**12 DEPARTMENT OF LABOR**

**181 MAINE APPRENTICESHIP PROGRAM**

**Chapter 1: RULES RELATING TO LABOR STANDARDS FOR REGISTRATION OF APPRENTICESHIP PROGRAMS**

**SUMMARY**: These rules are adopted to establish, define and provide for the registration and deregistration of Apprenticeship Agreements or Programs with the Maine Apprenticeship Program. They contain guidelines for holding hearings and give the authority and the effective date.

**Sections**

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**Sec. 1.1 Purpose and Scope**

 A. Title 26 MRSA Chapter 37 at 3202 authorizes and directs the Maine Apprenticeship Program to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices and to extend the application of such standards by requiring the inclusion thereof in contracts of apprenticeship.

 B. The purpose of this regulation is to set forth labor standards to safeguard the welfare of apprentices, promote apprenticeship opportunity and to extend the application of such standards by prescribing rules and regulations concerning the registration of acceptable apprenticeship programs in Maine. These labor standards, rules and regulations cover the registration, termination and deregistration of apprenticeship programs and of apprenticeship agreements, and matters relating thereto.

 C. The provisions of this regulation shall apply to a person, firm, corporation, occupation or craft only after such person, firm, corporation, occupation or craft has voluntarily elected to conform to its provision.

**Sec. 1.2 Definitions**

 As used in this regulation:

 A. "Apprentice" means a person who is at least 16 years of age, except when a higher minimum age standard of 18 years of age is otherwise fixed by law or a sponsor, who is employed to learn an apprenticeable occupation that is approved by the Maine Apprenticeship Program.

 B. "Apprenticeship Agreement" means a written agreement which conforms to standards established under Chapter 37 and this regulation and is entered into between an apprentice and either (1) an employer, (2) an association of employers, (3) an organization of employees, or (4) a joint committee representing employers and employees.

 C. "Apprenticeship Committee" means those persons designated by the sponsor to act for it in the administration of the program. A committee may be "**joint**", i.e., it is composed of an equal number of representatives of the employer(s) and of the employees represented by a bona fide collective bargaining agent(s) and has been established to conduct, operate, or administer an apprenticeship program and enter into apprenticeship agreements with apprentices. A committee may be "**unilateral**" or "**non‑joint**"' and shall mean a program sponsor in which a bona fide collective bargaining agent is not a participant; it includes an individual non-joint sponsor (apprenticeship program sponsored by one employer without the participation of a union) and group non-joint sponsor (apprenticeship program sponsored by two or more employers without the participation of a union).

 D. "Apprenticeship Program" means a plan containing all terms and conditions for the qualification, recruitment, selection, employment and training of apprentices, as required under Maine Revised Statutes, Title 26 Chapter 37, including such matters as the requirements for a written apprenticeship agreement.

 E. "Apprenticeship Standard" means the written document which sets forth the minimum labor standards required by law for training apprentices in a specified industry, area or plant. By reference, it is a part of the apprenticeship agreement. There are two basic types of standards - one providing for **joint** employer-union participation in the program and the second, referred to as **unilateral** standards, where responsibility for the apprenticeship is assumed by either management or organized labor, but not both. Normally, unilateral programs are sponsored by single employers.

 F. “Bureau” means the Bureau of Employment Services within the Department

G “Committee” means the Maine Apprenticeship Committee established to assist, advise and guide the Maine Apprenticeship Program in the operation of the State’s apprenticeship program.

H “Department” means the Maine Department of Labor

I. “Electronic media” means media that utilize electronics or electromechanical energy for the end user (audience) to access the content; and includes, but is not limited to, electronic storage media, transmission media, the Internet, extranet, lease lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic media and/or interactive distance learning.

J. "Employer" means any person or organization employing an apprentice whether or not such person or organization is a party to an apprenticeship agreement with the apprentice.

