

**TITLE 11      LABOR AND WORKERS' COMPENSATION**  
**CHAPTER 2    JOB TRAINING**  
**PART 31      APPRENTICESHIP ASSISTANCE**

**11.2.31.1      ISSUING AGENCY:** Department of Workforce Solutions.  
[11.2.31.1 NMAC - Rp, 11.2.31.1 NMAC, 3/31/2016]

**11.2.31.2      SCOPE:** All New Mexico registered apprenticeship programs that develop skilled craftsmen in occupations recognized by the department of workforce solutions.  
[11.2.31.2 NMAC - Rp, 11.2.31.2 NMAC, 3/31/2016]

**11.2.31.3      STATUTORY AUTHORITY:** 22-2-1, 22-2-2, 21-19A-6 NMSA 1978.  
[11.2.31.3 NMAC - Rp, 11.2.31.3 NMAC, 3/31/2016]

**11.2.31.4      DURATION:** Permanent.  
[11.2.31.4 NMAC - Rp, 11.2.31.4 NMAC, 3/31/2016]

**11.2.31.5      EFFECTIVE DATE:** March 31, 2016, unless a later date is cited at the end of a section.  
[11.2.31.5 NMAC - Rp, 11.2.31.5 NMAC, 3/31/2016]

**11.2.31.6      OBJECTIVE:** To set forth requirements and processes by which an apprenticeship program shall receive assistance through the department of workforce solutions relating to 21-19A-2 et seq NMSA 1978.  
[11.2.31.6 NMAC - Rp, 11.2.31.6 NMAC, 3/31/2016]

**11.2.31.7      DEFINITIONS:**

- A.      "Advisory committee"** means the apprenticeship and training advisory committee to the division.
- B.      "Applicant"** means an entity desiring to file for Apprenticeship Assistance Act funding.
- C.      "Apprentice"** means a person at least 16 years old who is approved by the department of workforce solutions and is covered by a written apprenticeship agreement with a registered apprenticeship program in any trade or occupation.
- D.      "Apprenticeable trades or occupations"** mean those trades or occupations officially recognized by the department of workforce solutions.
- E.      "Apprenticeship"** means a formal educational method for training a person in a skilled trade or occupation that combines supervised employment with related instruction.
- F.      "Apprenticeship agreement"** means a written agreement between an apprentice and a registered apprenticeship program, which agreement contains the terms and conditions of the employment and training of the apprentice identified in 21-19A-5.C NMSA 1978.
- G.      "Apprenticeship committee"** means the sponsoring committee of each apprenticeable craft or occupation that is responsible for that particular apprenticeship program.
- H.      "Apprenticeship standards"** means those standards that are registered and approved by the department of workforce solutions or the United States department of labor, office of apprenticeship.
- I.      "Chair"** means the director for apprenticeship of the department of workforce solutions who shall chair the apprenticeship training and advisory committee (ATAC) meetings.
- J.      "Department"** means the department of workforce solutions.
- K.      "Director"** means the director for apprenticeship of the department of workforce solutions.
- L.      "Division"** means the labor relations division of the department of workforce solutions.
- M.      "Journeyworker"** means an individual who has documented sufficient skills and knowledge of a trade, craft or occupation, either through formal apprenticeship or through practical on-the-job experience, and formal training. This individual is recognized by the state or his/her employer, as being fully qualified to perform the work of the trade, craft or occupation.
- N.      "Procedures manual"** means the manual maintained by the department of workforce solutions that contains the administrative procedures, forms formulas, reports and other requirements necessary for approval and distribution of funds provided by the Apprenticeship Assistance Act.
- O.      "Office of apprenticeship"** means the office designated by the employment and training administration, United States department of labor to administer the national apprenticeship system or its successor organization.

- P.** “**Registered apprenticeship program**” means a program registered by the department of workforce solutions or the office of apprenticeship.
  - Q.** “**Related instruction**” means the organized, off-the-job instruction in theoretical or technical subjects required for the completion of an apprenticeship for a particular apprenticeable trade or occupation.
  - R.** “**Reserved funds**” mean funds not obligated on March 1 of the current fiscal year.
  - S.** “**Secretary**” means the secretary of the department of workforce solutions.
  - T.** “**Supplementary instruction**” means new or upgraded skill training for those already employed as journeyworkers.
- [11.2.31.7 NMAC - Rp, 11.2.31.7 NMAC, 3/31/2016]

**11.2.31.8 APPRENTICESHIP AND TRAINING ADVISORY COMMITTEE:** The apprenticeship and training advisory committee shall provide input to the director for apprenticeship of the department of workforce solutions regarding:

- A.** The administration of funds provided by the Apprenticeship Assistance Act to assist apprenticeship programs.
- B.** Recommend request for legislative appropriation of state funds for apprenticeship training.
- C.** Modifications to the application process and procedures manual.
- D.** Funding formulas for distributing available funds that shall be uniformly applied to all registered apprenticeship programs based on data contained in the apprenticeship-related instruction cost study required by Section 21-19A-10 NMSA 1978.
- E.** Development of a program and fiscal year calendar.

