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MEMORANDUM

TO: House Committee on Commerce and Economic Development
House Committee on Education
Senate Committee on Economic Development, House and General Affairs
Senate Committee on Education

FROM: Vermont Department of Labor

DATE: January 19, 2024

SUBJECT: Report on Recommended Changes to Apprenticeship Language in Act 55 of 2023

Section 2 of Act 55 of 2023 requires the Department of Labor (Department) to submit a written report “identifying the work completed with the Office of Racial Equity, including any recommended changes to the apprenticeship program and any suggestions for legislative action.”

During the 2023 legislative session, testimony in the House Committee on Appropriations and the House Committee on Education raised some concerns about youth apprenticeship, a new concept introduced in the Act, and the potential impacts of youth apprenticeship on the education system. Though the Act does not formally require the Department to report back on these concerns, the Department committed to reviewing the provisions on youth apprenticeship with education partners and return with recommended changes. In that vein, this memorandum includes recommended improvements to the language in the youth apprenticeship section. Since the passage of Act 55, the Federal Office of Apprenticeship has released a 779 page “Notice of Proposed Rulemaking” (NPR) that would update the Federal regulations governing the National Apprenticeship System. While we expect the regulations that were presented in the NPR to change, we are proposing to modify dates for the strategic plan, required in Act 55, to create alignment with what is proposed in the new rules. The proposed dates in the NPR are unlikely to change.



RECOMMENDED CHANGES TO EQUITY LANGUAGE AND PROVISIONS

Between July 1, 2023, and January 13, 2024, the Department of Labor and the Office of Racial Equity met multiple times to review and discuss the language in the Act. The Department appreciates the time both Xusana Davis and Jay Greene spent reviewing the language of the law and commenting on and making suggestions to improve and clarify its equity provisions.

The table below provides a high-level overview of recommended changes to the law – including the specific section, the original text, the proposed text to replace the original text, and the rationale used to make the recommendation.

Section	Text Review	Rationale
<p>§ 1111. DEFINITIONS</p> <p>(22) Nontraditional apprenticeship population</p>	<p><i>Original:</i></p> <p>“Nontraditional apprenticeship population” means a group of individuals, such as individuals from the same gender, race, or ethnicity, the members of which comprise fewer than 25 percent of the program participants in an apprenticeable occupation.</p> <p>Change:</p> <p>“Nontraditional population” means a group of individuals that have been historically excluded from various occupations, such as individuals from the same gender, race, or ethnicity the members of which comprise fewer than 25 percent of the program participants in an apprenticeable occupation.</p>	<p>Adding further clarification that “nontraditional population” is referring to people who are historically excluded from certain occupations or from access to apprenticeships.</p>
<p>§ 1111. DEFINITIONS</p>	<p><i>Original:</i></p> <p>“Nontraditional apprenticeship industry or occupation” refers to an</p>	<p>Add a benchmark year to the definition to assist with measuring progress.</p>



<p>(23) Nontraditional apprenticeship industry or occupation</p>	<p>industry sector or occupation that represents fewer than 10 percent of apprenticeable occupations or the programs under the national apprenticeship system.</p> <p>Change: “Nontraditional apprenticeship industry or occupation” refers to an industry sector or occupation that represents fewer than 10 percent of apprenticeable occupations or the programs as of 2023 under the national apprenticeship system.</p>	
<p>§ 1111. DEFINITIONS (33) Underserved communities</p>	<p><i>Original:</i> “Underserved communities” means the populations sharing a particular characteristic, as well as geographic communities, who have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life. This term includes individuals who belong to communities of color, such as Black and African American, Hispanic and Latino, Native American, Alaskan Native and Indigenous, Asian American, Native Hawaiian and Pacific Islander, Middle Eastern, and North African persons. It also includes individuals who belong to communities that face discrimination based on sex, sexual orientation, and gender identity, including lesbian, gay, bisexual, transgender, queer, gender non-</p>	<p>Removed “communities” reference to older age and former incarceration to clarify.</p> <p>ORE was concerned that the broad use “rural areas” limits the ability to define specific populations that face systemic barriers to accessing apprenticeship programs. ORE suggested adding additional clarifying language like “lacking access to public transportation” to highlight a specific barrier for people who live in rural areas, and “lack of access to high-speed internet” to highlight a barrier to different types of work, and parts of some registered apprenticeship program’s related instruction.</p> <p>Research revealed that the definition of “persistent” poverty requires a year of year (or period</p>