 K. “Maine Apprenticeship Program” means the Maine Apprenticeship Program administered by the Bureau within the Department and is the state apprenticeship agency and registration agency established in MRS Title 26, Chapter 37, Section 3202 that has the responsibility for registering apprenticeship programs and apprentices; providing technical assistance; conducting reviews for compliance with 29CFR parts 29 and 30 and quality assurance assessments.

 L. "Related Instruction" means an organized and systematic form of instruction designed to provide the apprentice with knowledge of the theoretical and technical subjects related to the apprentice’s occupation. Such instruction may be given in a classroom, through occupational or industrial courses, or by correspondence courses of equivalent value, electronic media, or other forms of self-study approved by the Maine Apprenticeship Program.

 M. "Registration of an Apprenticeship Program" means the acceptance and recording of such program by the Maine Apprenticeship Program as meeting the basic standards and requirements of the Bureau for approval of such program. Approval is evidenced by a certificate of registration or other written indicia.

 N. "Registration of an Apprenticeship Agreement" means the acceptance and recording thereof by the Maine Apprenticeship Program as evidence of the participation of the apprentice in a particular registered apprenticeship program.

 O. "Sponsor" means any person, association, committee, or organization operating an apprenticeship program and in whose name the program is approved and registered.

**Sec. 1.3 Eligibility and Procedure for Maine Apprenticeship Program Registration**

 A. No apprenticeship program or agreement shall be eligible for registration with the Maine Apprenticeship Program unless it is in conformity with the requirements of Chapter 37 and this regulation, and the training is in an apprenticeable occupation requiring not less than 2,000 hours of on job work experience and the characteristics set forth in MRS Title 26, Chapter 37

 B. Apprentices must be individually registered under a registered program. Such registration shall be affected by filing copies of each apprenticeship agreement with the Maine Apprenticeship Program. Registration shall be reserved for those desiring to learn an occupation through reasonably continuous employment. Agreements shall not be registered for persons desiring only interim work or employed on a substantially shorter work week than is prevailing in the industry. This, however, does not apply to students pursuing a course of study in the same trade or closely related to the trade for which application is being made for registration.

 C. The Maine Apprenticeship Program shall be notified within 45 days of persons who have successfully completed apprenticeship programs; and of transfers, suspensions, and cancellations of apprenticeship agreements and a statement of the reasons therefore.

 D. Approved apprenticeship programs shall be accorded registration, evidenced by a certificate of registration.

 E. Any modification(s) or change(s) to registered standards shall be promptly submitted to the Maine Apprenticeship Program and if approved, shall be recorded and acknowledged as a revision of such standards.

 F. The request for registration, together with all documents and data required by Chapter 37 and this regulation, shall be submitted to the Maine Apprenticeship Program.

 G. Under a program proposed for registration by an employer or employers' association, where the standards, collective bargaining agreement or other instrument, provides for participation by a union in any matter in the operation of the substantive matters of the apprenticeship program, and such participation is exercised, written acknowledgement of union Sec. 1.3 Eligibility and Procedure for Committee Registration (cont.) agreement or "no objection" to the registration is required. Where no such participation is evidenced and practiced, the employer or employers' association shall simultaneously furnish to the union, if any, which is the collective bargaining agent of the employees to be trained, a copy of its application for registration and of the apprenticeship program. The Maine Apprenticeship Program shall provide a reasonable time period of not less than 30 days nor more than 60 days for receipt of union comments, if any, before final action on the application for registration and/or approval.

 H. Where the employees to be trained have no collective bargaining agent, an apprenticeship program may be proposed for registration by an employer or group of employers.

 I. If the sponsor is involved in any abnormal labor condition such as a strike, lockout, or other similar condition, the application for an apprenticeship program may be withheld until such issue is resolved.

 J. If it should be determined by the Bureau that a sponsor is in violation of any Federal or State Labor laws or rules and regulations affecting registration of programs, the application for an apprenticeship program may be withheld until such issues are resolved.

