion pays a living wage based on local living standards.[190]
2. Establish and enforce standards for personal protective equipment (PPE) that fits; clean, sex-separate or single-user bathrooms; and workplace violence.[191]
3. Require stronger DEIA training for employers and mentors to cover topics such as: cultural competency; inclusivity; bias awareness; anti-discrimination law; managing difficult conversations with diverse populations (including race/ethnicity, gender identity/expression); dealing with microaggressions and unconscious biases.[192]
4. Measure and track their own success through Equity Indices showing the representation of new, active, and completing apprentices from each underserved demographic group in the context of local area, industry, education/skills, and wages/promotions.[193]
5. Make apprentice demographic data, disaggregated by race, ethnicity, and sex, and separately for each state and for each standard occupation code, public on a dashboard site.[194]
6. Use data from RAPIDS, Program Standards, and program reviews to prioritize program reviews, geographic areas, and industries to inform its investment decisions, determine where to deploy resources, and determine on what topics to provide staff training and technical assistance to sponsors.[195]
7. Establish a new data source: a regular, anonymous survey of apprentices' and recent apprentice exiters' experiences, conducted by OA on a nationwide basis, to track apprentices' experiences from outreach through program participation and as they become established in their careers and leadership positions.[196]

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[189] ACA Biennial Report, *supra* note 14.
[190] *Id.* at 157 (adopted by vote of ACA; *see* 17); *see* Nick Beadle, *Registered Apprenticeship needs to be better. Let's start here*, JOBS THAT WORK (Jul. 22, 2025), https://www.jobsthat.work/p/registered-apprenticeship-needs-to. ("Registered Apprenticeships shouldn't be paying anything less than a *living* wage, not a minimum wage… You can't say Registered Apprenticeship is a guarantee of quality—which political leaders do a lot—and …ask people to muddle through until they've starved their way there.")
[191] *Id.* at 36, 128.
[192] *Id.* at 76, 123.
[193] *Id.* at 34, D-5.
[194] *Id.* at 34, 124.
[195] *Id.* at 34, 124.
[196] *Id.* at 42, 181.

8. Issue guidance on how to collect demographic data on apprentices and apprenticeship programs.[197]
9. Address critical areas of concern that interfere with apprentices' entrance into and completion of their apprenticeships, such as aptitude tests that tend to screen out applicants from certain underserved demographic groups and are not related to successful performance of an apprenticeship.[198]
10. Ensure all SAAs are aligned with 29 CFR part 30 at a minimum.[199]

CONCLUSION

In its Preamble, the NPRM reveals that the Department's true purpose in proposing these regulations is to roll back the clock to a far bygone era:

> [T]his proposed revision to part 30 seeks to … restor[e] the original focus and purpose of the 1963 version of the regulation.[200]

The 1963 version of the regulation prohibited only discrimination "based on race, creed, color, or national origin" – *not* based on sex.[201] Discrimination based on sex, including pregnancy, childbirth, and related medical conditions, was rampant, and perfectly lawful at that time. Harassment had not been recognized as a form of unlawful discrimination. Retaliation against individuals who filed discrimination complaints or served as witnesses in discrimination proceedings was not prohibited. Indeed, in 1963, Title VII had not even been enacted, there was no EEOC, and no private right of action existed for those who had suffered discrimination.

This is the place that the NPRM would take us back to. We oppose.

For the foregoing reasons, **the National Taskforce on Tradeswomen's Issues and the undersigned organizations urge the Department to withdraw this proposal and instead leave 29 CFR 30 intact.** We strongly recommend that the Department strengthen, not strip, 29/30 for the sake of ensuring equality of access to apprenticeship programs, safeguarding the welfare of apprentices, and increasing efficiency and transparency across the apprenticeship system.[202]

If you have any questions, please reach out to Jessica Ramey Stender, Policy Director and Deputy Legal Director at Equal Rights Advocates and Policy Committee Co-chair of the

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[197] *Id.* at 224.
[198] *Id.* at 35, 127; recommendations even suggest *eliminating* aptitude tests in some industries. *Id.* at 74, 128.
[199] *Id.* at 27, 123.
[200] NPRM, 90 Fed. Reg. at 28947, 28950.
[201] NPRM, 90 Fed. Reg. at 28947, 28949. The only mention of "sex" in the 1963 regulations is a recommendation that the nondiscrimination statement that then-§ 30.7(a) required RAPs to adopt include a prohibition of sex discrimination in application of certain selection procedures: "Selection of apprentices under the program shall be made from qualified applicants on the basis of qualifications alone and without regard to race, creed, color, national origin, *sex*, or occupationally irrelevant physical requirements…" 28 Fed. Reg. 13775, 13776 (December 18, 1963), https://archives.federalregister.gov/issue_slice/1963/12/18/13770-13784.pdf (emphasis added).
[202] Our recommendations for strengthening 29 CFR 30 are included as Attachment 3.