	<p>conforming, and nonbinary (LGBTQ+ persons); persons who face discrimination based on pregnancy or pregnancy-related conditions; parents; and caregivers. It also includes individuals who belong to communities that face discrimination based on their religion and disability; first-generation professionals or first generation college students; individuals with limited English proficiency; immigrants; individuals who belong to communities that may face employment barriers based on older age or former incarceration; persons who live in rural areas; veterans and military spouses; and persons otherwise adversely affected by persistent poverty, discrimination, or inequality. Individuals may belong to more than one underserved community and face intersecting barriers.</p> <p>Change: “Underserved communities” means the populations sharing a particular characteristic, as well as geographic communities, who have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life. This term includes individuals who ... may face employment barriers based on older age or former incarceration; persons who live in</p>	<p>over period) analysis. U. S. Census analysis comparing 1989 to 2019 revealed there are no communities in “persistent” poverty in Vermont, which makes making the term irrelevant to any work the Department would perform.</p> <p>Persistent Poverty: Identifying Areas With Long-Term High Poverty (census.gov)</p> <p>ORE also raised the question of how statute defines rurality or even a rural area.</p> <p>Each Department or Agency, or even specific programs may have slightly different ways of defining rurality or rural areas.</p> <p>The Department does not believe these topics should be defined in just the apprenticeship section of the law. The State should have a broader discussion about how to define these terms that would provide a consistent approach to understanding poverty and underserved communities.</p> <p>The Department may adopt a definition using rule-making authority provided under Act 55. We will need to modify apprentice registration forms and our data systems in order to collect the voluntary demographic</p>
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	<p>rural areas and, for example, may lack access to transportation options, or to high-speed internet, Veterans and military spouses; and persons otherwise adversely affected by poverty, discrimination, or inequality.</p>	<p>information in this definition and others.</p>
<p>§ 1113 VERMONT REGISTERED APPRENTICESHIP PROGRAM (e) Strategic planning and reporting</p>	<p><i>Original:</i> (e) Strategic planning and reporting. The Vermont Registered Apprenticeship Program shall: (1) develop and disseminate a strategic plan once every five years, beginning on July 1, 2024; (2) prepare and submit to the Vermont General Assembly an annual report on the status of the Vermont Registered Apprenticeship Program on or before December 1 of each year that includes: (A) general program statistics, including a list of programs by county; (B) an analysis of apprentices in the program disaggregated by age, race, sex, gender identity, New American status, birthplace, Veteran status, disability, industry, and education status, including participation in career and technical education; (C) nontraditional occupations by gender and race;</p>	<p>ORE did not review or make recommendations related to the strategic plan. The Department is recommending changing the language so that the strategic plan timeline aligns with a Notice of Proposed Rulemaking from the federal Office of Apprenticeship. While those proposed rules may change, the requirement for a strategic plan, and the timing of submission of that plan to the Office of Apprenticeship is unlikely to change. Our suggested change would help to clarify a need for an implementation plan for what was passed in Act 55 and would assist the Department to focus on implementation and laying the groundwork for further expansion of the program.</p> <p>In the “analysis of apprentices” section: ORE and the Department discussed the use of both sex and gender. We should keep both and will need to update our data system and forms to collect both,</p>