**Sec. 1.4 Criteria for Apprenticeable Occupations**

 An apprenticeable occupation is one which is specified by the industry and which possesses all of the following characteristics:

 A. Is customarily learned in a practical way through a structured systematic program of on-the-job supervised training;

 B. It is clearly identified and commonly recognized throughout an industry;

 C. Involves the progressive attainment of manual, mechanical or technical skills and knowledge which, in accordance with the industry standard for the occupation, would require the completion of at least 2,000 hours on on-the-job learning to attain; and

 D. It requires related instruction to supplement the on-the-job learning.

**Sec. 1.5 Standards of Apprenticeship**

 An apprenticeship program to be eligible for approval and registration by the Maine Apprenticeship Program shall conform to the following standards:

 A. The program must have an organized, written plan embodying the terms and conditions of employment, training, and supervision of one or more apprentices in the apprenticeable occupation, as defined in Chapter 37 and this regulation, and subscribed to by a sponsor who has undertaken to carry out the apprentice training program.

 B. The program standards must contain provisions that address:

 1. The employment and training of the apprentice in a skilled occupation.

 2. The term of apprenticeship, which for an individual apprentice may be measured either through the completion of the industry standard for on-the-job learning (at least 2,000 hours) (time-based approach), the attainment of competency (competency-based approach), or a blend of the time-based and competency-based approaches (hybrid approach) as defined in MRS Title 26, Chapter 37 section 3203.

 3. An outline of work processes in which the apprentice will receive supervised work experience and training on the job, and the allocation of the approximate time to be spent in each major process;

 4. Provision for organized, related instruction in technical subjects related to the occupation.

 i. A statement of the number of hours to be spent in related instruction which shall not be less than the statutory minimum number of hours per year (144 hours for each year of apprenticeship). This instruction in technical subjects may be accomplished through media such as classroom, occupational or industrial courses, electronic media, or other instruction approved by the Maine Apprenticeship Program. Every apprenticeship instructor must:

 ii. Meet the State Department of Education’s requirement for a vocational technical instructor in Maine, or be a subject matter expert, which is an individual such as a journeyworker, who is recognized within an industry as having expertise in a specific occupation; and

 iii. Have training in teaching techniques and adult learning styles, which may occur before or after the apprenticeship instructor has started to provide the related technical instruction.

 5. A statement that apprentices shall be at least sixteen years of age, with the exception of a higher age requirement which the Bureau has determined applicable in accordance with the State and Federal Child Labor Laws;

 6. A statement of the progressively increasing scale of wages to be paid the apprentice consistent with the skill acquired, the entry wage to be not less than the minimum wage prescribed by the Federal and State Labor Standards Acts, where applicable, unless a higher wage is required by other applicable Federal law, State law, respective regulations, or by collective bargaining agreement;

 7. A provision for probationary period reasonable in relation to the full apprenticeship term, with full credit given for such period toward completion of apprenticeship;

 8. A provision that during the period of probation, the Maine Apprenticeship Program shall be directed to terminate an apprenticeship agreement the request in writing of any party thereto;

 9. A provision that after the probationary period, the Maine Apprenticeship Program shall be empowered to terminate an apprenticeship agreement upon agreement of the parties thereto, or for good cause after giving all parties notice and opportunity to be heard;

 10. Provision that the services of the Committee may be utilized for consultation regarding the settlement of differences arising out of apprenticeship agreement and where the differences cannot be adjusted locally, or in accordance with the established trade procedure, and any such differences which cannot be amicably settled by the parties may be submitted to the Bureau for final decision:

 11. Provision for the numeric ratio of apprentice to journeymen consistent with proper supervision, training, safety, and reasonable continuity of employment, and applicable provisions in collective bargaining agreements, in relation to which a ratio of one apprentice for the first journeyman regularly employed and one apprentice for each subsequent three journeymen regularly employed by a participating employer in each apprenticeable occupation be established. The Maine Apprenticeship Program shall have the authority to waive the above ratio in those circumstances in which it may deem such action warranted. All requests for waivers shall be made in writing to the Maine Apprenticeship Program

