

TITLE 6. ECONOMIC SECURITY

CHAPTER 2. DEPARTMENT OF ECONOMIC SECURITY

EMPLOYMENT AND TRAINING SERVICE

ARTICLE 1. GENERAL PROVISIONS

Section

R6-2-101. Definitions and Location of Definitions

R6-2-102. Complaints Repeal

R6-2-102. State Workforce Agency

R6-2-103. Hearings and Appeals Repeal

~~R6-2-104.~~R6-2-103. Policy of Nondiscrimination; Schedule of Services

ARTICLE 2. EMPLOYMENT SERVICES PROVIDED ~~BY THE DEPARTMENT TO~~

JOB SEEKERS

Section

R6-2-201. Definitions and Location of Definitions

~~R6-2-201.~~ R6-2-202. Worker-Job Seeker Services

R6-2-203. Complaint System

R6-2-204. Appeal Rights for Job Seekers

ARTICLE 3. EMPLOYMENT SERVICES PROVIDED TO EMPLOYERS

R6-2-301. Definitions and Location of Definitions

~~R6-2-202.~~R6-2-302. Employer Services - General

R6-2-303. Appeal Rights for Employers

ARTICLE 4. ARIZONA APPRENTICESHIP PROGRAM

R6-2-401. Definitions and Location of Definitions

R6-2-402. Arizona Apprenticeship Program

R6-2-403. Complaints and Appeals Regarding the Arizona Apprenticeship Program

ARTICLE 1. GENERAL PROVISIONS

R6-2-101. Definitions and Location of Definitions

The following definitions apply to this Chapter:

1. ~~“America’s Job Bank” means a nationwide computer database linking more than 1800 local Employment Service offices. The services of America’s Job Bank are available to job seekers and employers via the Internet.~~
2. ~~“Applicant” means a person who has applied to the Department for worker services and who is a United States citizen or a non-citizen who is legally authorized to work in the United States.~~
3. ~~“Apprentice” means a worker who is at least age 16 if a higher minimum age standard is otherwise fixed by law, who is employed to learn a skilled trade under standards of apprenticeship that meet the requirements of 29 CFR 29.5 (Office of the Federal Register,~~

~~National Archives and Records Administration, July 1, 1998), which is incorporated by reference in this rule. This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available for inspection at the Department's Authority Library, 1789 West Jefferson, Phoenix, Arizona, and in the Office of the Secretary of State, Public Service Department, 1700 West Washington, Phoenix, Arizona.~~

- ~~4. "Apprenticeship agreement" means a written agreement between an apprentice and an employer or a committee acting on behalf of the employer, containing the terms and conditions for employment of the apprentice.~~
- ~~5. "Apprenticeship program" means a plan containing all terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices.~~
- ~~6. "Apprenticeship program registration" means the acceptance and centralized recording of an apprenticeship program by the ESA that meets the basic standards and requirements established for apprenticeship programs under federal law.~~
- ~~7. "Apprenticeship program sponsor" means a person, association, committee, or organization operating an apprenticeship program and in whose name the program is registered and approved.~~
- ~~8. "BFOQ" or "bona fide occupational qualification" means a finding by an employer that age, sex, national origin, or religion is a characteristic necessary to an individual's ability to perform the job.~~
- ~~9. "Department" means the Arizona Department of Economic Security.~~

- ~~10. "DOT" or "Dictionary of Occupational Titles" means the reference work published by the United States Employment Service, which contains brief, non-technical definitions of job titles, distinguishing numeric codes, and worker trait data.~~
- ~~11. "Disabled veteran" means:~~
- ~~a. A veteran who is entitled to compensation under laws administered by the United States Secretary of Veterans Affairs, or~~
- ~~b. A person who is discharged or released from active military duty because of a service-connected disability.~~
- ~~12. "Employer job referral services" means Department activities that help an employer obtain workers with the occupational qualifications needed by the employer.~~
- ~~13. "Employment counseling" means formulation of a vocational plan that is consistent with a person's vocational skills and interests, and advice on appropriate measures for implementation of that plan.~~
- ~~14. "Employment test" means a standardized method or device for measuring a person's possession of, interest in, or ability to acquire job skills and knowledge.~~
- ~~15. "ESA" or "Employment Security Administration" means the administrative unit within the Department's Division of Employment and Rehabilitation Services with responsibility for all worker and employer services.~~
- ~~16. "Essential functions of a job" means the fundamental job duties of a particular employment position.~~