	<p>Change:</p> <p>(e) Strategic planning and reporting. The Vermont Registered Apprenticeship Program shall:</p> <p>(1) develop and disseminate a strategic plan once every four years, beginning July 1, 2026, with an interim plan covering two years, beginning on July 1, 2024 that addresses how the program will implement statutory requirements of 21 V. S. A. chapter 13;</p> <p>(2) prepare and submit to the Vermont General Assembly an annual report on the status of the Vermont Registered Apprenticeship Program on or before December 1 of each year that includes:</p> <p>...</p> <p>(B) an analysis of apprentices in the program disaggregated by age, race, sex, gender identity, language access needs, birthplace, Veteran status, disability, industry, and education status, including participation in career and technical education;</p> <p>(C) nontraditional occupations by gender and race;</p>	<p>which will be voluntary disclosures.</p> <p>ORE recommends using a term other than “new American status” as it is not well defined, and its use does not help us understand the needs of the population.</p> <p>ORE recommends and the Department agrees that this should be changed to “language access needs,” which is expansive and includes people who were born deaf or who communicate using sign language in addition to those who speak a language other than English as their primary language and who may have barriers due to that fact.</p> <p>We also recommend adding birthplace which can serve as another proxy for someone who may have a barrier. Our primary interest is about national origin (e.g., born in the United States, vs. not born in the United States).</p> <p>It is also important to understand that, while we may ask for this information on forms, the information is a voluntary demographic disclosure, and an apprentice may choose not to share this information with us.</p>
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<p>§ 1114. VERMONT APPRENTICESHIP ADVISORY BOARD</p> <p>(c) Duties Page 17</p>	<p><i>Original:</i></p> <p>The Board shall:</p> <p>(1) Receive and review reports from the Department regarding provisional and registered apprenticeship programs, including programs under development and program deregistration proceedings.</p> <p>(2) Advise the Department on the creation of new apprenticeable occupations.</p> <p>(3) Advise the Commissioner on requests for ratio variances.</p> <p>(4) Advise the Department on policies and procedures developed by the Department and on adoption of rules.</p> <p>(5) Provide technical guidance for identifying and promoting best practices in operating apprenticeship programs.</p> <p>(6) Create and convene working groups that are tasked with specific activities related to improving the quality, safety, diversity, and alignment of apprenticeship programs. Working group membership is not limited to appointed members of the board and shall be selected and serve at the discretion of the Chair.</p> <p>Change: Add:</p> <p>(7) Make any recommendations with an equity lens to ensure the</p>	<p>ORE recommends, and the Department supports, adding two additional requirements for the apprenticeship advisory board.</p> <p>ORE developed and made the Equity Impact Assessment Tool available for agencies, department, boards and other parts of state government:</p> <p>ORE - Equity Impact Assessment Tool</p>
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	<p>registered apprenticeship program addresses barriers to participation and completion for underserved populations.</p> <p>(8) Strengthen relationships with community partners that serve underserved populations and historically marginalized communities who have not previously accessed apprenticeship programs or who face systemic barriers to participation as evidenced by a disproportionate lack of participation in apprenticeship programs.</p>	
<p>§ 1119. APPRENTICES REGISTERED; AGREEMENT</p>	<p><i>Original:</i></p> <p>(c) An apprenticeship agreement shall contain:</p> <p>(1) the names and signatures of the apprentice, the program sponsor or employer, and of a parent or guardian of the apprentice if the apprentice is a minor;</p> <p>(2) the date of birth and Social Security number of the apprentice;</p> <p>...</p> <p>Change:</p> <p>(c) An apprenticeship agreement shall contain:</p> <p>(1) Optional fields for:</p> <p>(A) the Social Security Number of the apprentice</p> <p>(B) demographic characteristics</p> <p>(2) Required fields for:</p>	<p>ORE recommends, and the Department agrees, that this section should be reorganized to add clarification about which fields on the agreement are required and which are optional.</p> <p>We recommend creating a sub-bullet for “optional fields” and a sub-bullet for “required fields,” and further clarifying that the Social Security Number (SSN) and demographic characteristics are optional.</p> <p>From an equity standpoint, we do not want to exclude people without an SSN from apprenticeships due to listing providing SSN as a requirement under statute. Requiring an SSN will disproportionately affect people</p>