[11.2.31.8 NMAC - N, 3/31/2016]

**11.2.31.9 THE DEPARTMENT OF WORKFORCE SOLUTIONS:** The department of workforce solutions shall have sole control over the disbursement of funds appropriated under the Apprenticeship Assistance Act and shall:

- A.** Receive input from the apprenticeship and training advisory committee regarding the administration of funds provided by the Apprenticeship Assistance Act to assist apprenticeship programs.
- B.** Annually develop and publish a procedures manual that shall include;
  - (1) a current calendar with the dates for apprenticeship meetings, quarterly reports, regulatory deadlines and any other significant items;
  - (2) an application form for requesting Apprenticeship Assistance Act funds;
  - (3) the date for the public meeting to be held no later than February 28th for approving the procedures and application process;
  - (4) the date for the public meeting to be held no later than March 30th to conduct the mandatory technical assistance workshop for prospective applicants; and
  - (5) the date for the public meeting to be held no later than May 30th to approve applicants for receipt of Apprenticeship Assistance Act funds.
- C.** Develop uniform formulas for the distribution of available funds to registered apprenticeship programs.
- D.** Evaluate allocated funds throughout the fiscal year for possible redistribution to all participating programs as provided in the Apprenticeship Assistance Act.
- E.** Review reimbursement claims for accuracy and to ensure that all funded programs have sufficient records to allow for audits in accordance with the Apprenticeship Assistance Act.
- F.** Finalize grant agreements with all funded programs.

[11.2.31.9 NMAC - N, 3/31/2016]

**11.2.31.10 APPLICATION:** The department of workforce solutions shall develop an application that shall:

- A.** Comply with criteria for apprenticeship programs as outlined in the Apprenticeship Assistance Act.
- B.** Require any program applicant to have a minimum of a one year’s registration with the department of workforce solutions office of apprenticeship and at least one apprentice at the time the application is submitted.
- C.** Provide that requested funding shall be calculated based on the number of total related instruction contact hours multiplied by the approved hourly rate, not to exceed two hundred twenty hours per participant per year.

**D.** Require any program applicant to maintain a certificate of registration from the New Mexico taxation and revenue department and be licensed to do business in New Mexico.

**E.** Provide that requested funding shall be calculated using only those apprentices registered and in training at the time of application; the number of approved apprentices being applied for must be equal to or less than the total number of apprentices registered and in training at the time of application.

**F.** Provide that all programs have a structured component for related instruction with a minimum of four hours of direct in person contact with an instructor per month.

**G.** Require a representative from any program applicant to appear in person at the mandatory technical assistance workshop for prospective applicants and at the mandatory application approval meeting.

**H.** Contain sections requesting information for funding request, a funding survey and an acknowledgment of the department of workforce solutions' policies and procedures.

**I.** Provide that no funds shall be distributed to an apprenticeship program until the program has timely filed all reports required by the Apprenticeship Assistance Act and the department of workforce solutions.

**J.** Require any program applicant to respond to request for additional information that the department of workforce solutions regards as necessary to clarify issues identified in the application or expenditure of Apprenticeship Assistance Act funds.

[11.2.31.10 NMAC - N, 3/31/2016]

#### **11.2.31.11 PROCESS FOR APPLICATION AND EXPENDETURE OF FUNDS:**

**A.** To increase transparency and expedite the transmission of necessary information the department of workforce solutions will publish and maintain on the department of workforce solutions' website the current calendar, application form for Apprenticeship Assistance Act funds and a procedures manual that contains all the required forms developed by the department of workforce solutions.

**B.** Program applicants to be eligible for consideration for Apprenticeship Assistance Act funds in the fiscal year shall submit their applications to the director by the deadline specified in the department of workforce solutions' procedures manual.

**C.** A representative from the program applicant must appear in person at the mandatory technical assistance workshop for prospective applicants and at the mandatory application approval meeting to be eligible for consideration for funding in the fiscal year.

**D.** If the director of apprenticeship for the department of workforce solutions denies an application or approves the application with conditions, the director shall:

(1) state the reasons for the denial or imposition of conditions in writing within three (3) days of the meeting at which the application was denied or conditions imposed;

(2) a program applicant whose application was denied or approved with conditions that are unacceptable to the program applicant may appeal the decision to the secretary within three (3) days of the receipt of the notice of the denial or imposition of conditions;

(3) within three (3) days of receipt of the notice of appeal, the secretary shall meet with the program applicant and review the director of apprenticeship's decision that denied the application or approved it with conditions;

(4) the secretary may affirm the decision of the director of apprenticeship or reverse the decision with or without the imposition of conditions; and

(5) the secretary's decision shall be final and binding on the program applicant.

**E.** All approved program applicants shall comply with the following requirements by the dates specified in the department of workforce solutions' procedures manual:

(1) complete and sign a grant agreement;

(2) submit quarterly claims for reimbursement;

(3) submit a mid-year survey; and

(4) comply with all other requirements of the procedures manual.

**F.** Participation in any apprenticeship assistance act meeting of the department of workforce solutions by means of a conference telephone or other communications equipment when it is otherwise difficult or impossible for the participant to attend the meeting in person shall be allowed, provided that each person participating by conference telephone or other communications equipment can be identified when speaking, all participants are able to hear each other and members of the public attending the meeting are able to hear any person speaking; except that a representative from any program applicant shall appear in person at the mandatory technical assistance workshop for prospective applicants and at the mandatory application approval meeting.

[11.2.31.11 NMAC - N, 3/31/2016]

**HISTORY OF 11.2.31 NMAC:**

**History of Repealed Material:**

11.2.31 NMAC, Apprenticeship Assistance, filed 12/31/09 - repealed 3/31/16 by the Public Education Department, refiled by the Department of Workforce Solutions effective 3/31/16.