



STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES

P.O. Box 44000 • Olympia, Washington 98504-4000

January 23, 2025

Via E-mail and U.S. Mail

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**In Re: ABC of Washington Electrical Apprenticeship
Director No. 2025-002-APP**

Dear Parties:

Please find the enclosed Director's Order, which is served on the date of mailing.

Sincerely,



Joel Sacks
Director

cc: Anastasia Sandstrom, AAG

**DIRECTOR OF THE DEPARTMENT OF LABOR & INDUSTRIES
STATE OF WASHINGTON**

In re:

ABC OF WASHINGTON ELECTRICAL
APPRENTICESHIP

No. 2025-002-APP

DIRECTOR'S ORDER

This matter came before the Director of the Department of Labor and Industries upon review of the September 20, 2024 decision of Washington State Apprenticeship and Training Council (Council) to consider the proposed new standards of ABC of Washington Electrical Apprenticeship (ABC) for the occupation of General Electrician 01. Timely objections to the proposed standards were filed by Construction Industry Training Council of Washington (CITC), Puget Sound Electrical JATC, IBEW Local 191, LU 112-NECA Electrical JATC, and Southwest Washington Electrical JATC (JATC Objectors).

The Director adopts the following Findings of Fact, Conclusions of Law, and Final Order.

I. FINDINGS OF FACT

1. ABC applied for approval of a statewide inside electrical apprenticeship program with five proposed regions. The Council received timely objections to the proposed standards from JATC Objectors and CITC, and they have standing to object.
2. An operation of an apprenticeship program requires significant investment, organization, knowledge, and competence for the best interests of the apprentices to be served. Following are determinative deficiencies in the proposed program

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DIRECTOR'S ORDER

OFFICE OF THE DIRECTOR
DEPARTMENT OF LABOR & INDUSTRIES
P.O. BOX 44001
OLYMPIA, WA 98504-4001

demonstrating the lack of investment, organization, knowledge, and competence about the best interests of the apprentices:

- a. ABC's training director, Paul Briganti, admitted that ABC's program would not require exposure to all necessary work processes. Tr. 390. ABC has no formal plan to rotate apprentices between its training agents to ensure that they are exposed to all required work processes. Tr. 352-55. Instead, it intends to rely on its participating electrical contractors to voluntarily loan and borrow apprentices between them. *Id.* ABC shared no current process to ensure the proper rotation of apprentices. *Id.* ABC's training agent agreement does not require sharing or transfer of apprentices between training agents. Ex. 34.
- b. Despite its intent to operate statewide, ABC has not yet secured any training facilities for classroom or lab time. Tr. 318-37, 430-48. It has likewise failed to acquire any lab equipment or materials, indicating its intent to rely on donated equipment. Tr. 281. When asked how he'd address a situation where ABC had no facilities for training, he agreed an apprentice could have to wait. Tr. 339. Having no known ability to secure dedicated classroom or lab space is not in the best interest of potential apprentices.
- c. The development of a qualified apprenticeship committee is an integral part of a strong apprenticeship program. ABC developed its committee based on interest letters and without verifying the skills and knowledge of potential members. Tr. 236. It recharacterized an employer representative member, John Studioso, Jr., as an employee representative based solely on Studioso's assertion that he didn't hire or fire employees (and with no investigation of his management responsibilities). Tr. 237-38. And it accepted apprenticeship committee members—the total sum of interested participants—with no election process, review of their readiness, nor confirmation of their electrical license status. Tr. 234-38. ABC accepted apprenticeship committee members' information regarding their experience with no follow-up. Tr. 233-37. And there was no voting or selection process because there were only enough interested persons to fill the committee. Tr. 234.
- d. The proposed content and delivery of ABC's related/supplemental instruction is not designed in a manner that would result in its apprentices achieving skills that are reasonably consistent with those of apprentices in existing general electrician apprenticeship programs. First, ABC's program offers significantly fewer hours of related/supplemental instruction than existing programs. ABC provides 720 hours (with another 8 for antiharassment) compared to the 960-1,000 hours of instruction provided by most existing programs. Ex. J-12; Tr. 600, 604, 759, 937, 1057. Second, ABC's instruction plan's order of curriculum, the volume of content in some sections, the lack of math support, and the absence of scaffolding training is inconsistent with existing programs and would not result in ABC's apprentices achieving reasonably consistent skills. Tr. 836-66. And finally, while ABC relies on the "Mike Holt Curriculum" as the basis for its instruction plan, ABC failed to coordinate with subject matter experts to develop the programming that accompanies that curriculum—a critical aspect for developing an effective related/supplemental instruction plan. Tr. 272-79, 619, 661-64, 840.