	<p>(A) the names and signatures of the apprentice, the program sponsor or employer, and of a parent or guardian of the apprentice if the apprentice is a minor;</p> <p>(2) the date of birth of the apprentice;</p> <p>...</p> <p>(xx) to conform to the federal Equal Employment Opportunity Act of 1972, 42 United States Code, Chapter 21, subchapter VI, for affirmative action compliance in apprenticeship programs, and for compliance with reporting and analysis of the Vermont Registered Apprenticeship program, the voluntary disclosure of the apprentice’s race, color, national origin, place of birth, sex, gender, sexual orientation, age, primary language spoken, genetic information, Veteran status, and disability status ...</p> <p>(xx) a statement that the apprentice will be accorded equal opportunity in all phases of apprenticeship employment and training, without discrimination because of race, color, national origin, place of birth, sex, gender, sexual orientation, age, primary language spoken, genetic information, Veteran status, and disability status.</p>	<p>depending on immigration status, and some people may prefer not to share their SSN with the apprenticeship program.</p> <p>Federal law requires that the person be legally authorized to work in the US - something the employer would check (I-9) before they employ the person as an apprentice. We should specify that here or make reference to any apprenticeship program requirements that may be adopted by the Federal government.</p> <p>Adding those subsections will mean the numbering in the rest of the section will need to be addressed. Other items that we recommend changing have “xx” next to them until their new number is determined.</p> <p>The Department recommends adding “...and for compliance with reporting and analysis of the Vermont Registered Apprenticeship program...” to current numbered item “12,”</p> <p>And further aligning the demographic characteristics listed in currently numbered items “10” and “12” with other sections of the law.</p>
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<p><u>§ 1125. CAREER PATHWAY ALIGNMENT WITH APPRENTICESHIP PROGRAMS</u></p>	<p><i>Original:</i> (3) The Program shall provide necessary technical assistance, training, and support to sponsors to promote the adoption of pre-apprenticeship programs for individuals with disabilities, refugees, individuals for whom English is not the primary spoken language, adults with limited literacy and numeracy skills or who do not have a high school diploma or equivalent, and other groups who are excluded from access to high-wage careers and participation in the registered apprenticeship system because they do not meet the minimum qualifications established in standards of apprenticeship.</p> <p>Change: 3) The Program shall provide necessary technical assistance, training, and support to sponsors to promote the adoption of pre-apprenticeship programs for individuals with disabilities, refugees, individuals with language access needs, adults with limited literacy and numeracy skills or who do not have a high school diploma or equivalent, and other groups who are excluded from access to careers with wages above the median in the state and participation in the registered apprenticeship system</p>	<p>ORE recommended that “high wage careers” be better described. The Department agrees and proposes to replace “high wage careers” with “access to careers with wages above the median in the state.” The median wage is a common reference point in labor market information and in our reporting to the Federal government. The VDOL/McClure Foundation report “Vermont’s most promising jobs” uses the state median wage (\$22.55/hr.) as a reference point for the jobs presented in the report.</p> <p>ORE did not recommend that we change “individuals for whom English is not the primary spoken language,” however, for the sake of consistency across chapter 13, the Department is suggesting it be changed to “individuals with language access needs.”</p>
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	<p>because they do not meet the minimum qualifications established in standards of apprenticeship.</p>	
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UPDATE REGARDING YOUTH APPRENTICESHIP

When this section was included in Act 55, it was in whole, borrowed from language in the National Apprenticeship Act.¹ Since the passage of Act 55, the Apprenticeship Director has participated in national events on the topic of youth apprenticeship and has discussed the model with several other state directors in states that have a youth apprenticeship program.

Between July and November 2023, the Apprenticeship Director and the Director of Workforce Development met with the Office of Apprenticeship’s technical assistance provider, American Institutes for Research (AIR), to help the Department plan and convene a stakeholder meeting to hear various perspectives on the program, as written in Act 55.

On November 7, 2023, the Department convened 18 stakeholders in a three-hour session where we explored youth apprenticeship in Act 55, heard from states like Maryland and North Carolina who are leaders in youth apprenticeship, and discussed concerns and opportunities in Act 55. The partners in the session included the Agency of Education (with subject matter experts on flexible pathways, work-based learning, CTE, and AEL), HireAbility, representatives from high schools and CTE centers, and sponsors of registered apprenticeship programs.

The primary concern of stakeholders was understanding how all of the partners would work together, how to raise interest in schools and employers, and in creating several working examples before rolling out the program state-wide. The consensus of the stakeholders was for the Department to create several 1-year pilot programs around the state to learn what is needed for programs to be implemented and scaled-up. For instance, those needs are different in rural versus urban areas, the needs vary by different occupational areas (e.g., electrical vs. nursing vs. wastewater treatment specialist), and even within the different structures of CTE programs (e.g., part- vs full-day).

Pilots would allow multiple versions of a youth apprenticeship program to happen while the process is being developed and revised, so that we could collaboratively create a standard program structure built around the CTE system’s structure in Vermont. The Department, with input from Apprenticeship Advisory Board, which has specialized membership, would create

¹ See 21 V.S.A. § 1124.



policies and guidance, and develop training to support school staff and administrators in safely and successfully administering youth apprenticeship programs across the state in two years.

