

**CIRCULAR 85-29****Date: August 20, 1985**

U.S. Department of Labor Employment and Training Administration Bureau of Apprenticeship And Training Washington, D.C. 20210	Distribution:  A-539 All Techs. Hdqtrs A-542 RD	Subject: Code: 700.1  SAC Relationships
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PURPOSE: To emphasize that Regional Directors should continue to request their BAT technical staff to keep themselves and the national office informed of any contemplated changes to SAC rules and procedures.

BACKGROUND: Adherence to this policy will promote better communication between (sic) the SACs and BAT as well as better coordination among our respective programs and services. It will also identify issues of concern that can be addressed in their beginning stage.

ACTION: BAT Regional Directors should insure that this policy is brought to the particular attention of their technical staff and that they receive copies of this Circular.

July 24, 1985

MEMORANDUM FOR: MINOR R. MILLER

FROM: NICK KOLB /s/

SUBJECT: Solicitor's Opinion of July 15, 1985 Regarding SACs

This is in response to your route slip of July 22 requesting comments on the above subject. Our request for opinion covered two areas, propriety of SACs changing rules and procedures after recognition without approval of the Secretary and extent of our authority and responsibility for monitoring SACs.

The SOL says we have no explicit authority to conduct compliance reviews under 29/29 but that it is reasonable to expect SACs to voluntarily comply with monitoring and that unilateral changes could lead to the SAC failing to operate in conformity with regulations. I think we all know this and essentially our current policy and operations follow this thinking. I would be reluctant to publicize this opinion as it does not affect our current policy and procedures and might cause the SACs to raise official objections to our SAC reviews. In other words, if it ain't broke don't fix it. Having said that however I might add that I see nothing wrong in an issuance that requests our staff to keep themselves and the National Office informed of any contemplated changes in SAC rules and procedures. The SOL for ETA goes on to state that BAT does have a mandate to make reviews under 29/30 but he has sent a copy of our request to the SOL for Civil Rights.

In summary, I suggest an issuance to our filed (sic) staff limited to requesting them to keep themselves and us informed of any contemplated changes to SAC rules and procedures. As an additional thought you might even want to consider a performance standard related to this.

July 15, 1985

MEMORANDUM FOR: FRED E. ROMERO  
Administrator  
Office of Strategic Planning  
and Policy Development

FROM: WILLIAM H. DuROSS, III /s/  
Associate Solicitor for  
Employment and Training

SUBJECT: State Apprenticeship Council  
Requirements

You have requested an opinion concerning two matters regarding State Apprenticeship Council (SACs). The first issue raised is whether post recognition changes in SAC rules and procedures without the approval of the Secretary of Labor (Secretary) are consistent with 29 C.F.R. Part 29.

Your memorandum correctly states that 29 C.F.R. § 29.12 provides for the Secretary to grant recognition of a SAC upon a determination that certain requirements have been met. The SAC is required to submit sufficient documentation to demonstrate that the prerequisites for recognition set forth in 29 C.F.R. § 29.12(a) and (b) have been met.

A review of the applicable regulatory provisions does not provide any explicit authority for the Secretary to conduct compliance reviews or to inspect the records of a SAC in order to determine whether a SAC is in compliance with 29 C.F.R. Part 29. However, it is reasonable to request that a SAC voluntarily comply with monitoring or provide other satisfactory evidence which indicates that its program is being operated in accordance with the standards set forth in the regulations. A unilateral change in a SAC's rules and procedures without approval of the Secretary might result in that SAC failing to operate in conformity with 29 C.F.R. § 29.12. A determination that a SAC has failed to fulfill, or operate in conformity with requirements of 29 C.F.R. Part 29 provides the Secretary with the authority to withdraw his recognition. See 29 C.F.R. § 29.13.

Your second question concerned the extent of the authority and responsibility of the Bureau of Apprenticeship and Training (BAT) to ensure that a State plan or a State apprenticeship program registered with a SAC is being operated in compliance with 29 C.F.R. Part 30. The regulations at Part 30 pertain to equal employment opportunity, which is outside the jurisdiction of this office. Although we believe that the opinion provided below provides an accurate assessment of the pertinent regulations, we are forwarding a copy of this memorandum to the Associate Solicitor for Civil Rights for his review.

Specifically, you made reference to the maintenance of records requirements set forth at 29 C.F.R. § 30.8(d) and (e). The regulations at 29 C.F.R. § 30.9(a) mandate that the Department of Labor (Department) conduct regular reviews of apprenticeship programs to determine whether a State program sponsor is complying with the requirements of 29 C.F.R. Part 30. Whenever the Department determines that a sponsor is not operating its program in compliance with 29 C.F.R. Part 30, the Department may initiate action as contemplated in 29 C.F.R. §§ 30.9(d) and 30.13. The regulations also allow the Department to conduct compliance reviews of SACs. (See 29 C.F.R. § 30.15(a) (3)). Should a SAC fail to fulfill its requirements under 29 C.F.R. Part 30 the Department may take steps to withdraw its recognition in accordance with 29 C.F.R. § 30.15(b). The regulations contemplate that the Department will conduct indepth analyses of programmatic operations, including onsite investigations and audits when necessary.

We trust that the advice contained herein helps alleviate any concerns that you might have regarding BAT's authority and responsibility in these matters.

Cc: James Henry, CR

June 5, 1985

MEMORANDUM FOR: FRED E. ROMERO  
Administrator  
Office of Strategic Planning  
and Policy Development

FROM: ROBERTS T. JONES  
Administrator  
Office of Job Training Programs

SUBJECT: Request for Solicitor's Opinion

Concern has been expressed regarding the extent of BAT's authority and responsibility for monitoring and enforcing Title 29 CFR Part 29 and Part 30 requirements of State Apprenticeship Councils (SACs).

Title 29 CFR Part 29.12 provides for the Secretary to grant recognition to SACs upon submission and approval of specified materials. It has come to our attention that subsequent to recognition by the Secretary, changes have been made in SAC rules and procedures without approval of the Secretary and BAT would like an opinion as to whether that is proper.

Title 29 CFR Part 30, Equal Employment Opportunity in Apprenticeship and Training, at 30.8(d) and (e) contains requirements for State apprenticeship agencies to maintain certain specific records as may be required by the Department. At 30.15(a)(3) provision is made for the Department to conduct compliance reviews and complaint investigations to determine whether the State plan or any State apprenticeship program registered with a SAC is being administered or operated in accordance with this part.

BAT does make periodic reviews of SAC operations and a SOL opinion as to the extent of their authority and responsibility in monitoring and enforcement activities would be appreciated.

Attached is a request for opinion from you to the Solicitor.

Attachments

TDT:NAKOLB:irl:06/04/85, Rm. 6314, Ext. 376-2570 cc: Jones/Hague/Mf