



STATE OF WASHINGTON  
**DEPARTMENT OF LABOR AND INDUSTRIES**

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

April 30, 2025

**Via E-mail and U.S. Mail**

Washington State UBC JATC  
Paul Resa  
20424 72nd Ave S  
Kent, WA 98032  
[paularesa@nwci.org](mailto:paularesa@nwci.org)

Kristina Detwiler  
Robblee Detwiler PLLP  
2101 4th Ave, Ste 1000  
Seattle, WA 98121  
[kdetwiler@unionattorneysnw.com](mailto:kdetwiler@unionattorneysnw.com)

Eric Lawless, Assistant Attorney  
General  
Office of the Attorney General  
Labor & Industries Division  
PO Box 40121  
Olympia, WA 98504  
[eric.lawless@atg.wa.gov](mailto:eric.lawless@atg.wa.gov)  
[lniolyfax@atg.wa.gov](mailto:lniolyfax@atg.wa.gov)

Laura Bradley-Hufford  
Samantha Pastor  
Shanley PLLC  
25120 Pacific Hwy S, Ste 200  
Kent, WA 98032  
[lbradleyhufford@shanleyapc.com](mailto:lbradleyhufford@shanleyapc.com)  
[spastor@shanleyapc.com](mailto:spastor@shanleyapc.com)

Sarah Swarthout  
Director of Training Apprenticeship Committee  
Western Washington Carpet, Linoleum & Soft Tile  
Layers Apprenticeship Committee  
6670 E Marginal Way S  
Bldg E, Ste 102  
Seattle, WA 98108  
[sarahs@ftinw.org](mailto:sarahs@ftinw.org)

Washington State Apprenticeship and Training  
Council  
c/o William F. Henry, AAG  
800 Fifth Ave., Ste. 2000  
Seattle, WA 98104  
[williamf.henry@atg.wa.gov](mailto:williamf.henry@atg.wa.gov)

**In Re: Washington State UBC JATC  
OAH NO. 11-2023-LI-01996  
Director No. 2025-012-APP**

Dear Parties:

Please find the enclosed Director's Order, which is served on the date of mailing. The Council and Initial Order are included for your convenience.

Sincerely,

Joel Sacks  
Director

Enclosures

cc: Judge Dan Gerard  
Will Henry, AAG  
Anastasia Sandstrom, AAG

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

In re:

WASHINGTON STATE UBC JATC

No. 2025-012-APP

DIRECTOR'S ORDER

Joel Sacks, Director of the Washington State Department of Labor and Industries, having considered the final order of the Washington State Apprenticeship and Training Council (Council) dated on December 17, 2024, the appeal submitted by Washington State United Brotherhood of Carpenters Joint Apprenticeship and Training Committee (UBC), briefing submitted to the Director's Office, and having reviewed the record, issues this Director's Order.

The parties are UBC, Western Washington Carpet, Linoleum & Soft Tile Layers Apprenticeship Committee (Objector), and the Washington State Department of Labor and Industries (L&I).

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

**I. FINDINGS OF FACT**

This Director's Order adopts and incorporates by reference Findings of Fact Nos. 1 through 9 of the Council's Order dated December 17, 2024.

NO. 2025-012-APP

DIRECTOR'S ORDER

10. On September 8, 2023, UBC filed a request to revise its existing registered apprenticeship and training program to include a “Floor Installation” occupation.
11. After a hearing at the Office of Administrative Hearings (OAH), the Initial Order was served on August 14, 2024. It found that UBC’s proposed revision to its apprenticeship program to include the occupation Floor Installation should be disapproved.
12. Upon UBC’s appeal, the Council issued its Order on December 17, 2024, declining to approve UBC’s revision request for new standards to include a Floor Installation occupation.
13. The occupation of Floor Installation has not been recognized by the Council as a stand-alone program. Instead, it has recognized the occupation of Carpet, Linoleum & Soft Tile Layers, which includes installation of resilient coverings on floors, walls, window coverings and countertops. UBC’s proposed program only trains on installation of floor coverings (excluding hardwood pulp flooring), and not walls, or window coverings, or pulp-based hardwoods. UBC admits that some materials on walls cannot be installed on floors; plastic laminate and wallboard laminate, and it would not train in those. It also admits that it does not train in window coverings and only nonpulp hardwood flooring.
14. UBC timely petitioned for administrative review to the Director.

## II. CONCLUSIONS OF LAW

This Director’s Order adopts and incorporates by reference Conclusions of Law Nos. 1 through 8 of the Council’s Order dated December 17, 2024.

9. Based on UBC’s timely petition for administrative review, the Director has the authority to consider the petition. RCW 49.04.065; RCW 34.05.
10. The Council rejected the Floor Installation program on the basis that it is not an apprenticeable occupation because it is part of a previously approved apprenticeship program. Under WAC 296-05-003(3)(f), an occupation is not apprenticeable when it is “part of occupation previously recognized by the Council as apprenticeable.” This requirement “prevents the dilution of a recognized occupation through the gradual fragmentation of an occupation into to smaller subparts.” *Axiom Construction & Consulting, LLC*, No. 2023-001-App at

4 (Feb. 14, 2023).<sup>1</sup> It prevents “carve outs.” *Id.* Thus, if the offered program is a subset of a current occupation, it is not apprenticeable.