 12. Provision for transfer of employer's training obligation when the employer is unable to fulfill the obligation under the apprenticeship agreement to another employer under the same program with the consent of the apprentice and Maine Apprenticeship Program or program sponsor, with full credit to the apprentice for satisfactory time and training earned;

 13. Provision for minimum qualifications required by a sponsor for persons entering the apprenticeship program;

 14. Provision for granting of an advanced standing or credit for previously acquired experience, training, or skills for all applicants equally, with commensurate wages for any progression step so granted;

 15. A provision that the employer shall instruct the apprentice in safe and healthful work practices and shall insure that the apprentice is trained in facilities and other environments that are in compliance with either the occupational safety and health standards promulgated by the Secretary of Labor under Public Law 91-596, or State standards that have been found to be at least as effective as the Federal standards;

 16. A provision for the placement of an apprentice under a written apprenticeship agreement, which shall directly, or by reference, incorporate the standards of the program as part of the agreement;

 17. A provision for periodic review and evaluation of the apprentice's progress in job performance and in related instruction, and the maintenance of appropriate progress records;

 18. A provision of recognition for successful completion of apprenticeship evidenced by an appropriate certificate;

 19. Identification of the registration agency;

 20. A statement that the regular workday or work week for apprentices shall not be greater than those of the journeyworkers;

 21. Provision for the registration, cancellation and deregistration of the program and requirement for the prompt submission of any modification or revision thereto;

 22. Provision for registration of apprenticeship agreements and revisions, notice to the Maine Apprenticeship Program of persons who have successfully completed apprenticeship programs, and notice of terminations and suspensions of apprenticeship agreements and causes therefore;

 23. A statement of how the committee is to be organized and a statement of the functions of the committee are required if the program sponsor is a joint apprenticeship committee;

24. Compliance with 29 CFR part 30, including the equal opportunity pledge prescribed in 29 CFR 30.3(c); an affirmative action program complying with 29 CFR 30.4; and a method for the selection of apprentices complying with 29 CFR 30.10, or compliance with parallel requirements contained in a State plan for equal opportunity in apprenticeship adopted under 29 CFR part 30 and approved by the Department. The apprenticeship standards must also include a statement that the program will be conducted, operated and administered in conformity with applicable provisions of 29 CFR part 30, as amended, or if applicable, an approved State plan for equal opportunity in apprenticeship. A statement containing the equal opportunity pledge prescribed as follows:

*[Name of sponsor] will not discriminate against apprenticeship applicants or apprentices based on race, color, religion, national origin, sex (including pregnancy and gender identity), sexual orientation, genetic information, or because they are an individual with a disability or a person 40 years old or older. [Name of sponsor] will take affirmative action to provide equal opportunity in apprenticeship and will operate the apprenticeship program as required under Title 29 of the Code of Federal Regulations, part 30.*

 25. Name and address of the appropriate authority under the program to receive, process, and make disposition of complaints;

 26. Provision for a participating employer's agreement; and

 27. All apprenticeship standards must contain articles to comply with Federal laws, regulations and rules pertaining to apprenticeship.

**Sec. 1.6 Apprenticeship Agreement**

 The apprenticeship agreement shall contain explicitly or by reference:

 A. Name and signature of the contracting parties (apprentice, and the program sponsor or employer), and the signature of a parent or guardian if the apprentice is a minor;

 B. The date of birth of apprentice;

 C. Name and address of the program sponsor and registration agency;

 D. A statement of the trade or craft in which the apprentice is to be trained and the beginning date and term of apprenticeship;

 E. A statement showing:

 1. The number of hours to be spent by the apprentice in work on the job; and

 2. The number of hours to be spent in related and supplemental instruction;

 F. A statement setting forth a schedule of the work processes in the trade in which the apprentice is to be trained and the approximate time to be spent at each process;