- e. The proposed lab time in ABC's related/supplemental instruction plan is likewise insufficient. Lab time away from a jobsite is essential for proper training of apprentices—it allows them to develop essential skills in a low stakes setting without pressure from an employer to quickly complete a task. ABC proposes giving lab in consecutive blocks of time rather than throughout the year. Tr. 571. An apprenticeship involves “the progressive attainment of manual, mechanical, or technical skills and knowledge” (WAC 296-05-003(3)(c)), and related supplemental instruction must be coordinated with apprentices' on-the-job work experience. WAC 296-05-015(2)(h). Because apprentices build their skills as the apprenticeship progresses, it is critical that lab time be distributed throughout the year. Effective training requires that apprentices practice their new skills near the time when they will put those skills to use on a job. ABC's plan to provide lab time in consecutive blocks does not accomplish this goal.
- f. Briganti agreed training agents had been determined by sending employers interest forms without providing the underlying requirements to be a training agent. Tr. 393-95. Novak admitted she had not vetted proposed training agents, relying solely on their statements of interest and experience. Tr. 171-76, 191-92
- g. The evidence here demonstrated that ABC lacks the necessary ability to advance and protect the best interests of apprentices. It showed an inability to handle the challenges of a statewide program. ABC's President, Wendy Novak, had little effective knowledge of ABC's proposed apprenticeship program. See Tr. 18-178, 188-243. Novak agreed she had no prior experience with an apprenticeship program. Tr. 151. Throughout her testimony, Novak was unable to answer many basic questions about ABC's proposed program. See Tr. 18-178, 188-243. Briganti, likewise deferred many questions throughout his testimony, stating that details would come after program approval. He asserted that he was “connected,” and that he had “relationships with most of the Electrical contractors in the state.” Tr. 350-51. Like Novak, Briganti has never run an apprenticeship program. Tr. 316. Briganti has a 01 Administrator's license but lacks a 01 Electrical license, holding only an Electrical 06 license for a Limited Energy Electrician. Tr. 256. As such Briganti could not teach lab courses. Tr. 379.

II. CONCLUSIONS OF LAW

1. The Director has jurisdiction over the subject matter and the parties to this action, under RCW 49.04, RCW 34.05, and WAC 296-05.
2. When new apprenticeship program standards are proposed, the Council considers whether to approve the standards. WAC 296-05-011. The Director is authorized to review Council decisions to approve apprenticeship programs. RCW 49.04.010, .065.
3. Apprenticeship standards contain “specific provisions for operation and administration of the apprenticeship program and all terms and conditions for the qualifications, recruitment, selection, employment, and training of apprentices.” WAC

296-05-003(37). To be eligible for registration, apprenticeship program standards must conform to WAC 296-05. RCW 49.04.050.

4. A request for Council approval of a new apprenticeship program is an application for a license under the Administrative Procedure Act. *Seattle Bldg. and Constr. Trades Council v. CITC*, 129 Wn.2d 787, 804, 920 P.2d 581 (1996). A license applicant bears the burden of proving compliance with all statutory and regulatory requirements for a license. *Black Ball Freight Serv., Inc. v. Wash. Util. and Transp. Comm'n*, 74 Wn.2d 871, 875, 447 P.2d 597 (1968).
5. Upon proper submittal, the Council approves apprenticeship program standards when: (1) the apprenticeship and training committee is organized consistent with WAC 296-05-009, and (2) the proposed standards are consistent with WAC 296-05-015. WAC 296-05-011(1)(a).
6. Both WAC 296-05-015(2)(e) and WAC 296-05-407(2) require apprenticeship programs to "[r]otate apprentices in the various processes of the skilled occupation to assure a well-rounded, competent worker." To facilitate this requirement, programs must ensure that apprentices can transfer "from one training agent to another training agent," thus ensuring reasonably continuous employment and diversity of training experiences for apprentices. WAC 296-05-015(12).
7. ABC's proposed apprenticeship program will not ensure that its apprentices are exposed to all necessary work processes. While it hopes that participating employers will "borrow" or "loan" apprentices amongst themselves to meet these requirements, it has no formal process in place to facilitate the transfer of apprentices between training agents to ensure proper rotation in required work processes. Tr. 352-54, 485-87. Indeed, ABC's training director, Briganti, admitted that ABC's program would not require exposure to all necessary work processes. Tr. 389-90. ABC's plan does not meet regulatory requirements.
8. A Sponsor must be able to "operat[e] and administer[er] . . . apprenticeship program and [fulfill] all terms and conditions for the qualifications, recruitment, selection, employment, and training of apprentices." WAC 296-05-003(37).
9. ABC has not yet secured any training facilities for classroom or lab time, demonstrating an inability to operate and administer training.
10. Under WAC 296-05-009(1), an apprenticeship committee is responsible for the day-to-day operations of the apprenticeship program, ensuring that it operates consistently with approved apprenticeship standards. The committee must have at least four and no more than twelve members, with an equal number of management and worker representatives. WAC 296-05-009(2). At least fifty percent of the members must hold journey-level status in the occupation to be taught. WAC 296-05-009(3)(a). All members must be "qualified by education and experience in the areas the committee represents" and be "familiar with the applicable apprenticeship standards." WAC 296-05-009(3)(b), (c). Committee members must be qualified at the time of their