- ~~17. "Geographic labor clearance" means Department efforts to facilitate labor mobility by encouraging and guiding migration of workers between geographical areas.~~
- ~~18. "Industrial analysis services" means Department activities to assist employers and labor organizations in determining the cause of worker resource problems in a particular business, and provision of information developed by the USES for resolving such problems.~~
- ~~19. "Job bank" means a computerized list of all currently available jobs and employment opportunities listed with the Department.~~
- ~~20. "Job development" means the process by which the Department obtains a job or interview with an employer for a specific applicant for whom the local ESA office has no suitable job opening on file.~~
- ~~21. "Job order" means a request by an employer for the referral of job seekers made available to job seekers via the Department's Job Bank.~~
- ~~22. "JTPA" means the federal Job Training Partnership Act found at 29 U.S.C. 1501 et seq.~~
- ~~23. "Labor market area" means a geographic area consisting of a central city, or group of cities, and the surrounding territory within a reasonable commuting distance.~~
- ~~24. "Major life activities" means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.~~
- ~~25. "Occupational labor clearance" means Department efforts to facilitate labor mobility by encouraging and guiding migration of workers between occupations and industry types.~~

~~26. “Older worker” means a person age 40 or older who is working or who is unemployed and wishes to work.~~

~~27. “Person with a disability” or “disabled worker” means a person who:~~

~~a. Has a physical or mental impairment that substantially limits 1 or more of that person’s major life activities;~~

~~b. Has a record of such an impairment; or~~

~~e. Is regarded as having such an impairment.~~

~~28. “Physical or mental impairment” means:~~

~~a. Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting 1 or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemie and lymphatic, skin, and endocrine; or~~

~~b. Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.~~

~~29. “Placement” means that a public or private employer has hired an applicant that the Department referred to the employer for a job or interview.~~

~~30. “Qualified worker” means a worker who possesses the skills, knowledge, and abilities to perform the essential functions of a job.~~

~~31. “Reasonable accommodation” means a modification of, or an adjustment to a process, position, or term of employment, that will permit a disabled worker to enjoy the same benefits and privileges of employment as those enjoyed by persons without disabilities.~~

~~32. “Substandard work order” means a work order:~~

~~a. Containing employment terms that violate employment-related laws, or~~

~~b. Offering work at wages or conditions that are substantially inferior to those generally prevailing in the labor market area for the same or similar work.~~

~~33. “Substantially limits” when used in reference to a disability, means:~~

~~a. Unable to perform a major life activity that the average person in the general population can perform; or~~

~~b. Significantly restricted as to the condition, manner, or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity.~~

~~34. “Targeted jobs tax credit” means an income tax credit available to businesses that hire persons whom ESA has certified as meeting certain criteria described in 26 U.S.C. 51 (Office of the Federal Register, National Archives and Records Administration, August 10, 1993), which is incorporated by reference in this rule. This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available for inspection at the Department’s Authority Library, 1789 West Jefferson,~~

~~Phoenix, Arizona, and in the Office of the Secretary of State, Public Service Department, 1700 West Washington, Phoenix, Arizona.~~

~~35. "USES" means the United States Employment Service, which is the unit in the United States Department of Labor's Employment and Training Administration designed to promote a national system of public job service offices.~~

~~36. "Veteran" means a person who served in the active military service, and who was discharged or released from service under conditions other than dishonorable.~~

~~37. "Vocational plan" means a plan developed jointly by an ESA counselor or counselor-trainee and an applicant that describes:~~

~~a. The applicant's short-range and long-range occupational goals, and~~

~~b. The actions to be taken to implement the plan.~~

~~38. "Worker" means a U.S. citizen or a non-citizen who is legally authorized to work in the United States and who is employed or who is unemployed and wishes to work.~~

~~39. "Worker services" means the functions the Department performs for the benefit of applicants and workers, including employment counseling, employment testing, preparation of a vocational plan, and referral for employment opportunity.~~