 G. A statement of the graduated scale of wages to be paid the apprentice and whether or not the required school time shall be compensated;

 H. Statements providing

 1. For a specific period of probation during which the apprenticeship agreement may be terminated by either party to the agreement upon notice to the Maine Apprenticeship Program and

 2. That, after the probationary period, the agreement may be terminated at the request of the apprentice, or may be suspended, or terminated by the sponsor, for good cause, with due notice to the apprentice and a reasonable opportunity for corrective action, and with written notice to the apprentice and to the Committee of the final action taken;

 I. A statement that the apprentice will be accorded equal opportunity in all phases of apprenticeship employment and training, without discrimination because of race, color, religion, ancestry, sex, age, physical handicap, marital status, or court and arrest record; and

 J. Name and address of the appropriate authority, if any, designated under the program to receive, process and make disposition of controversies or differences arising out of the apprenticeship agreement; any such controversies and differences which cannot be amicably settled by the parties may be submitted to the Maine Apprenticeship Program for final decision.

**Sec. 1.7 Deregistration of Maine Apprenticeship Program-Registered Program**

 Deregistration of a program may be effected upon the voluntary action of the sponsor by a request for cancellation of the registration or, upon reasonable cause, by the Maine Apprenticeship Program, instituting formal deregistration proceedings in accordance with the provisions of this regulation.

 A. Request by Sponsor. The Maine Apprenticeship Program may cancel the registration of an apprenticeship program by a written acknowledgement of such request stating, but not limited to, the following:

 1. The registration is canceled at sponsor's request, and giving the effective date of such cancellation; and

 2. That, within 15 workdays of the date of the acknowledgement, the sponsor must notify all apprentices of such cancellation and the effective date; that such cancellation automatically deprives the apprentice of his/her individual registration.

 B. Deregistration by Maine Apprenticeship Program

 1. Deregistration proceedings may be undertaken when the apprenticeship program is not conducted, operated, or administered in accordance with the registered standards or the requirements of Chapter 37 or this regulation.

 2. Where it appears the program is not being operated in accordance with the registered standards or with requirements of Chapter 37 or this regulation, the Maine Apprenticeship Program shall so notify the program sponsor in writing.

 3. The notice shall be sent by registered or certified mail, return receipt requested, shall state the deficiency(s) and remedy(s) required and shall state that the program will be deregistered for cause unless the corrective action is taken within 30 days.

 4. Upon request by sponsor, the 30-day period may be extended for up to an additional 30-day period. During the period for correction the sponsor may be assisted in every reasonable way by the Committee.

 5. If the required action is not taken within the allotted time, the Maine Apprenticeship Program shall send a notice to the sponsor by registered or certified mail, return receipt requested, stating the following:

 a. This notice is sent pursuant to this subsection;

 b. That certain deficiencies were called to the sponsor's attention and remedial actions requested;

 c. Based upon the stated cause, the program will be deregistered, unless within 15 Workdays of receipt of this notice, the sponsor requests a hearing; and

 d. If a hearing is not requested by the sponsor, the program will be automatically deregistered.

 6. If the sponsor requests a hearing, the Maine Apprenticeship Program shall convene a hearing in accordance with Section 8 of these regulations.

 7. In its discretion, the Maine Apprenticeship Program may allow the sponsor a reasonable time to achieve voluntary corrective action. If the Maine Apprenticeship Program’s decision is that the apprenticeship program is not operating in accordance with the registered standards or requirements of Chapter 37 and this regulation, the apprenticeship program shall be deregistered. In each case in which deregistration is ordered the Maine Apprenticeship Program shall notify the sponsor.

 8. Every order of deregistration shall contain a provision that the sponsor shall, within 15 workdays of the effective date of the order, notify all registered apprentices of the de-registration of the program, the effective date, and that such action automatically deprives the apprentice of his/her individual registration.