National Taskforce on Tradeswomen's Issues at jstender@equalrights.org, and Meg Vasey, Policy Committee Co-chair of the National Taskforce on Tradeswomen's Issues at mdvasey@gmail.com.

Respectfully submitted,

National Taskforce on Tradeswomen's Issues

Equal Rights Advocates

Chicago Women in Trades (CWIT)

National Women's Law Center

10 Hats Construction

Alabama Arise

American Association of University Women (AAUW)

ANEW

APALA (Asian Pacific American Labor Alliance - AFL-CIO)

Aspen Institute Forum for Community Solutions

Black ECE

California National Organization for Women (CA NOW)

Center for Advancement of Public Policy

Center for Law and Social Policy (CLASP)

Central Ohio Women in the Trades

Chicago Jobs Council

Chicago Jobs with Justice

Child Welfare League of America

Children's Defense Fund

Clearinghouse on Women's Issues

Colorado Center on Law and Policy

Common sense

Communications Workers of America

Equal Pay Today

Feminist Majority

Feminist Majority Foundation

Greater Boston Building Trades Unions
Health & Medicine Policy Research Group
Heartland Women in Trades
IBEW Latin American Electrical Workers Alliance (LAEWA)
IBEW Local 46 Women's Committee
IBEW Local 58 Detroit
Indiana Community Action Poverty Institute
Institute for Women's Policy Research
Iowa Federation of Labor, AFL-CIO
Joint Center for Political and Economic Studies
KWH Law Center for Social Justice and Change
Labor Council for Latin American Advancement (LCLAA)
Massachusetts AFL-CIO
Mississippi Black Women's Roundtable
Missouri Women in Trades
National Black Worker Center
National Collaborative for Transformative Youth Policy
National Council of Jewish Women
National Disability Rights Network (NDRN)
National Employment Law Project
National Employment Lawyers Association
National Institute for Workers' Rights
National Organization for Women
National Partnership for Women and Families
National Skills Coalition
NETWORK Lobby for Catholic Social Justice
Nevada Women In Trades (NVWIT)
NOLA Women in Skilled Trades and Manufacturing Careers
North Central Illinois Finishing Trades Institute
Opportunity Youth United
Philadelphia Council AFL-CIO

PowHer New York

Public Justice Center

Reproductive Freedom for All

Revolution Workshop

Rhode Island Women in the Trades

SEIU Local 105

Shriver Center on Poverty Law

Texas Women in Trades / Texas Women Work

The Forum for Youth Investment

The Workers Circle

Tradeswomen Ran Association for Diversity and Equity (TRADE)

Vermont Works for Women

Women Employed

Women In Non Traditional Employment Roles (WINTER)

Women's Law Project

Worcester-Fitchburg Building Pathways Pre-apprenticeship Program

Working Partnerships USA

Workplace Justice Project

Workplace Justice Project, New Orleans, LA

Worksafe

ATTACHMENTS

Attachment 1**:** Ariane Hegewisch, Institute for Women's Policy Research, *Numbers Matter: Women Working in Construction* (IWPR Quick Figure #Q120, August 2025).

Attachment 2: Department of Labor Fact Sheet, *Technical Assistance Strategy for Apprenticeship Equal Employment Opportunity (EEO) Regulations, 29 CFR Part 30*, issued as part of DOL rollout of the current 29 CFR part 30 in December 2016.

Attachment 3: Taskforce Recommendations for Strengthening 29 CFR pt. 30.

Numbers Matter: Women Working in Construction

In 2024, the number of women working in construction trades was the highest ever, with 366,360 working in construction and extraction occupations. Since 2015, the number of tradeswomen has increased by almost 160,000, or 77.3 percent. Construction careers, including apprenticeships, are attracting an increasing number of women. Yet, even with this growth, tradeswomen were only 4.3 percent of all construction trade workers. In three of the five largest trades, women's share of jobs is even smaller, at just 3.5 percent of laborers, 3.2 percent of plumbers, pipefitters, and steamfitters, and 2.9 percent of electricians (Table 1).