11. As found, UBC’s proposed program only trains on installation of floor coverings (excluding hardwood pulp flooring), and not walls, or window coverings, or pulp-based hardwoods. UBC argues that the skills necessary in the application of materials is the same whether it is a floor, wall, or counter. It admits, however, that some materials on walls cannot be installed on floors, plastic laminate and wallboard laminate, and it would not train in those. It also admits that it does not train in window coverings and only nonpulp hardwood. Given these deficiencies, the Council correctly decided this issue.
12. UBC argues that it need not offer the same program as training for an existing occupation, but if it results in an apprentices not being trained in all the requisites of the occupation, the proposed program is not apprenticeable.
13. UBC argues that the Council could have modified its program regarding its deficiencies. Although the Council has the discretion to modify a program, it appropriately declined to exercise that discretion when the matter implicated core deficiencies in the program. WAC 296-05-011. Comparing to the Objector’s program, there would have had need to be substantial revisions in the training hours outline, and the Council appropriately declined to order that.
14. UBC argues that it did not have notice of the apprenticeable issue because the Objector did not raise the issue until its post-hearing brief at Office of Administrative Hearings (OAH). As the Council stated, the Council does not exist merely to resolve disputes between competing apprenticeship programs, and its authority to approve and disapprove apprenticeship standards is separate from the objection process. *See* RCW 49.04.010, .030; WAC 296-05-011(1). It is UBC’s burden of proof to show eligibility for its license. *See Black Ball Freight Serv., Inc. v. Wash. Util. & Transp. Comm’n*, 74 Wn.2d 871, 875, 447 P.2d 597 (1968). This burden includes whether there is an apprenticeable occupation. The issue was properly considered.
15. UBC argues it violates due process to consider the issue for the first time at the OAH post-hearing brief stage, but the Director’s order cannot consider constitutional issues. *See Bare v. Gorton*, 84 Wn.2d 380, 383, 526 P.2d 379 (1974). Even considering the constitutional issue, notice in a regulation is reasonably calculated to apprise interested parties of the law. *See Dellen Wood Prods., Inc. v. Dep’t of Lab. & Indus.*, 179 Wn. App. 601, 628-29, 319 P.3d 847

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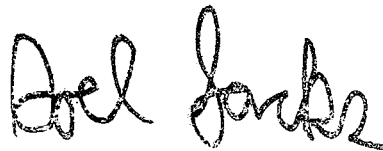
<sup>1</sup> [https://lni.wa.gov/workers-rights/docs/2023-001-APP\\_Axiom.pdf](https://lni.wa.gov/workers-rights/docs/2023-001-APP_Axiom.pdf).

(2014) (for purposes of due process, statutory notice was reasonably calculated to apprise parties of legal requirements). Agency regulations have the force and effect of law. *Wingert v. Yellow Freight Sys., Inc.*, 146 Wn.2d 841, 848, 50 P.3d 256 (2002). Notice was provided by WAC 296-05-003(3)(f) of the elements to establish eligibility for the revision of UBC's standards.

16. Further, there was sufficient testimony relevant to the apprenticeable-occupation issue, and the Council correctly decided that the record was adequately developed to consider the issue. And UBC has not shown any prejudice. A claim of "[e]rror without prejudice is not grounds for reversal, and error is not prejudicial unless it affects the case outcome." *Qwest Corp. v. Wash. Util. & Transp. Comm'n*, 140 Wn. App. 255, 260, 166 P.3d 732 (2007). The case outcome was not affected. UBC did not point to any other evidence that it would have offered. It was able to argue the issue before the Council and before the Director. And UBC did not object to the admissibility of evidence presented at hearing that raised the apprenticeable-occupation issue.
17. UBC can reapply if it corrects its deficiencies.

### III. DECISION AND ORDER

Consistent with the above Findings of Fact and Conclusions of Law, the Council's December 2024 Disapproval of Request for New Standards Provisional Registration is Affirmed, and the decision is incorporated by reference.



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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](mailto: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; RCW 49.04.065. 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 on the date listed below to the following via regular, postage prepaid:

Washington State UBC JATC  
Paul Resa  
20424 72nd Ave S  
Kent, WA 98032  
[paularesa@nwci.org](mailto:paularesa@nwci.org)

Kristina Detwiler  
Robblee Detwiler PLLP

Laura Bradley-Hufford  
Samantha Pastor  
Shanley PLLC  
25120 Pacific Hwy S, Ste 200  
Kent, WA 98032  
[lbradleyhufford@shanleyapc.com](mailto:lbradleyhufford@shanleyapc.com)  
[spastor@shanleyapc.com](mailto:spastor@shanleyapc.com)

2101 4th Ave, Ste 1000  
Seattle, WA 98121  
[kdetwiler@unionattorneysnw.com](mailto:kdetwiler@unionattorneysnw.com)

Eric Lawless, Assistant Attorney General  
Office of the Attorney General  
Labor & Industries Division  
PO Box 40121  
Olympia, WA 98504  
[eric.lawless@atg.wa.gov](mailto:eric.lawless@atg.wa.gov)  
[lniolyfax@atg.wa.gov](mailto:lniolyfax@atg.wa.gov)

Sarah Swarthout  
Director of Training Apprenticeship Committee  
Western Washington Carpet, Linoleum & Soft  
Tile Layers Apprenticeship Committee  
6670 E Marginal Way S  
Bldg. E, Ste 102  
Seattle, WA 98108  
[sarahs@ftinw.org](mailto:sarahs@ftinw.org)

Washington State Apprenticeship and Training  
Council  
c/o William F. Henry, AAG  
800 Fifth Ave., Ste. 2000  
Seattle, WA 98104  
[williamf.henry@atg.wa.gov](mailto:williamf.henry@atg.wa.gov)

DATED this 30 day of April, 2025, at Tumwater, Washington.