~~40. "Worker job referral services" means Department activities to help a worker promptly obtain a job for which the worker is occupationally qualified.~~

~~41. "Youth worker" means a worker younger than age 22.~~

A. Location of definitions. Definitions applicable to this Chapter are found in the following:

<u>Definition</u>	<u>Section or Citation</u>
<u>"Apparent Violation"</u>	<u>20 CFR 651.10</u>
<u>"Appeal"</u>	<u>R6-2-101(B)</u>
<u>"Arizona Apprenticeship Program"</u>	<u>R6-2-401(B)</u>
<u>"ASA"</u>	<u>R6-2-101(B)</u>
<u>"Authorized Representative"</u>	<u>R6-2-101(B)</u>
<u>"Bona Fide Occupational Qualification"</u>	<u>20 CFR 651.10</u>
<u>"Business Day"</u>	<u>R6-2-101(B)</u>
<u>"Complainant"</u>	<u>20 CFR 651.10</u>
<u>"Complaint"</u>	<u>20 CFR 651.10</u>
<u>"Complaint System"</u>	<u>R6-2-101(B)</u>
<u>"Complaint System Representative"</u>	<u>20 CFR 651.10</u>
<u>"Department"</u>	<u>A.R.S. § 41-1951</u>
<u>"Director"</u>	<u>A.R.S. § 41-1951</u>
<u>"Disabled Veteran"</u>	<u>20 CFR 1001.101</u>
<u>"Eligible Person"</u>	<u>20 CFR 1001.101</u>

<u>"Employer"</u>	<u>20 CFR 651.10</u>
<u>"Employment Service"</u>	<u>R6-2-101(B)</u>
<u>"Essential Job Functions"</u>	<u>R6-2-101(B)</u>
<u>"Hearing"</u>	<u>R6-2-101(B)</u>
<u>"Hearing Officer"</u>	<u>A.R.S. § 23-609.01</u>
<u>"Individual With a Barrier to Employment"</u>	<u>29 U.S.C. 3102</u>
<u>"Job Order"</u>	<u>20 CFR 651.10</u>
<u>"Job Seeker"</u>	<u>R6-2-101(B)</u>
<u>"Party"</u>	<u>R6-2-101(B)</u>
<u>"Reasonable Accommodation"</u>	<u>29 CFR 38.4</u>
<u>"Special Disabled Veteran"</u>	<u>20 CFR 1001.101</u>
<u>"State Monitor Advocate"</u>	<u>R6-2-101(B)</u>
<u>"State Workforce Agency"</u>	<u>20 CFR 651.10</u>
<u>"Veteran"</u>	<u>38 U.S.C. 101</u>
<u>"Veteran of the Vietnam Era"</u>	<u>20 CFR 1001.101</u>
<u>"Wagner-Peyser Act"</u>	<u>R6-2-101(B)</u>

B. The following definitions apply in this Chapter:

1. “Appeal” means a request for formal review and resolution of an adverse action.
2. “ASA” means the Appellate Services Administration within the Department responsible for administrative Appeal proceedings.
3. "Authorized Representative" means an individual designated by a Complainant or Appellant to act on behalf of the Complainant or Appellant in matters regarding a Complaint or Appeal filed by the Complainant or Appellant.
4. “Business Day” means Monday through Friday, excluding holidays listed in A.R.S. § 1-301.
5. “Complaint System” means the uniform process the Department follows to accept, investigate, resolve, and refer Complaints and Apparent Violations of Employment Service statutes, regulations, and rules.
6. "Employment Service" means the same as the Wagner-Peyser Act Employment Service in 20 CFR 651.10.
7. “Essential Job Functions” means the fundamental duties of a particular employment position.
8. “Hearing” means a formal administrative proceeding to hear an Appeal conducted by a Hearing Officer.
9. “Job Seeker” means an individual who is legally authorized to work in the United States and who wishes or is required to obtain employment.

10. "Party" means any individual or entity who may be directly affected by the outcome of a Complaint or Appeal.

11. "State Monitor Advocate" means the Department employee responsible for overseeing the Employment Service Complaint System.

12. "Wagner-Peyser Act" means the federal law established in 29 U.S.C. 4B and implemented by 20 CFR 651 through 658 pertaining to a national employment system.