Section	Text Review	Rationale
<p>§ 1124. YOUTH APPRENTICESHIP PROGRAMS</p>	<p><i>Original:</i></p> <p>(a) A youth apprenticeship program is one that prepares a youth apprentice for acceptance into an apprenticeship program and is designed for youth apprentices who start the program while still enrolled in high school.</p> <p>(b) A youth apprenticeship program may be registered by the Department after submitting the following information:</p> <p>(1) a written plan that articulates the work processes and how a youth apprentice will receive supervised work experience and on-the-job training or training in an experiential setting;</p> <p>(2) how time spent by a youth apprentice in each major work process will be spent or that specifies how competencies or proficiencies are aligned between their high school education and the youth apprenticeship program, and that states which graduation requirements will be met;</p>	<p>ORE reviewed the language in (a) and raised a concern that the language excluded home study students, which can be a population of students in need of additional consideration. More expansive language would be to address those who have not completed secondary school and who are enrolled in a state approved educational program (e.g., public or private high school, CTE, home school, Community High School, High School Completion Program). By way of the definition of a youth apprentice, this section only addresses 16- and 17-year-olds.</p> <p>The Department agrees with this change, and, at least for the next few years, recommends further defining eligibility to be those students who are enrolled in CTE programs.</p> <p>The remaining changes are made at the Department's recommendations to clarify roles and processes, encourage collaboration and partnership between sending schools and CTE centers, and to ensure that, to the extent the youth apprenticeship program is a career preparation</p>



	<p>(3) a description of the mentoring that will be provided to the youth apprentice;</p> <p>(4) a description or timeline explaining the periodic reviews and evaluations of the youth apprentice’s performance on the job and in related technical instruction;</p> <p>(5) a process for maintaining appropriate progress records, including the reviews and evaluations;</p> <p>(6) a description of related classroom-based instruction, which may be fulfilled through dual or concurrent enrollment in secondary or post-secondary courses;</p> <p>(7) whether and how the program is aligned with high school diploma requirements and career clusters;</p> <p>(8) whether the program meets the related technical instruction requirements for an apprenticeship program;</p> <p>(9) if a program includes paid work, a progressively increasing, clearly defined schedule of wages to be paid to the youth apprentice as skills are mastered;</p> <p>(10) how the program prepares the youth apprentice for placement in further</p>	<p>program, the Department’s array of funding resources could be used to support the program.</p> <p>The Department is also recommending adding requirements for programs to provide assurances that the partners in the program are aware of labor laws that would apply to the program.</p>
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	<p>education, employment, or an apprenticeship program; and (11) the terms by which the program grants advanced standing or credit to individuals applying for the youth apprenticeship with demonstrated competency or acquired experience, training, or skills.</p> <p>Change:</p> <p>(a) A youth apprenticeship program is one that prepares a youth apprentice for acceptance into an apprenticeship program and is designed for youth apprentices who have not completed secondary education, but whom are in educational programs approved by the Agency of Education, and who are enrolled in a CTE program at a regional CTE center.</p> <p>(b) A youth apprenticeship program may be registered by the Department after a regional CTE center submits the following information, which shall be developed in partnership with apprenticeship sponsors for specific occupational areas and sending high schools:</p> <p>(1) a written plan that articulates the work processes</p>	
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	<p>and how a youth apprentice will receive supervised work experience and on-the-job training or training in an experiential setting;</p> <p>(2) how time spent by a youth apprentice in each major work process will be spent or that specifies how competencies or proficiencies are aligned between their high school education and the youth apprenticeship program, and that states which graduation requirements will be met;</p> <p>(3) a description of the mentoring that will be provided to the youth apprentice;</p> <p>(4) a description or timeline explaining the periodic reviews and evaluations of the youth apprentice's performance on the job and in related technical instruction;</p> <p>(5) a process for maintaining appropriate progress records, including the reviews and evaluations;</p> <p>(6) a description of related classroom-based instruction, which may be fulfilled through dual or concurrent enrollment in secondary or post-secondary courses;</p> <p>(7) whether and how the program is aligned with high</p>	
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	<p>school diploma requirements and career clusters;</p> <p>(8) whether the program meets the related technical instruction requirements for an apprenticeship program;</p> <p>(9) if a program includes paid work during or outside the school year and outside the school day, a progressively increasing, clearly defined schedule of wages to be paid to the youth apprentice as skills are mastered;</p> <p>(10) how the program prepares the youth apprentice for placement in further education, employment, or a registered apprenticeship program;</p> <p>(11) a statement of advanced standing that specifies the terms by which participating employers in the program will grant advanced standing or credit to students who are interested in transferring to full apprenticeship registration upon completion of the youth apprenticeship program;</p> <p>ADD:</p> <p>(12) an accounting of costs for the program, covered by the participating partners, grants, or other sources of funds; and,</p>	
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	<p>(13) assurances that school staff, employer partners, and others involved in the program are aware of protections provided to youth in child labor law, wage and hour laws, the provisions of youth apprenticeship in this chapter, and any implementing regulations developed by the Department.</p>	
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End of Report