Women's access to earn-as-you-learn apprenticeships grew strongly in the last decade. Since the launch of the American Apprenticeship Initiative in 2015 and the 2016 US Department of Labor's Apprenticeship Equal Employment Opportunity Final Rule,[1] the number of women in construction apprenticeships grew by 185.9 percent, from 3,789 to 10,834, yet women are still just 5.4 percent of construction apprentices in the 37 states with data for 2015 and 2024 in the Registered Apprenticeship Partners Information Database System (RAPIDS) (Table 1).

Table 1. Women Working in Construction, 2015 to 2024

	2015 Women		2024 Women		2015-2024 Change
	Numbers	(%)	Numbers	(%)	(%)
Construction and extraction occupations, including:	**206,604**	**2.7%**	**366,360**	**4.3%**	**77.3%**
Construction laborers	47,821	2.9%	80,255	3.5%	67.8%
Painters and paperhangers*	32,604	5.7%	58,212	10.8%	n/a
Carpenters	23,058	1.8%	53,718	4.2%	133.0%
Electricians	17,779	2.3%	28,768	2.9%	61.8%
Plumbers, pipefitters, and steamfitters*	4,011	0.7%	20,352	3.2%	n/a
Construction and building inspectors	8,910	9.9%	11,960	11.5%	34.2%
First-line supervisors	23,496	3.3%	47,520	6.0%	102.2%
Apprentices (37 states, RAPIDS active)**	3,789	3.0%	10,834	5.4%	185.9%
Construction managers	**49,379**	**6.7%**	**131,355**	**10.5%**	**166.0%**
Construction jobs on payroll (including office/admin) (June 2015 and June 2025)	**815,000**	**12.7%**	**1,201,000**	**14.4%**	**47.4%**
Construction industry, all workers (including office/admin)	**923,955**	**9.3%**	**1,347,024**	**11.2%**	**45.8%**

Sources: IWPR calculations based on US Bureau of Labor Statistics, Current Population Survey Annual Averages, Table 11 and Table 14, accessed July 25, 2025, https://www.bls.gov/cps/tables.htm; Current Employment Statistics Series CES2000000010 and CES2000000001; and Apprenticeship USA "Data and Statistics: Apprentices by State," accessed July 25, 2025, https://www.apprenticeship.gov/data-and-statistics/apprentices-by-state-dashboard.
Notes: *Data for 2015 and 2024 are not comparable because of changes in the definition of the occupation. **Data are for fiscal year; 2024 data 1st quarter of FY 2025 (Oct. to Dec. 2024). The following states are excluded because of missing/incomplete data: CA, CT, DC, DE, ID, KS, MA, ME, NY, OR, RI, VT, WA, WI.

Differences between states in the shares of women construction apprentices show that higher inclusion is possible. RAPIDS does not include California (1,821 women apprentices, 3.1 percent) or some of the most proactive states, such as Oregon (823 women apprentices, 9.6 percent) and Washington (1,044 women apprentices, 7.8 percent).[2] The states with the highest share of women construction apprentices in RAPIDS are Arizona (10.0 percent) and Alaska (8.0 percent); women comprise fewer than 3 percent of apprentices in four states: Arkansas, Maryland, Nebraska, and South Dakota.

Women made more progress as construction managers than as construction trade workers. Women comprise 10.5 percent of construction managers, more than double their share of workers in the trades (4.3 percent) and much higher than first-line supervisors (6.0 percent). When all workers in the construction industry are counted, including office, administrative, and professional workers such as project managers and estimators, women's share of jobs rises to 11.2 percent. Only counting those directly on employers' payrolls (excluding the self-employed, including administrative workers), women held 14.4 percent of jobs; however, this measure may count individuals working for more than one firm twice.

Data collection and transparency are crucial, as women remain underrepresented in apprenticeships. Construction companies report high skill shortages.[3] The industry benefits greatly from the skilled work of tradeswomen and investments in apprenticeships, but women are still woefully underrepresented. Data can create accountability and help policymakers and contractors ensure that progress is sustained and that women have an equal chance at accessing quality apprenticeships and high-paying careers in construction.