R6-2-102. Complaints State Workforce Agency

~~The Department shall process all complaints related to the provision of employment services under 20 CFR 658.400 through 658.416 Office of the Federal Register, National Archives and Records Administration, April 1, 1998, which are incorporated by reference in this rule. This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available for inspection at the Department's Authority Library, 1789 West Jefferson, Phoenix, Arizona, and in the Office of the Secretary of State, Public Service Department, 1700 West Washington, Phoenix, Arizona.~~

A. The Department is the State Workforce Agency under the Wagner-Peyser Act.

B. The Department shall establish and operate a Complaint System in accordance with 20 CFR 658.410 through 20 CFR 658.418.

C. If the Department receives a written request for a Hearing from a Complainant or the Complainant's Authorized Representative within 20 Business Days from the date of a written determination by the Department, the Complaint System Representative shall refer the Complaint to ASA, at which time the Complaint is considered an Appeal.

~~R6-2-103. Hearings and Appeals Repeal~~

~~The Department shall conduct any hearing or appeal to which an employer, applicant, or worker is entitled under applicable state or federal employment services laws, and 20 CFR 658.417 and 658.418 (Office of the Federal Register, National Archives and Records Administration, April 1, 1998), which are incorporated by reference in this rule. This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available for inspection at the Department's Authority Library, 1789 West Jefferson, Phoenix, Arizona, and in the Office of the Secretary of State, Public Service Department, 1700 West Washington, Phoenix, Arizona.~~

~~R6-2-104. R6-2-103. Policy of Nondiscrimination; Schedule of Services~~

~~In the administration of the state employment office, the Department shall:~~

- ~~A. Not discriminate against any applicant or employer because of age, race, sex, color, religious creed, national origin, disability or political affiliation or belief unless a BFOQ exists;~~
- ~~B. Actively promote employment opportunities for disadvantaged workers and encourage employers to hire workers on the basis of objective qualifications; and~~
- ~~C. Use the following priority schedule to select and refer qualified applicants for work:~~
 - ~~1. Disabled veteran applicants;~~
 - ~~2. Other veteran applicants;~~
 - ~~3. Other applicants.~~

The Department shall:

- A. Not discriminate against any Job Seeker or Employer in accordance with federal and state laws, unless a Bona Fide Occupational Qualification exists in accordance with 29 CFR 1604 through 1606;
- B. Promote employment opportunities for Individuals With a Barrier to Employment and encourage Employers to hire Job Seekers on the basis of objective qualifications; and
- C. Select and refer Job Seekers for work according to the following order of priority:
 - 1. Special Disabled Veteran Job Seekers;
 - 2. Veteran of the Vietnam Era Job Seekers;
 - 3. Disabled Veterans other than Special Disabled Veteran Job Seekers;
 - 4. All other Veterans and Eligible Persons; and
 - 5. Other Job Seekers.

ARTICLE 2. EMPLOYMENT SERVICES PROVIDED TO JOB SEEKERS

R6-2-201. Definitions and Location of Definitions

- A. Location of Definitions. In addition to the definitions in R6-2-101, the following definitions apply to Article 2:

"Appeal" R6-2-101(B)

"Arizona Apprenticeship Program" R6-2-401(B)

<u>"Complainant"</u>	<u>20 CFR 651.10</u>
<u>"Complaint"</u>	<u>20 CFR 651.10</u>
<u>"Complaint System"</u>	<u>R6-2-101(B)</u>
<u>"Department"</u>	<u>A.R.S. § 41-1951</u>
<u>"Disability"</u>	<u>29 CFR 38.4</u>
<u>"Employer"</u>	<u>20 CFR 651.10</u>
<u>"Employment Service"</u>	<u>R6-2-101(B)</u>
<u>"Essential Job Functions"</u>	<u>R6-2-101(B)</u>
<u>"Hearing"</u>	<u>R6-2-101(B)</u>
<u>"Hearing Officer"</u>	<u>A.R.S. § 23-609.01</u>
<u>"Job Order"</u>	<u>20 CFR 651.10</u>
<u>"Job Seeker"</u>	<u>R6-2-101(B)</u>
<u>"Labor Exchange System"</u>	<u>R6-2-201(B)</u>
<u>"Local Workforce Development Board or "LWDB"</u>	<u>29 U.S.C. 3122</u>
<u>"Reasonable Accommodation"</u>	<u>29 CFR 38.4</u>
<u>"State Monitor Advocate"</u>	<u>R6-2-101(B)</u>
<u>"WIOA"</u>	<u>R6-2-201(B)</u>