**Sec. 1.8 Hearings**

 A. Notice of hearings to be held by the Maine Apprenticeship Program shall be given as follows:

 1. Within 10 working day of receipt of a request for a hearing, notice will be given by registered mail, return receipt requested, to the person or person's whose legal rights, duties or privileges are at issue, sufficiently in advance of the hearing date to afford an adequate opportunity to prepare and submit evidence and argument.

 B. All Notices of Hearings shall contain the following:

 1. A statement of the legal authority and jurisdiction under which the proceeding is being conducted;

 2. A reference to the particular substantive statutory and rule provisions involved;

 3. A short and plain statement of the nature and purpose of the proceeding and of the matters asserted;

 4. A statement of the time and place of the hearing;

 5. A statement of the manner and time within which evidence and argument may be submitted to the agency for consideration.

 C. Disposition without full hearing

 1. The Maine Apprenticeship Program may make informal disposition of any adjudicatory proceeding by default when any party fails to appear at the scheduled hearing, provided that notice of the consequences of such failure to appear has been given to said party. Any such default may be set aside by the Maine Apprenticeship Program for good cause shown.

 2. The Maine Apprenticeship Program may limit the issues to be heard or vary any procedure prescribed by Maine Apprenticeship rule or the Administrative Procedure Act if the parties and Maine Apprenticeship Program agree to such limitation or variation, or if no prejudice to any party will result.

 D. Ex Parte Communications: Separation of Functions,

 1. In any adjudicatory proceeding, no panel members authorized to take final action or presiding officers designated by the Maine Apprenticeship Program to make findings of fact and conclusions of law shall communicate directly or indirectly, in connection with any issue of fact, law or procedure, with any person, except upon notice and opportunity for all parties to participate.

 2. This section shall not prohibit the panel member or other presiding office described above from:

 a. Communicating in any respect with other members of the panel or other presiding officer; or

 b. Having the aid or advice of those members of his own Committee staff, counsel or consultants retained by the panel who have not participated and will not participate in the Maine Apprenticeship Program proceeding in an advocate capacity.

 E. Opportunity to be Heard

 1. The opportunity for hearing shall be afforded without undue delay.

 F. Evidence

 1. The panel need not observe the rules of evidence observed by the courts but shall observe the rules of privilege recognized by law.

 2. Evidence shall be submitted if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. The panel may exclude irrelevant or unduly repetitious evidence.

 3. All witnesses shall be sworn.

 4. Subject to these requirements, the Committee may, for the purposes of expediting adjudicatory proceedings, require the prefiling of all or part of the testimony of any witness in written form. Every such witness shall be subject to oral cross-examination.

 5. No sworn written evidence shall be admitted unless the author is available for cross-examination or subject to subpoena, except for good cause shown.

 G. Official Notice

 1. The Maine Apprenticeship Program may take official notice of any facts of which judicial notice could be taken, and in addition may take official notice of general, technical or scientific matters within their specialized knowledge and of statutes, regulations and nonconfidential agency records. Parties shall be notified of the material so noticed, and they shall be afforded an opportunity to contest the substance or materiality of the facts noticed.

 2. Facts officially noticed shall be included and indicated as such in the record.

 3. Notwithstanding the foregoing, the panel may utilize their experience, technical competence and specialized knowledge in the evaluation of the evidence presented to them.

 H. Record

 1. In all adjudicatory proceedings the Maine Apprenticeship Program shall make a record consisting of the following:

 a. All applications, pleadings, motions, preliminary and interlocutory rulings and orders;

 b. Evidence received or considered;

 c. A statement of facts officially noticed;

 d. Offers of proof, objections and rulings thereon;

 e. Proposed findings and exceptions, if any;

 f. The recommended decision, opinion or report, if any, by the presiding officer;

 g. The decision of the Maine Apprenticeship Program; and

 h. All staff memoranda submitted to the members of the Maine Apprenticeship Program or other presiding officers by Maine Apprenticeship Program staff in connection with their consideration of the case, except memoranda of counsel to the Maine Apprenticeship Program.