  
LISA DECK

*Teri Gardner 7-22-24*

WASHINGTON STATE  
OFFICE OF ADMINISTRATIVE HEARINGS

In the matter of:

Washington State  
UBC JATC,

Program Sponsor/Respondent.

Docket No. 11-2023-LI-01996

**INITIAL ORDER**

Agency: Labor and Industries  
Program: Apprenticeship and Training  
Council

**1. ISSUE**

- 1.1. Should Washington State United Brotherhood of Carpenters Joint Apprenticeship and Training Committee's ("UBC JATC" or "Sponsor") request for a revision of its apprenticeship program standards be approved, approved with changes accepted by Washington State UBC JATC, or disapproved?

**2. ORDER SUMMARY**

- 2.1. Washington State UBC JATC's proposed revision to its apprenticeship program to include the occupation Floor Installation should be **disapproved**.

**3. HEARING**

- 3.1. Hearing Dates: April 15, 2024 – April 17, 2024
- 3.2. Close of Record: May 24, 2024<sup>1</sup>
- 3.3. Administrative Law Judge: Dan Gerard
- 3.4. **Program Sponsor:** Washington State UBC JATC
- 3.4.1. Representative: Laura Bradley-Hufford, Attorney  
Samantha Prosser, Attorney
- 3.4.2. Witnesses:
- 3.4.2.1. Paula Resa
- 3.4.2.2. David Gross
- 3.4.2.3. Aleksey Gergalo
- 3.5. **Agency:** Labor and Industries
- 3.5.1. Representative: Eric Lawless, Assistant Attorney General  
Shawn Gordon, Assistant Attorney General

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<sup>1</sup> Post-Hearing Brief Deadline



**3.6. Objector:**

3.6.1.1. Western Washington Carpet, Linoleum & Soft Tile Layers Apprenticeship Committee

**3.6.2. Representative:**

3.6.2.1. Kristina Detwiler, Attorney

**3.6.3. Witnesses:**

3.6.3.1. Sarah Swarthout

3.6.3.2. David Winkler

3.6.3.3. Drew Payne

3.6.3.4. Todd Pierce

3.7. Exhibits: Respondent's Exhibits 3, 5, 6, 11, 13, 14, 21 through 25, 27 through 31, and 33 through 52. Objector's Exhibits A2, and C2 through J2.

**4. FINDINGS OF FACT**

I find the following facts by a preponderance of the evidence:

***Jurisdiction***

- 4.1. On September 6, 2023, Washington State UBC JATC filed a request to revise its existing registered apprenticeship and training program to include the "Floor Installation" occupation. *Exhibit ("Ex.") G2*.
- 4.2. The Department of Labor and Industries ("Department") conducted a technical review of the Sponsor's proposed standard revision. *Ex. 3*. On September 19, 2023, the Department forwarded its technical review to the Washington State Apprenticeship and Training Council ("WSATC"), finding that the proposed standards meet criteria established by Chapter 49.04 RCW and Chapter 296-05 WAC. *Id.*
- 4.3. On September 27, 2023, Western Washington Carpet, Linoleum & Soft Tile Layers Apprenticeship Committee ("Objector"<sup>2</sup>) timely filed an objection to the Sponsor's Proposed Standards under WAC 296-05-011(2). *Ex. E2*.
- 4.4. On October 19, 2023, WSATC referred the objections to the Office of Administrative Hearings ("OAH") for adjudication. *Ex. 46*.

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<sup>2</sup> Originally, there were three separate objectors. Two of the objectors withdrew their objections prior to the evidentiary hearing.