B. The following definitions apply in this Article:

1. "Labor Exchange System" means a Department web-based job-matching and labor market information database operated in accordance with 20 CFR 652.3.
2. "WIOA" means the Workforce Innovation and Opportunity Act of 2014 (P.L. 113-128 and 29 U.S.C. 3101-3361).

~~R6-2-201.~~R6-2-202. ~~Worker-Job Seeker Services~~

~~A.~~ ~~As permitted by available resources, the Department shall provide services to a worker who is a United States citizen or a non-citizen authorized to work in the United States. The services include but are not limited to the following:~~

- ~~1. Employment counseling;~~
- ~~2. Aptitude testing;~~
- ~~3. Apprenticeship training; and~~
- ~~4. Job referral services.~~

~~B.~~ ~~A worker applying for services shall file an application with the Department. The application shall include the worker's:~~

- ~~1. Name, address, telephone number, social security number, and date of birth;~~
- ~~2. Prior work experience, including information on salary, job duties, and any past military service;~~

- ~~3. Educational background, including technical or other vocational training the worker has completed;~~
- ~~4. Career goals, hobbies, and volunteer work;~~
- ~~5. Availability for work, including a willingness to travel or relocate, desire for full or part-time employment, and desired working hours; and~~
- ~~6. Special skills or proficiencies, including a language other than English or the use of equipment.~~

~~C. The Department shall obtain information about a worker's disability as is necessary to provide the worker with appropriate services. This information may include asking the worker whether the worker can perform the essential functions of a particular job, with or without reasonable accommodation.~~

~~D. When the Department conducts employment testing, the Department shall:~~

- ~~1. Use only standardized tests and techniques approved by the United States Employment Service; and~~
- ~~2. Not release the results of the tests without the written consent of the tested worker.~~

A. The Department shall provide a Job Seeker with:

1. Information about Arizona Apprenticeship Programs; and
2. Other information and employment resources, including workshops, assistance with creating a resume, preparing for job interviews, job searching, career assessments, and goal setting, depending on available resources.

B. A Job Seeker requesting services from the Department shall complete a registration in the Labor Exchange System, which shall include the Job Seeker's name and address, phone number and email address, if available, and date of birth.

C. Additional Job Seeker registration information in the Labor Exchange System may include the Job Seeker's:

1. Prior work experience, including information on salary, job duties, and past military service;
2. Education, including technical or other vocational training that the Job Seeker has completed;
3. Career goals;
4. Availability for work, including a willingness to travel or relocate, desire for full-time or part-time employment, and desired working hours; or
5. Special skills or proficiencies, including fluency in a language other than English, or the use of equipment.

D. The Department shall obtain information about a Job Seeker's Disability only as necessary to provide the Job Seeker with services. Necessary information about a Job Seeker's Disability includes whether the Job Seeker is able to perform the Essential Job Functions of a particular job, with or without Reasonable Accommodation.

R6-2-203. Complaint System

A. A Job Seeker who believes there has been a violation of Employment Service or employment-related law may file a Complaint through the Complaint System within two years from the date of the alleged violation. The Complaint System Representative shall:

1. Investigate an Employment Service Complaint in accordance with 20 CFR 658.411(d)(2);
or

2. Refer a non-Employment Service related Complaint to the appropriate enforcement agency for resolution.

B. If the Complaint System Representative is unable to resolve a Complaint to the satisfaction of the Complainant, the Complaint System Representative shall submit the Complaint to the State Monitor Advocate for further action.

C. The State Monitor Advocate shall provide a written decision of a Complaint alleging a violation of Employment Service laws or regulations based on the investigation in compliance with 20 CFR 658.411(d).

D. Complaints Alleging Discrimination

1. A Complainant who alleges a violation of federal and state nondiscrimination laws may file a Complaint directly with the Department's Office of Equal Opportunity.