 2. The Maine Apprenticeship Program shall record all hearings in a form susceptible to transcription. Portions of the record as required and specified in subsection 1 of this rule may be included in the recording. The Maine Apprenticeship Program shall transcribe the recording when necessary for the prosecution of an appeal.

 3. The Maine Apprenticeship Program shall make a copy of the record, including recordings made pursuant to subsection 2 of this rule, available at the office of the Maine Department of Labor for inspection by any person during normal business hours; and make copies of the recordings or transcriptions or recordings available to any person at actual cost. Notwithstanding the provisions of this subsection, the Maine Apprenticeship Program shall withhold, obliterate or otherwise prevent the dissemination of any portions of the record which are made confidential by State or federal statute, but shall do so in the least restrictive manner feasible.

 4. All material, including record, reports, and documents in possession of the Maine Apprenticeship Program, of which it desires to avail itself as evidence in making a decision, shall be offered and made part of the record and no other factual information or evidence shall be considered in rendering a decision.

 5. Documentary evidence may be incorporated in the record by reference when materials so incorporated are made available for examination by the parties before being received in evidence.

 I. Subpoenas

 1. Pursuant to Title 5 MRSA §9060, the Board may issue a subpoena if it first obtains the approval of the Attorney General or of any deputy attorney general. Any party to the proceeding may request that a subpoena be issued.

 2. Authorized subpoenas shall be issued in accordance with the following:

 a. The form of the subpoena shall adhere, insofar as practicable, to the form used in civil cases before the courts. Witnesses shall be subpoenaed only within the territorial limits and in the same manner as witnesses in civil cases before the courts, unless another territory or manner is provided by law.

 b. The subpoena shall show on its face the name and address of the party at whose request it was issued.

 c. Any witness subpoenaed may petition the Maine Apprenticeship Program to vacate or modify a subpoena in its name. The Maine Apprenticeship Program shall give prompt notice to the party who requested issuance of the subpoena.

 After such investigation as the agency considers appropriate, it may grant the petition in whole or in part upon a finding that the testimony or the evidence whose production is required does not relate with reasonable directness to any matter in question, or that a subpoena for the attendance of a witness or the production of evidence is unreasonable or oppressive or has not been issued a reasonable period in advance of the time when the evidence is requested.

 d. Pursuant to Title 5 MRSA §9060 (1) (D) failure to comply with a subpoena lawfully issued and not revoked or modified shall be punishable by a fine of not less than $500.00 and not more than $5,000, or by imprisonment not to exceed 30 days, or both.

 J. Decisions

 1. Every Maine Apprenticeship Program decision made at the conclusion of an adjudicatory proceeding shall be in writing or stated in the record, and shall include findings of fact sufficient to apprise the parties and any interested member of the public of the basis for the decision. A copy of the decision shall be delivered or promptly mailed to each party to the proceeding or his representative of record. Written notice of the party's rights to review or appeal of the decision within the agency or review of the decision by the courts, as the case may be, and of the action required and the time within which such action must be taken in order to exercise the right of review or appeal, shall be given to each party with the decision.

 2. The Maine Apprenticeship Program shall maintain a record of the vote of each member of the agency with respect to the agency decision.

 K. Presiding Officers

 1. The Chairman of the Committee will act as the presiding officer in any hearing.

 2. Whenever a presiding officer is disqualified or it becomes impracticable for him to continue with the hearing, another presiding officer may be assigned to continue with the hearing; provided that, if it is shown substantial prejudice to any party will thereby result, the substitute officer shall commence the hearing anew.

 3. It shall be the duty of the presiding officer to:

 a. Administer oaths and affirmations;

 b. Rule on the admissibility of evidence;

 c. Regulate the course of the hearing, set the time and place for filing of evidence, briefs and other written submissions; and

 d. Take other action authorized by statute or Committee rule.