### ***Washington State UBC JATC***

- 4.5. The Sponsor is a multi-occupation apprenticeship program. *Ex. F2; Testimony of Paula Resa, Director of Training Northwest Carpenter's Institute of Washington ("Resa Testimony")*.
- 4.6. If the Floor Installation program is approved, the floor installation component will be part of the existing subcommittee, interior systems Central Puget Sound. *Id.*
- 4.7. The Sponsor's apprenticeship standards were previously approved for 12 other apprenticeship training programs. *Ex. G2; Ex. F2*. The previously approved apprenticeship training programs are for the occupations of Boat Builder; Cabinet Maker; Carpenter; Piledriver, Bridge, Dock, and Wharf Builder; Carpenter, Scaffold Erector; Drywall Finisher (Taper); Insulation Applicator; Lathing, Acoustical, and Drywall Systems Installer; Maintenance Carpenter; Millwright; Residential Carpenter; and Shipwright. *Id.*
- 4.8. Sponsor's Floor Installation apprenticeship training program incorporates all applicable, previously approved standards from its other programs. *Resa Testimony*.
- 4.9. The Sponsor is affiliated with the Western States Regional Council of Carpenters ("WSRCC"). *Testimony of Aleksey Gergalo, Special Representative with the WSRCC ("Gergalo Testimony")*.
- 4.10. WSRCC has collective bargaining agreements with numerous employers who employee individuals to install flooring. *Gergalo Testimony; Exs. 38-45*.
- 4.11. UBC JATC is funded by contributions made by all contributing employers based on an hourly amount designated by the various collective bargaining agreements with WSRCC and employers throughout Washington State, including the Floor Layers Agreements. *Resa Testimony; Gergalo Testimony; Exs. 38-45*.
- 4.12. UBC JATC's fund has "tens of millions of dollars" in reserve. *Resa Testimony*.

### ***Work Processes and RSI***

- 4.13. The Sponsor's program would be implemented throughout the state of Washington. *Resa Testimony*.
- 4.14. The Sponsor's initial startup costs for the floor installation occupation in Kent, Washington would be less than \$100,000 for the first year. *Id.*
- 4.15. The Sponsor's proposed standards include 8,000 hours of classroom and on-the-job training, under the U.S. Bureau of Labor Statistics Standard Occupation Code ("SOC") #47-2042.00. *Ex. G2*.

- 4.16. The proposed work processes include 1,000 of training in core skills, 1,200 hours of preparation training, 800 hours of material handling, 3,500 hours of layout and installation training, and 1,500 hours of supplemental skills. *Id.*
- 4.17. The Sponsor's related/supplemental instruction ("RSI") would be performed over defined 12-month school years, with a combination of lab, classroom, and online training. *Ex. H2.*
- 4.18. The training would include 40 hours of planned hours of Introduction to Floor Laying, 40 hours of planned hours of Substrate Preparation, 40 hours of planned hours of Adhesive & Layout Preparation, 40 hours of planned hours of Wall Base, 40 hours of planned hours of Introduction to Resilient Flooring, 40 hours of planned hours of Complex Layouts, 40 hours of planned hours of Resilient Linoleum, 40 hours of planned hours of Carpet Glue-Down Installation, 40 hours of planned hours of Carpet Stretch-in Installation, 40 hours of planned hours of Introduction to Flash Cove, 40 hours of planned hours of Resilient II Flash Cove, 40 hours of planned hours of Advanced Heat Welding, 40 hours of planned hours of Resilient Stairs, 40 hours of planned hours of Polishable Overlays, 40 hours of planned hours of Carpet Stairs, and 40 hours of planned hours of Custom Inserts. *Id.*
- 4.19. The training would be provided by Northwest Carpenters Institute ("NWC"). *Id.*
- 4.20. NWC would utilize the training of the International Standards and Training Alliance ("INSTALL") program. *Resa Testimony.* INSTALL is an affiliated program of the Sponsor, United Brotherhood of Carpenters. *Id.*
- 4.21. INSTALL's floor-covering training is nationally recognized and endorsed by members of the industry and is utilized throughout the country. *Testimony of David Gross, Executive Director of INSTALL ("Gross Testimony"); Ex. 34.*
- 4.22. INSTALL's training includes a 'train the trainers' course to ensure consistency in their teachings. *Gross Testimony; Exs. 29-30.*
- 4.23. All the trainers in the Sponsor's program would be provided by INSTALL. *Gross Testimony.*
- 4.24. All program apprentices are subject to a probationary period of no more than 1,300 hours. *Ex. G2.*
- 4.25. Apprentices will be supervised by journey-level at a ratio of not more than one apprentice per journey-level worker. *Ex. F2.*
- 4.26. The wage of the apprentices is a proportion of a journey-level worker's wages, dependent upon the apprentice's progression in the training. *Exs. 38-45.* The apprenticeship wage scale is consistent among the numerous floor-installing employers who have a bargaining agreement with WSRCC. *Id.*

4.27. As of June 1, 2023, the journey-level worker's wage rate in Washington was \$45.04, per hour. *Ex. I2.*

***Objections to Proposed Standards***

4.28. The Objector is a sponsor of an apprenticeship program whose areas include the entire state of Washington, except Clark, Cowlitz, Klickitat, Skamania, Wahkiakum, and Pacific counties. *Ex. A2.*

4.29. The Objector does not train apprentices in occupations identified under SOC #47-2042.00, Floor Layers, Except Carpet, Wood, and Hard Tiles. *Id.* Instead, it trains for the occupation of Carpet Installers, under SOC #47-2041.00. *Id.*

4.30. Although the Sponsor and the Objector train under different SOC numbers, there are significant overlapping work-processes and RSI modules. *Exs. A2; G2; H2.*

4.31. All the Sponsor's work programs are contained within the Objector's program. *Gross Testimony.* The Objector, additionally, trains on working on countertops and wallcoverings. *Ex. A2.*

4.32. The Objector asserted the following as the primary basis for their objections to the Sponsor's proposed standards:

- a) The Sponsor did not have the ability to support a program in the identified area;
- b) The Sponsor did not have the ability to provide 8,000 hours of reasonably continuous employment;
- c) The Sponsor did not have the ability to provide a reasonable probationary period;
- d) Concerns about how journey level workers will be identified for purposes of supervision of apprentices;
- e) Concerns the work processes are not reasonably consistent with existing approved programs and about the ability of the Sponsor to provide exposure to apprentices to all of the work processes;
- f) Concerns about whether instructors are qualified, the training school facilities and access to the necessary equipment and tools for the occupation and whether a test of evaluation is required for graduation; and
- g) Concerns the members of the committee are not from the craft.