Policymakers and industry leaders must continue to address discrimination to accelerate growth and support women in the industry. Women of all racial and ethnic backgrounds are underrepresented in construction. Too many women, particularly women of color, face discrimination in hiring, employment, and promotions, and experience sexual or racial harassment and gender bias on the job.[4] Such adverse conditions mean that women are less likely to complete their apprenticeships and are more likely to leave the industry than men.[5] To learn more about IWPR's federal policy solutions, read our "Increasing Pathways to Good Jobs" brief.

This IWPR Quick Figure was prepared by Ariane Hegewisch and was made possible with the support of our key funders. It updates an earlier version prepared in collaboration with the National Taskforce on Tradeswomen's Issues, a coalition of tradeswomen organizations, advocates, allies, and individual tradeswomen.

1. See https://www.ecfr.gov/current/title-29/subtitle-A/part-30.
2. Calculations by National Taskforce for Tradeswomen's Issues using data provided by the departments of labor in the referenced states.
3. The Construction Association (ACG), "2024 Workforce Survey Results," 2024, https://www.agc.org/sites/default/files/users/user21902/2024_Workforce_Survey_National_FINALIZED.pdf.
4. Chandra Childers, Ariane Hegewisch, and Lark Jackson, "Here to Stay: Black, Latina, and AfroLatina Women in Construction Trades Apprenticeships and Employment," briefing paper (Chicago: National Center for Women's Equity in Apprenticeship and Employment at Chicago Women in the Trades, 2021), https://iwpr.org/heretostay-black-latina-and-afro-latina-women-in-construction-trades-apprenticeships-and-employment/; Ariane Hegewisch and Eve Mefferd, *A Future Worth Building: What Tradeswomen Say about the Change They Need in the Construction Industry,* IWPR report #C508 (Washington, DC: Institute for Women's Policy Research, 2021), https://iwpr.org/a-future-worth-building-report/.
5. Hegewisch and Mefferd, *A Future Worth Building*.

EMPLOYER AND TRAINING ADMINISTRATION
UNITED STATES DEPARTMENT OF LABOR

Technical Assistance Strategy for Apprenticeship Equal Employment Opportunity (EEO) Regulations 29 CFR Part 30

The Department of Labor (DOL) is committed to providing its customers — America's employers, workers and job seekers — with transparent and easy-to-access information on how to comply with Federal employment laws and regulations. DOL will provide a broad range of technical assistance to support the successful implementation of the Apprenticeship EEO regulations in order to ensure progress on diversity and inclusion while minimizing the burden on employers, Registered Apprenticeship sponsors, and State partners.

As a part of ETA's ongoing efforts to support compliance with the new apprenticeship EEO regulations, the agency is providing the list (below) of resources that partners and stakeholders may find useful during implementation. This assistance may take a number of different formats, including: fact sheets; policy guidance; resource guides and reference materials; electronic/ internet tools; presentations, webinars, and in-person training (as appropriate). We note that this is not an exhaustive list because there are many governmental and non-governmental organizations that provide further information and support on these issues and other relevant EEO in apprenticeship and diversity inclusion topics.

Specific Technical Assistance Resources

- Meeting new Non-Discrimination Requirements (including sexual orientation)
- Conducting Utilization/Availability Analysis
- Providing Anti-Harassment training
- Identifying Outreach and Recruitment Sources
- Establishing Selection Procedures (including Direct Entry)
- Promoting Self-identification of a Disability
- Developing Written Affirmative Action Plans for Registered Apprenticeship;
- Understanding Discrimination Standards and Defenses.

Who May Benefit from this Technical Assistance?

- Sponsors of Registered Apprenticeship Programs, including:
  - — Employers and industry associations
  - — Joint labor-management organizations and unions including joint apprenticeship training committees
  - — Industry and workforce intermediaries, including workforce and educational organizations including community colleges, industry associations, and apprenticeship grantees
- Career seekers, potential and current apprentices
- Community based organizations, non-governmental organizations, workforce and apprenticeship partners, tradeswomen organizations, disability organizations, and others
- State Apprenticeship Agencies and other State-led apprenticeship organizations

General Timeline and Technical Assistance Roll-Out

Phase 1 - Winter 2017 Information Sharing	Phase 2 - Spring 2017: Guidance and Support	Phase 3 - Summer/ Fall 2017
General Technical Assistance and Fact Sheets	Priority Policy Guidance and Launch of Clearinghouse of Resources and E-Tools	Specialized Technical Assistance and Support

Additional Information on Technical Assistance for Select Topics

Meeting new Non-Discrimination Requirements (including sexual orientation)

- DOL will issue additional guidance regarding how sponsors of apprenticeship programs can meet the non-discrimination requirements for all protected populations; and
- DOL will provide sample posters and/or other materials that sponsors can post in their workplace informing apprentices of their rights related to non-discrimination.