appointment. See *W. Wash. Operating Eng's Apprenticeship Comm. v. Wash. State Apprenticeship & Training Council*, 144 Wn. App. 145, 164, 190 P.3d 506 (2008).

11. ABC failed to prove that its proposed committee was properly comprised. While John Studioso, Jr. is listed as an employee member, he was previously listed as a manager, and there was insufficient proof to demonstrate that he is a proper employee representative. Tr. 237-38; Ex. 28. ABC likewise failed to demonstrate that its committee members are qualified by experience and education or that members were familiar with the apprenticeship standards at the time of their appointment. ABC made no effort to verify the skills and knowledge of potential members. Tr. 234-38. 20.
12. Related/supplemental instruction is 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. WAC 296-05-003(34). The course content and delivery method must be designed to achieve reasonably consistent skills as existing standards within the state for that industry occupation. WAC 206-05-015(25).
13. The design of ABC's proposed statewide related/supplemental instruction does not meet the apprenticeship laws' requirements. Under WAC 296-05-015(25), a proposed program's course content and delivery method must be designed to achieve reasonably consistent skills as existing apprenticeship standards within the state for that industry occupation. ABC's course content and delivery method for its proposed statewide program do not meet WAC 296-05-015(25)'s requirements. The course content and delivery method of ABC's related/supplemental instruction plan would fail to achieve reasonably consistent skills as existing standards within the state for the electrical occupation because ABC's program has fewer hours and its curriculum is substantially different from existing programs, lacking in critical areas like math support and scaffold instruction. Having a deficit of hours shows that the program is not reasonably consistent with existing standards. *W. Wash. Operating Eng's Apprenticeship Comm. v. Wash. State Apprenticeship & Training Council*, 130 Wn. App. 510, 525, 123 P.3d 533 (2005). ABC's plan to give lab in consecutive blocks of time rather than throughout the year is likewise not conducive to effective training.
14. Competent training agencies are key to successful apprenticeships. WAC 296-05-003(41). A sponsor must "[d]etermine the adequacy of an employer to furnish proper on-the-job training in accordance with the provisions of the approved standards." WAC 296-05-015(2)(f).
15. ABC did not properly vet proposed training agents, which places in jeopardy the apprentices' training experience.
16. The Council may only register apprenticeship programs that "conform with standards established under this chapter" and are in "the best interests of the apprentice." RCW 49.04.030(3). As ABC correctly notes, "[p]roposed standards must be reasonably consistent with existing standards in the trade or occupation." Program Sponsor ABC of Western Washington's Appeal to Director of Washington State L&I of WSATC's Order 7 (Oct. 16, 2024); WAC 296-05-015. Sustainability is a critical aspect of

successful standards as a requirement of apprenticeship programs, WAC 296-050-011(1)(a)(iv), and readiness is one component of sustainable standards. Readiness is also a proper consideration as it goes to the question of whether the program will protect the welfare of the apprentice by having a feasible and viable program. WAC 296-05-001(1), -011, -015.