*Ex. E2.*

## 5. CONCLUSIONS OF LAW

Based upon the facts above, I make the following conclusions:

### ***Jurisdiction***

- 5.1. OAH has jurisdiction over the persons and subject matter of this case under Chapters 34.05, 34.12, and 49.04 RCW, and Chapter 296-05 WAC.

### ***Burden***

- 5.2. The Sponsor's request for approval and registration of its proposed apprenticeship program constitutes an application of a "license," within the meaning of the Administrative Procedure Act ("APA"). *Seattle Building and Constr. Trades Council v. CITC*, 129 Wn.2d 787, 799-804 (1996).
- 5.3. As the applicant for a license within the meaning of the APA, the Sponsor bears the burden of demonstrating compliance with the statutory and regulatory prerequisites for the same. See: *Black Ball Freight Service, Inc. v. Washington Utilities and Transp. Comm'n*, 74 Wn.2d 871, 875 (1968).

### ***Applicable Law***

- 5.4. "Apprenticeship program standards govern apprenticeship agreements between a program sponsor and an individual apprentice and define the term of the apprenticeship. The WSATC develops, administers, and enforces apprenticeship program standards, which are incorporated into apprenticeship agreements. Proposed standards must be reasonably consistent with existing standards in the trade or occupation. Proposed standards are reasonably consistent with existing standards when standards meet or exceed the minimum number of hours approved by the United States Department of Labor in the trade or occupation, if approval has been made. If not, the WSATC may use its discretion to determine whether standards are reasonably consistent with existing standards." WAC 296-05-015.
- 5.5. The WSATC may approve an apprenticeship program when:
- 1) If applicable, an apprenticeship and training committee is organized consistent with WAC 296-05-009;
  - 2) Standards are proposed by the committee consistent with WAC 296-05-015;
  - 3) Standards are presented to the WSATC consistent with WAC 296-05-008;
  - 4) An assessment for program sustainability is included with the application.
- WAC 296-05-011(1)(a).

- 5.6. To be eligible for registration, apprenticeship program standards must conform to the rules adopted under Chapter 49 RCW. RCW 49.04.050(1).
- 5.7. All apprenticeship agreements must comply with the approved program standards, Chapter 49.04 RCW, and Chapter 296-05 WAC. WAC 296-05-015 sets forth specific requirements for apprenticeship program standards in paragraphs (1) through (28).
- 5.8. An "apprenticeable" occupation must:
- (a) Involve skills customarily learned in a practical way through a structured, systematic program of on-the-job supervised learning;
  - (b) Be clearly identified and commonly recognized throughout an industry;
  - (c) Involve 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 two thousand hours of on-the-job learning to attain;
  - (d) Require a minimum of one hundred forty-four hours of related instruction per program year to supplement on-the-job work experience;
  - (e) Involve sufficient skill to establish career sustaining employment; and
  - (f) Not be part of an occupation previously recognized by the registering agency as apprenticeable.

WAC 296-05-003(3).

- 5.9. The U.S. Bureau of Labor Statistics ("BLS") titled SOC #47-2042.00 as Floor Layers, Except Carpet, Wood, and Hard Tiles. *2018 Standard Occupational Classification System : U.S. Bureau of Labor Statistics (bls.gov)*. The work under SOC #47-2042.00 would be to, "apply blocks, strips, or sheets of shock-absorbing, sound-deadening, or decorative covering to floors." *Id.* Illustrative examples of the work include composition floor layer, cork floor installer, linoleum installer, and shock-absorption floor layer. *Id.*
- 5.10. The BLS titled SOC #47-2041.00 as Carpet Installers. *Id.* The work under SOC #47-2041.00 would be to, "lay and install carpet from rolls or blocks on floors. Install padding and trim flooring materials." The BLS specifically excludes "Floor Layers, Except Carpet, Wood, and Hard Tile" work from SOC #47-2041.00. *Id.* Illustrative examples of the work include carpet layer, wall-to-wall carpet installer. *Id.*



