

# Frequently Asked Questions About Group Sponsors' Obligations Under the Apprenticeship Equal Employment Opportunity Regulations

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## At a Glance

In a group sponsorship, apprentices work for participating employers rather than for the sponsor itself. These FAQs address a group sponsor's obligations to ensure that its apprenticeship program complies with equal employment opportunity regulations.

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# Acknowledgments

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## About the Author

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# Introduction

Some Registered Apprenticeship (RA) programs are structured as *group programs*—meaning that the apprentices enrolled in them do not work for the sponsor, but instead work for the employers that participate in the apprenticeship program. These *participating employers* are the apprentices’ employers of record and are responsible for the apprentices’ on-the-job training; it is their journey-level employees who provide the apprentices with day-to-day oversight and on-the-job instruction.

Sponsors of group programs may be unsure about their obligations to ensure that the equal employment opportunity regulations governing apprenticeships are being followed.

All Registered Apprenticeship programs must follow U.S. Department of Labor regulations found in Parts 29 and 30 of Title 29 of the Code of Federal Regulations (CFR) (or state counterparts). Known as the “Apprenticeship EEO” (equal employment opportunity) regulation, RA programs are prohibited from discriminating against apprentices or apprenticeship applicants on the basis of “race, color, religion, national origin, sex, sexual orientation, age (40 and older), genetic information or disability.” Title 29 Part 30 also requires RA programs to take certain affirmative steps to ensure equal employment opportunity (EEO).

The FAQs below offer answers to frequently asked questions from RA sponsors that work with more than one participating employer.

## **Who is responsible for compliance with the Apprenticeship EEO regulations?**

RA program sponsors are the parties ultimately responsible for ensuring compliance with the EEO regulations governing apprenticeships.

## **What are participating employers’ responsibilities with regard to compliance with apprenticeship EEO regulations?**

Participating employers are not directly responsible for compliance with apprenticeship EEO regulations. However, sponsors are required to ensure that their programs abide by EEO regulations, and most participating employers are contractually obligated to do what is necessary to ensure the sponsor can fulfill that obligation.

When employers begin participating in RA programs, they enter into employer acceptance agreements (EAA) with the sponsors that place apprentices with them, and in those agreements,

they affirm that they will abide by standards the sponsor has established. The template EAA provided by the U.S. Department of Labor’s Office of Apprenticeship (OA) (which is Appendix D to OA’s Boilerplate Registered Apprenticeship Standards) states that the participating employer “subscribes to the provisions of the Apprenticeship Standards formulated and registered by [the sponsor] and agrees to carry out the intent and purpose of [the sponsor’s] Standards and to abide by the rules and decisions of the Sponsor established under these Apprenticeship Standards.” The standards and other documents in the boilerplate package, in turn, require the sponsor to abide by the EEO regulations governing apprenticeships.

This means that participating employers may have a duty to help the sponsor by, for example, delivering anti-harassment training and EEO information sessions to their employees, using nondiscriminatory selection procedures when hiring apprentices, inviting applicants to self-identify as individuals with disabilities, and rotating apprentices through all the work processes of the apprenticeship without discrimination.

When a sponsor first connects with a participating employer and begins making arrangements for the hiring and training of apprentices, it is a best practice for the sponsor to discuss the employer’s obligations under the EAA and the requirements of the apprenticeship EEO regulations. That way, the expectations are clear from the beginning.

Participating employers may also have an independent obligation to comply with other EEO laws that apply to them as employers—such as federal, state, and local laws or regulations that prohibit employment discrimination on the basis of race, color, national origin, sex, sexual orientation, religion, disability, genetic information, or age or that require sexual-harassment training or pregnancy accommodations.

## **How can a sponsor deliver training to individuals who are not its employees?**

RA sponsors should work with participating employers to set up systems for delivering training to journeyworkers and others who are not its employees but will be working with and training the sponsor’s apprentices. Here are some examples of steps a sponsor could take:

- Make arrangements for its representative(s) go to the employers’ worksites to provide in-person training.
- Provide training to the participating employers’ employees remotely, via an online meeting platform.

- Provide training to participating employers' employees through courses offered on an online training platform.
- Specify the content that it wants employees to receive and require participating employers to provide their employees with training that covers that content.