17. Readiness includes having some level of competency with apprenticeship to promote the welfare of the apprenticeships that ABC officials lacked. Repeatedly ABC's representatives had a lack of detail as to how to develop its program. Its theory was that it would have to wait and see how to proceed once the program was approved. But such an approach does not promote the best interests of the apprentices. Public policy supports requiring a program to be ready to operate, to be feasible, to be viable, and to be sustainable. This will allow apprentices to receive a competent and comprehensive training and education from the beginnings of their apprenticeship.
18. The Council pointed out that new apprenticeship programs generally begin operations at a regional level. And it correctly found that ABC showed an inability to protect the best interests of apprentices at a statewide level. The Council properly considered this issue. The Director writes to clarify that there is no per se bar to having a new statewide program. If qualified and consistent with existing standards, sponsors can decide what geographic area to have under *Western Washington Operating Engineers Apprenticeship Committee v. Washington State Apprenticeship & Training Council*, 130 Wn. App. 510, 526, 123 P.3d 533 (2005). But this case didn't discuss whether the program was adequate to be a statewide program, and it involved a discrete regional area. A sponsor still must be qualified and a program compliant with RCW 49.04 and WAC 296-05 to be approved.
19. ABC argues that the Council violated the Open Public Meetings Act, claiming that issuing the order of the Council was required to be done in an open meeting. There is no such requirement under RCW 42.30.140(1)-(3).
20. ABC cites that under 29 CFR § 29.3(g) that says that "Applications for new programs that the Registration Agency determines meet the required standards for program registration must be given provisional approval for a period of 1 year." This provisional registration requirement, if applicable, only applies if the standards met required standards, which ABC's program does not.
21. ABC argues that the due process is violated, but this tribunal has no authority to reach constitutional questions. *Bare v. Gorton*, 84 Wn.2d 380, 383, 526 P.2d 379 (1974).
22. ABC claims several evidentiary errors in a chart that has only cursory argument, which is insufficient. *Matter of Det. of B.R.*, 31 Wn. App. 2d 529, 542, 555 P.3d 435 (2024). And ABC fails to show any prejudice relating to any claimed error, which is necessary to show error. *Barriga Figueroa v. Prieto Mariscal*, 193 Wn.2d 404, 415, 441 P.3d 818 (2019).
23. Because ABC lacks an adequate plan to ensure rotation of its apprentices among various required work processes, because ABC has not yet secured any training

facilities for classroom or lab time, because ABC failed to demonstrate its apprenticeship committee was properly constituted, because its proposed related/supplemental instruction is not designed in a manner that will result in its apprentices achieving skills that are reasonably consistent with those of other general electrician apprentice, because the proposed lab time in ABC's related/supplemental instruction plan is inadequate, because ABC did not properly vet proposed training agents, and because ABC lacks the necessary experience and planning to advance and protect the best interests of apprentices, the Director agrees with the Council that ABC's proposed apprenticeship program must be disapproved.

24. ABC's proposed apprenticeship standards do not meet the requirements of RCW 49.04 and WAC 296-05.
25. ABC may apply again for approval of its standards upon correction of its deficiencies.

III. FINAL ORDER

Consistent with the above Findings of Fact and Conclusions of Law, ABC's proposal to adopt a statewide program is denied.



JOEL SACKS
Director

SERVICE

This Order was served on you the day it was deposited in the United States mail. RCW 34.05.010(19).

APPEAL RIGHTS

Reconsideration. Any party may file a petition for reconsideration. RCW 34.05.470. Any petition for reconsideration must be filed within 10 days of service of this Order and must state the specific grounds on which relief is requested. No matter will be reconsidered unless it clearly appears from the petition for reconsideration that (a) there is material clerical error in the order or (b) there is specific material error of fact or law. A petition for reconsideration, together with any argument in support thereof, should be filed by emailing it to directorappeal@lni.wa.gov or by mailing or delivering it directly to Joel Sacks, Director of the Department of Labor and Industries, P. O. Box 44001 Olympia, Washington 98504-4001, with a copy to all other parties of record and their representatives. Filing means actual receipt of the document at the Director's Office. RCW 34.05.010(6).

NOTE: A petition for reconsideration is not required before seeking judicial review. If a petition for reconsideration is filed, however, the 30-day period will begin to run upon the resolution of that petition. A timely filed petition for reconsideration is deemed to be denied if, within twenty (20) days from the date the petition is filed, the Director does not (a) dispose of the petition or (b) serve the parties with a written notice specifying the date by which it will act on the petition. RCW 34.05.470(3).

Judicial Review. Any petition for judicial review must be filed with the appropriate court and served within 30 days after service of this Order. RCW 34.05.542. Proceedings for judicial review may be instituted by filing a petition in superior court according to the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement.

DECLARATION OF MAILING

I, Lisa Deck, hereby declare under penalty of perjury under the laws of the State of Washington, that the **DIRECTOR'S ORDER** was mailed the date listed below, to the following via regular, postage prepaid:

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DATED this 23 day of January, 2025, at Tumwater, Washington.

Lisa Deck *ld*

LISA DECK