Conducting Utilization and Availability Analysis

DOL will develop an on-line tool that will allow sponsors to easily conduct initial labor market availability analyses independently and/or with additional support from apprenticeship registration agency staff.

Providing Anti-Harassment Training

DOL will develop online training modules that sponsors can access and provide to all required participants to meet the anti-harassment training requirement. Sponsors may use this tool, develop their own, or work with partners to develop new training resources to meet this requirement.

Identifying Outreach and Recruitment Sources

DOL will develop a clearinghouse of governmental and non-governmental outreach and recruitment resources relevant to a wider range of target populations.

Establishing Selection Procedures (including Direct Entry)

- DOL will develop additional guidance and sample selection procedures that provide sponsors of apprenticeship program a range of options that meet the requirements of this regulation.
- In this guidance outlined above, DOL will specifically address the use of direct entry as a selection procedure.

Promoting Self-Identification of a Disability

DOL will develop additional guidance, publish the language to be included for the self-identification form, and identify best practices for promoting self-identification of a disability.

Developing Written Affirmative Action Plans

DOL will provide sample written affirmative action plans that can be utilized by a broad range of sponsors across a diversity of industries.

Understanding Discrimination Standards and Defenses

DOL will develop guidance and training for Registered Apprenticeship sponsors on understanding discrimination standards and defenses.

National Taskforce on Tradeswomen's Issues
Recommendations for Strengthening 29 CFR 30

We urge the Department to strengthen 29 CFR 30 in at least the following ways:

1. OA should revise the definition of "apprenticeable occupation" in 29 CFR § 29.4 to add a requirement that, for an occupation to be apprenticeable, the prospective sponsor must demonstrate that the wage profile for that occupation pays a living wage based on local living standards by the last stage of the apprenticeship prior to completion.

2. OA should establish and enforce standards for: personal protective equipment (PPE) that fits; clean, sex-separate or single-user bathrooms; and workplace violence prevention and response.

3. OA should require stronger DEIA training for employers and mentors to cover topics such as: cultural competency; inclusivity; bias awareness; anti-discrimination law; managing difficult conversations with diverse populations (including race/ethnicity, gender identity/expression); dealing with microaggressions and unconscious biases.

4. The regulations should clearly establish a compliance-review schedule whereby OA and the State Apprenticeship Agencies (SAAs) are required to undertake frequent program reviews or audits during which OA staff audit programs' progress and provide actionable technical assistance. Programs should be audited after the first year of operation; after the second year, for affirmative-action plans; and again, at least every 3 years.[1]

OA and the SAAs (where applicable) should also take these steps to fully and effectively implement 29 CFR 30:

1. Measure and track success through Equity Indices showing the representation of new, active, and completing apprentices from each underserved demographic group in the context of local area, industry, education/skills, and wages/promotions.

2. Make apprentice demographic data—disaggregated by race, ethnicity, and sex, and separately for each State and for each standard occupation code—public on a dashboard site.

3. Use data from RAPIDS, Program Standards, and program reviews to identify which program reviews, geographic areas, and industries should be prioritized, and use this to

[1] *See* ACA Biennial Report, *supra* comment note 14, at 34, 66, 123.

inform investment decisions, determine where to deploy resources, and determine on what topics to provide staff training and technical assistance to sponsors.

4. Establish a new data source: a regular, anonymous survey of apprentices' and recent apprentice exiters' experiences, conducted by OA on a nationwide basis to provide feedback that is "people-focused," not "program-focused." This survey should track apprentices from outreach through program participation and as they become established in their careers and leadership positions.

5. Issue guidance on how to collect demographic data on apprentices and apprenticeship programs.

6. Address critical areas of concern that interfere with apprentices' entrance into and completion of their apprenticeships, such as aptitude tests that tend to screen out applicants from certain underserved demographic groups and are not related to successful performance of an apprenticeship.

7. Ensure all SAAs are aligned with 29 CFR part 30.[2]

[2] *See id.* at 27, 123.