Such arrangements could be included in the terms of the employer acceptance agreements that sponsors and employers enter into.

### **What if a participating employer does not want to provide anti-harassment training to employees who work with the sponsor's apprentices? How can a sponsor require participating employers to provide or cooperate with training?**

Because of the language in their EAAs with the sponsor, participating employers have an obligation to cooperate with the sponsor to ensure compliance with all the apprenticeship regulations, including the anti-harassment training requirement. A sponsor can remind an unwilling participating employer of this, and point out that if the sponsor doesn't comply, it could be deregistered—and then both it and the participating employer could lose their apprentices.

Ultimately, if a participating employer refuses to provide anti-harassment training, or declines to do anything else that the sponsor must do for the sponsor to be in compliance with the apprenticeship EEO regulations, the sponsor can discontinue its relationship with the employer and place its apprentices elsewhere—just as it would if, for example, a participating employer refused to pay on a progressive wage scale or provide a sufficient ratio of journeymen to apprentices.

### **What if the employer's journeymen or others who work regularly with the apprentices refuse to take the anti-harassment training? How can a sponsor require those individuals—who are not its employees—to participate?**

Of course, a sponsor has no power to require individuals who are not its employee to take anti-harassment training. But a participating employer does, and doing so is part of its contractual

obligation to the sponsor. So the sponsor can use its leverage over the participating employer to make sure that the employer requires its employees to participate.

## **Who has to adopt and implement an affirmative action plan?**

Unless it is exempted from affirmative action plan (AAP) requirements under the Apprenticeship EEO regulations, the sponsor of an RA program has to prepare a written AAP and adopt and implement an affirmative action program.

A sponsor is exempted if it meets either of these two criteria:

- (a) It has fewer than five apprentices.
- (b) It already has an AAP that 1) has been approved by the U.S. Equal Employment Opportunity Commission or the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) and 2) covers its apprentices and contains substantially the same elements as the apprenticeship EEO regulations require.

Note that these exemptions apply to the sponsor, not to the individual participating employers. Therefore, the five-apprentice threshold applies to the total number of apprentices who are enrolled in the sponsor's RA program. If a sponsor has three apprentices working for Employer A and two working for Employer B, then it must adopt an AAP because it has five apprentices. That AAP will cover all five apprentices.

A participating employer may also have an obligation to adopt and implement an AAP that covers its apprentices. For example, federal contractors and subcontractors that have at least 50 or more employees and \$50,000 in federal contracts have to adopt AAPs under the laws and regulations enforced by OFCCP. But this obligation is independent from the sponsor's obligation under the Apprenticeship EEO regulations.

## **Whose employees does an AAP cover?**

The RA sponsor's AAP must cover all the apprentices in its program, regardless of whose employees they are.

To illustrate, here are some examples of common RA structures:

- Machinists Union Local 1234 and the contractors in the area that are signatories to its collective bargaining agreement have formed a Joint Apprenticeship and Training Committee (JATC). The JATC is the sponsor of an RA program that has 11 enrolled

- apprentice mechanics, four of whom work for Participating Employer A, four of whom work for Participating Employer B, and three of whom work for Participating Employer C. The JATC doesn't employ any of these apprentices. JATC instructors provide related instruction to all 11 apprentices at the JATC training center.
- *The JATC must adopt an AAP that covers all 11 of these apprentices.*
  - Big Industrial Supply Co. (BISC) sponsors an RA program in which it trains apprentices to be computer numerical control (CNC) programmers. The 20 enrolled apprentices are employees of BISC; they get on-the-job training in 3+2-axis trunnion vertical machining through their jobs there and receive related instruction through classes in subjects such as advanced math, blueprint reading, computer-aided design, computer-aided manufacturing, and metrology at Nearby Technical College.
    - *Because they are the apprentices in its RAP, BISC must adopt an AAP that covers these 20 employees.*
  - County Community College (CCC) sponsors an RA program that trains apprentices to be integrated systems maintenance technicians. There are eight apprentices in the program and they all work for the same participating employer, where they receive on-the-job training to learn how to maintain, calibrate, and repair integrated systems equipment. The apprentices also receive related instruction through CCC courses in subjects like electrical motor control, hydraulics, programmable controllers, and technical math.
    - *CCC must adopt an AAP that covers these eight apprentices.*