## **Analysis**

- 5.11. The Objector's legal argument that the Sponsor's proposed standards are not for an "apprenticeable occupation" as defined in WAC 296-05-003(3) was only first raised in its post-hearing brief.
- 5.12. The Objector's argument has merit.
- 5.13. There is no Standard Occupational Code or recognized apprenticeable occupation for "Floor Installation.", as framed in the Sponsor's request for revision of standards.
- 5.14. The Sponsor chose SOC #47-2042.00 on its Request For Revision Of Standards. SOC #47-2042.00 expressly excludes carpet, wood, and hard tile.
- 5.15. The Sponsor's RSI included 40 hours of carpet glue-down installation training, 40 hours of carpet stretch-in installation training, and 40 hours carpet stairs training. The training for carpet-related installations is just under 20% of the total training hours proposed by the Sponsor, notwithstanding SOC #47-2042.00 expressly excludes carpet work in its title.
- 5.16. The 120 hours of training on carpet-related matters would be more appropriately fall under SOC #47-2041.00, Carpet Installers.
- 5.17. The Sponsor's current iteration of its Request for Revision of Standards is a combination of two existing SOC's; SOC #47-2041.00 and #47.2042.00.
- 5.18. As the Sponsor's Request for Revision of Standards carved-out parts of two other occupations previously recognized by the registering agency as apprenticeable, the Sponsor's revision is not apprenticeable, pursuant to WAC 296-05-003(3)(f).
- 5.19. The Sponsor's proposed revisions to its apprenticeship standards for Floor Installation do not meet the requirements of RCW 49.04 and WAC 296-05.
- 5.20. As the Sponsor's proposed revisions are not apprenticeable, the remaining analysis as to their compliance is not necessary.
- 5.21. Accordingly. Washington State UBC JATC's proposed revision to its apprenticeship program to include the occupation Floor Installation should be **disapproved**.

**[Continued]**

**6. INITIAL ORDER**

IT IS HEREBY ORDERED THAT:

- 6.1. Washington State UBC JATC's proposed revision to its apprenticeship program to include the occupation Floor Installation is **DISAPPROVED**.

Issued from Olympia, Washington on the date of mailing.



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Dan Gerard  
Administrative Law Judge  
Office of Administrative Hearings

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8                   **APPRENTICESHIP AND TRAINING COUNCIL**  
                          **STATE OF WASHINGTON**

9   In Re: WASHINGTON STATE UBC  
10   JATC

No. 2023-04-0024

11   OAH Docket No. 11-2023-LI-01996

FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
FINAL DECISION AND ORDER

12           The Washington State Apprenticeship and Training Council (Council), having considered  
13   the Initial Order served on August 14, 2024, having considered the petition for review filed by  
14   the Sponsor, Washington State UBC JATC, and the briefing submitted to the Council, and  
15   having reviewed the record created at hearing, issues this Final Order.

16           The Council makes the following Findings of Fact, Conclusions of Law, and Final  
17   Decision and Order.

18                           **I.       FINDINGS OF FACT**

- 19       1.     The Initial Order of the Office of Administrative Hearings was served on August 14,  
20           2024. The Initial Order found that Washington State UBC JATC's proposed revision  
21           to its apprenticeship program to include the occupation Floor Installation should be  
22           disapproved.
- 23       2.     On August 30, 2024, the Sponsor filed a timely petition for review of the Initial Order  
24           with the Council.
- 25       3.     The Council adopts and incorporates the Initial Order's "Issue" statement and  
26           "Hearing" summary.
- 27       4.     The Council adopts and incorporates the Initial Order's findings of fact 4.1 through  
          4.28.
5.     The Council has not previously recognized "Floor Installation" as a stand-alone  
          apprenticeable occupation. It has previously approved an apprenticeship program for

1 the occupation of "Carpet, Linoleum & Soft Tile Layer." See Ex. A2. This occupation  
2 includes training on the preparation and installation of various materials used in floor  
3 coverings, countertops, wall coverings, hardwood flooring, and window coverings.  
4 Ex. A2. As reflected in approved state apprenticeship standards, the work processes  
5 for this occupation include 6,100 hours of training in floor coverings, 500 hours in  
6 countertops, 300 hours in wall coverings, 1,000 hours in hardwood flooring, and 100  
7 hours in window coverings.

8 6. Relying in part on apprenticeship standards approved by the Council, the Department  
9 has adopted a scope of work description for carpet and resilient floor layers that  
10 includes the preparation and installation of all resilient coverings (other than terrazzo,  
11 magnesite and latex built-up floors) on "floors, walls, counters, table tops and  
12 ceilings." WAC 296-127-013013.

13 7. The Council finds that the core work processes for the Carpet, Linoleum & Soft Tile  
14 Layer include, at minimum, the preparation and installation of resilient coverings on  
15 floors, walls, counters.

16 8. The Floor Installation occupation in the Sponsor's proposed standards will perform  
17 only a subset of the core work processes of the Carpet, Linoleum & Soft Tile Layer  
18 occupation. The proposed curriculum includes training on materials used as floor  
19 coverings, but it excludes training on countertops, wallcoverings, hardwood flooring,  
20 and window coverings.<sup>1</sup> Tr. 101, 195, 197-198, 199. While many materials used in  
21 floor installation can be applied to walls with the same skills, this is not true for all  
22 wall covering materials. Carpet, Linoleum & Soft Tile Layers also must prepare and  
23 install materials specific to walls, such as "plastic laminate and wallboard marlite,  
24 FRP panels, [and] fiberglass re-enforcement panels." Tr. 530. These materials are  
25 used only as wall coverings, and training in floor covering installation does not  
26 include these materials.