 4. In the event that the presiding officer prepares any report or proposed finding for the Committee, the report or findings shall be in writing. A copy of the report or findings shall be provided to each party and an opportunity shall be provided for response or exceptions to be filed by each party.

 5. Hearings shall be conducted in an impartial manner. Upon the filing in good faith by a party of a timely charge of bias or of personal or financial interest, direct or indirect, of a presiding officer or Committee member in the proceeding requesting that that person disqualify himself, that person shall determine the matter as a part of the record.

 L. Advisory Rulings

 1. Advisory rulings may be made with respect to the applicability of any statute or rule administered by the Maine Apprenticeship Program to an interested person or his property or actual state of facts.

 2. An interested person means any apprentice or sponsor over whom the Maine Apprenticeship Program has authority to inspect and enforce its safety standards.

 3. All requests for advisory rulings shall be made in writing and submitted to the Director of Apprenticeship Standards, 55 State House Station, Augusta, Maine, 04333-0055. Such requests shall state the facts and statutes or rules on which the ruling is requested.

 4. The Director of Apprenticeship Standards may request from any person seeking an advisory ruling any additional information that is necessary. Failure to supply such additional information shall be cause for the Committee to decline to issue an advisory ruling.

 5. The Committee may decline to issue an advisory ruling if a citation or penalty has been issued against the person requesting the ruling on the same factual grounds. The Committee may also decline to issue an advisory ruling if such ruling may harm the Committee's interest in any litigation in which it is or may be a party.

 6. All advisory rulings shall be issued, in writing no later than 30 days from the date all information necessary to make a ruling has been received by the Director of Apprenticeship Standards.

 7. No advisory ruling shall be binding upon the Committee provided that in any subsequent enforcement action initiated by the Committee, any person's reliance on such a ruling shall be considered in mitigation of any penalty sought to be assessed.

**Sec. 1.9 Reinstatement of Program Registration**

 Any apprenticeship program deregistered pursuant to Chapter 37, and this regulation, may be reinstated upon presentation of adequate evidence that the apprenticeship program is operating in accordance with Chapter 37 and this regulation. Such evidence shall be presented to the Maine Apprenticeship Program, if an order of deregistration was entered pursuant to a hearing.

**Sec. 1.10 Complaints**

 A. This section is not applicable to any complaint concerning discrimination or other equal opportunity matters; all such complaints shall be submitted, processed, and resolved in accordance with State or Federal Equal opportunity laws.

 B. Any controversy or differences arising under an apprenticeship agreement which cannot be resolved locally, or which is not covered by a collective bargaining agreement may be submitted by an apprentice or his/her authorized representative to the Maine Apprenticeship Program for review. Matters covered by a collective bargaining agreement are not subject to such review.

 C. The complaint, in writing, and signed by the complainant, or authorized representative, shall be submitted within 60 days of the final local decision. it shall set forth the specific matter(s) complained of, together with all relevant facts and circumstances. Copies of all pertinent documents and correspondence shall accompany the complaint.

 D. The Maine Apprenticeship Program shall render an opinion within 90 days after receipt of the complaint, based upon such investigation of the matters submitted as may be found necessary, and the record before it. During the 90-day period, the Maine Apprenticeship Program shall make reasonable efforts to affect a satisfactory resolution between the parties involved. If so resolved, the parties shall be notified that the case is closed. Where a decision is rendered, copies of the decision shall be sent to all interested parties which shall be final.

**Sec. 1.11 Reciprocity**

 Where there exists similar Standards between the Maine Apprenticeship Program and other states and the Federal Government, reciprocity shall be exercised by the Maine Apprenticeship Program and recognition be given upon presentation of appropriate information.

STATUTORY AUTHORITY:

 26 MRSA §2006

EFFECTIVE DATE:

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