27 9. All work processes in the Sponsor's proposed program for Floor Installation are  
contained in the previously approved Carpet, Linoleum & Soft Tile Layer program.  
Tr. 199. But the Carpet, Linoleum & Soft Tile Layer program also includes additional  
work processes that are not included within the proposed Floor Installation program.  
Tr. 101, 195, 197-198. As such, the proposed Floor Installation occupation is a carve  
out of the broader, previously approved Carpet, Linoleum & Soft Tile Layer  
occupation.

## 28 II. CONCLUSIONS OF LAW

29 1. The Council has jurisdiction over the subject matter and the parties to this action,  
30 pursuant to RCW 49.04, RCW 34.05, and WAC 296-05.

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31 <sup>1</sup> Following a settlement agreement with former objector Cement Masons & Plasterers  
32 Local 528, the Sponsor intends to amend its training curriculum to include training on hardwood  
33 flooring. Tr. 188. But as proposed, the Sponsor's program does not include any training in  
34 hardwoods in its work processes. Tr. 177, 190.

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2. The Council adopts and incorporates the Initial Order's conclusions of law 5.1 through 5.8.
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- 4 3. Under WAC 296-05-003(3)(f), an occupation is not apprenticeable when it is "part of an occupation previously recognized by [the Council] as apprenticeable." Thus, a proposed occupation is not apprenticeable when the new occupation is a subset of a single previously recognized occupation, involving no skills or work processes that are not also part of the previously recognized occupation. This provision prohibits apprenticeship programs from training in occupations that are "carve outs" of occupations previously recognized by the Council as apprenticeable, preventing the segmentation of existing occupations into ever narrowing divisions.
- 8
- 9 4. The Council may properly consider whether the proposed Floor Installation occupation is an apprenticeable occupation. While the issue was not raised by the Objector before hearing, the Council does not exist merely to resolve disputes between competing apprenticeship programs, and its authority to approve and disapprove apprenticeship standards is separate from the objection process. *See* RCW 49.04.010, .030; WAC 296-05-011(1). Much of the parties' evidence at hearing related to the respective work processes of the Floor Installation and the Carpet, Linoleum & Soft Tile Layer occupations, and the Council finds that the record was adequately developed regarding this issue. Because ensuring that registered apprenticeship programs train only in apprenticeable occupations is a critical Council function, the Council exercises its discretion to consider the apprenticeability of the Sponsor's proposed occupational objective.
- 16 5. The proposed Floor Installation occupation is not an apprenticeable occupation as defined in WAC 296-05-003. In addition to flooring, the scope of work description for carpet and resilient floor layer work includes the preparation and installation of resilient coverings on both walls and counters:

19 For the purpose of the Washington state public works law, chapter 39.12 RCW, carpet and resilient floor layers do the measuring, cutting, sewing, taping, fitting, laying and installing of oil cloth, matting, linen, carpet, synthetic turf, linoleum, vinyl, plastic, rubber, cork, mastic, asphalt, mastipave, tile and chalkboard, nonslip or abrasive materials, resilient, decorative seamless surface coats (except terrazzo, magnesite and latex build-up floors) and *all other resilient coverings on floors, walls, counters, table tops and ceilings* when cemented, tacked or otherwise applied to a base, whether used as shock-absorbing, sound-absorbing, or decorative coverings.

25 WAC 296-127-01313 (emphasis added).

26 This scope of work was developed in part based on Council approved apprenticeship standards. WAC 296-127-013(a). At minimum, the core work processes of the

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1 Carpet, Linoleum & Soft Tile Layer occupation include the preparation and  
2 installation of resilient coverings on floors, walls, counters.

- 3 6. The Sponsor will train in only a subset of the work performed by the Carpet,  
4 Linoleum & Soft Tile Layer occupation. Apprentices in the Carpet, Linoleum & Soft  
5 Tile Layer occupation program are trained in the installation of floor coverings,  
6 countertops, wall coverings, hardwood flooring, and window coverings. By contrast,  
7 the Sponsor's proposed Floor Installation program will receive training only in floor  
8 coverings. Because WAC 296-05-003(3)(f) prohibits the segmentation of an  
9 occupation previously recognized by the Council as apprenticeable, the Council must  
10 disapprove the Sponsor's proposed revision to its standards.
- 11 7. For this same reason, the Sponsor's proposed training for the occupation of "Floor  
12 Installation" is not reasonably consistent with the existing Carpet, Linoleum & Soft  
13 Tile Layer occupation.<sup>2</sup> Under WAC 296-05-015, proposed standards must be  
14 reasonably consistent with existing standards in the trade or occupation. Because the  
15 Sponsor's proposed program omits training in core work processes for the Carpet,  
16 Linoleum & Soft Tile Layer trade, it is not reasonably consistent with existing  
17 standards in Washington.
- 18 8. The Sponsor's proposed apprenticeship standards for "Floor Installer" do not meet the  
19 requirements of RCW 49.04 and WAC 296-05.<sup>3</sup>

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23 <sup>2</sup> Proposed standards are reasonably consistent with existing standards when the  
24 standards meet or exceed "the minimum number of hours approved by the United States  
25 Department of Labor in the trade or occupation." WAC 296-05-015. But as the Council has  
26 explained, while the Department of Labor's determination as to the total number of required  
27 hours is dispositive, this determination does not eliminate the Council's duty to ensure that work  
28 processes and related/supplemental instruction are reasonably consistent among the programs  
29 training in a given occupation. The goal is to ensure statewide uniformity of standards, and a  
30 total minimum hours requirement, standing alone, does nothing to ensure that all apprentices  
31 within a particular occupation achieve reasonably consistent skills. Instead, to accomplish this  
32 goal, the work processes and training for a given occupation must be reasonably consistent  
33 across programs.

34 <sup>3</sup> Having determined that the proposed Floor Installation occupation is not apprenticeable,  
35 the Council does not reach the Objector's arguments regarding the Sponsor's related  
36 supplemental instruction, its proposed committee members, or whether the proposed standards  
37 are in the best interests of apprentices.



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It is so ORDERED.

DATED this 17th day of December 2024.

W. L. L. A.

Mark Riker, Chair  
Washington State Apprenticeship and Training  
Council

## APPEAL RIGHTS

This Order was served on you the day it was transmitted electronically. RCW 34.05.010(19). **Appeal.** You may appeal this decision to the Director of the Department of Labor and Industries by filing a notice of appeal with the Director within thirty (30) days of service of this decision. The notice of appeal should be filed by mailing it to Joel Sacks, Director of the Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, by emailing it to [DirectorAppeal@LNI.WA.GOV](mailto:DirectorAppeal@LNI.WA.GOV), or by delivering it to the Department of Labor and Industries, 7273 Linderson Way SW, Tumwater, WA 98501, 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). A copy shall also be transmitted electronically to William F. Henry, Assistant Attorney General, attorney for the Washington State Apprenticeship and Training Council, at [WilliamF.Henry@atg.wa.gov](mailto:WilliamF.Henry@atg.wa.gov) and his Paralegal, Melanie Ruha, at [Melanie.Ruha@atg.wa.gov](mailto:Melanie.Ruha@atg.wa.gov).

Upon receipt of a notice of appeal, the Director or her designee shall review the record created by the Washington State Apprenticeship and Training Council and shall issue a written determination including his or her findings. A judicial appeal from the Director's determination may be taken in accordance with RCW 34.05.

This written decision was served on you the day it was transmitted electronically. RCW 34.05.010(19). If the decision is not appealed within thirty (30) days, it is final and binding, and not subject to further appeal. See RCW 49.04.065.

1 This Notice was served on you the day it was deposited in the United States mail.

2 RCW 34.05.010(19).

3 **Certificate of Mailing**

4 I, Melanie Ruha, certify under penalty of perjury under the laws of the State of  
5 Washington that I caused to be served via electronic service by email (except as otherwise  
6 indicated) to the following:

7 Washington State UBC JATC  
8 Paula Resa  
9 20424 72nd Avenue South  
10 Kent, WA 98032  
11 [paularesa@nwc.org](mailto:paularesa@nwc.org)

Laura Bradley-Hufford  
Samantha Pastor  
Shanley PLLC  
25120 Pacific Highway South  
Suite 200  
Kent, WA 98032  
[lbradleyhufford@shanleyapc.com](mailto:lbradleyhufford@shanleyapc.com)  
[spastor@shanleyapc.com](mailto:spastor@shanleyapc.com)

11 Daniel M. Shanley  
12 Shanley, A Professional Corporation  
13 533 S. Fremont Ave. 9th Floor  
14 Los Angeles, CA 90071  
15 Suite 200  
16 Kent, WA 98032  
17 [dshanley@shanleyapc.com](mailto:dshanley@shanleyapc.com)

Sarah Swarthout  
Director of Training Apprenticeship  
Committee  
Western Washington Carpet, Linoleum &  
Soft Tile Layers Apprenticeship Committee  
6770 East Marginal Way S  
Bldg. E Suite 102  
Seattle, WA 98108  
[sarabs@ftinw.org](mailto:sarabs@ftinw.org)

16 Kristina Detwiler Robblee Detwiler  
17 2101 Fourth Avenue, Ste. 1000  
18 Seattle, WA 98121  
19 [kdetwiler@unionattorneysnw.com](mailto:kdetwiler@unionattorneysnw.com)

Celeste Monahan  
Department of Labor and Industries PO Box  
44530  
Olympia, WA 98504-4530  
[Mocf235@lni.wa.gov](mailto:Mocf235@lni.wa.gov)  
[gate235@LNI.WA.GOV](mailto:gate235@LNI.WA.GOV)

20 Eric Lawless, Assistant Attorney  
21 General  
22 Office of the Attorney General  
23 Labor & Industries Division  
24 P.O. Box 40121  
25 Olympia, WA 98504  
26 [Eric.Lawless@atg.wa.gov](mailto:Eric.Lawless@atg.wa.gov)  
27 [liolyce@atg.wa.gov](mailto:liolyce@atg.wa.gov)

WSATC Members (by e-mail only)

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1 DATED this 17th day of December, 2024 at Seattle, King County, Washington.

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4 MELANIE RUHA, Paralegal  
5 Attorney General's Office  
6 (206) 389-2435  
7 [Melanie.Ruha@atg.wa.gov](mailto:Melanie.Ruha@atg.wa.gov)  
8  
9  
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