2. Upon receipt of the Complaint alleging discrimination, the Department shall follow the requirements set forth in 29 CFR 38(D).

3. The Department shall immediately advise a Complainant who has alleged a violation of the nondiscrimination provisions of WIOA Section 188 or 29 CFR 38 of the right to file a

Complaint directly with the U.S. Department of Labor, Office of Civil Rights, and provide the Complainant with instructions on how to do so.

R6-2-204. Appeal Rights for Job Seekers

A. A Complainant may file an Appeal with the Department within 20 Business Days of the following:

1. A decision is not made by the State Monitor Advocate and provided to the Complainant within 20 Business Days of the date the State Monitor Advocate received the Complaint in accordance with 20 CFR 658.411(d)(5); or
2. The State Monitor Advocate provided a written determination, but the Complainant is unsatisfied with the decision.

B. Upon receipt of an Appeal, the Department shall provide a written notification as required by A.R.S. § 41-1061 to all Parties.

1. The State Monitor Advocate shall provide copies of all documents used in the determination of the Complaint to all Parties.
2. A Hearing shall be conducted by ASA in accordance with 20 CFR 658.417.
3. The Hearing Officer shall review the submitted documents, conduct the Appeals Hearing, and issue a written decision in accordance with 20 CFR 658.418(b).
4. If the Department issues an adverse decision to the Party who filed the Appeal, the Department shall advise the Party of the right to further Appeal as prescribed in R6-2-204(C).

C. A Party who disagrees with a Hearing Officer's decision may file a written Appeal with the Regional Administrator in accordance with 20 CFR 658.418(c) within 20 Business Days of the Hearing Officer's decision.

ARTICLE 3. EMPLOYMENT SERVICES PROVIDED TO EMPLOYERS

R6-2-301. Definitions and Location of Definitions

A. Location of Definitions. In addition to the definitions in R6-2-101, the following definitions apply to Article 3:

<u>"Appeal"</u>	<u>R6-2-101(B)</u>
<u>"Bona Fide Occupational Qualification"</u>	<u>20 CFR 651.10</u>
<u>"Business Day"</u>	<u>R6-2-101(B)</u>
<u>"Department"</u>	<u>A.R.S. § 41-1951</u>
<u>"Employer"</u>	<u>20 CFR 651.10</u>
<u>"Employment Service"</u>	<u>R6-2-101(B)</u>
<u>"Essential Job Functions"</u>	<u>R6-2-101(B)</u>
<u>"Hearing"</u>	<u>R6-2-101(B)</u>
<u>"Hearing Officer"</u>	<u>A.R.S. § 23-609.01</u>
<u>"Job Order"</u>	<u>20 CFR 651.10</u>
<u>"Job Seeker"</u>	<u>R6-2-101(B)</u>

<u>"Labor Exchange System"</u>	<u>R6-2-201(B)</u>
<u>"Reasonable Accommodation"</u>	<u>29 CFR 38.4</u>
<u>"Regional Administrator"</u>	<u>20 CFR 651.10</u>
<u>"State Monitor Advocate"</u>	<u>R6-2-101(B)</u>

~~R6-2-202~~R6-2-302. Employer Services - General

~~A. The Department shall require the following information from an employer who places a job order:~~

- ~~1. A description of the essential functions of the job in sufficient detail to permit the Department to ascertain the qualifications a worker needs to satisfactorily perform the work, with or without reasonable accommodation;~~
- ~~2. An employer's hiring requirements, including the type of license or certification needed, or the type of equipment or tools the worker must supply;~~
- ~~3. The terms and conditions of work, including hours, salary, benefits, promotional opportunities, and travel requirements;~~
- ~~4. The job location and instructions for arranging a job interview.~~

~~B. The Department shall refer workers to the employer who most closely match the requirements in the job order. If qualified workers are not available from the Department's files and, if resources are available, the Department shall recruit qualified workers to fill the employer's order.~~

~~C. The Department shall not accept a job order from an employer for processing if:~~

- ~~1. The employer's requirements are discriminatory based on age, sex, national origin, or religion, unless the discriminatory characteristic is a bona fide occupational qualification necessary to perform the job. An example of a bona fide occupational qualification that is not discriminatory is the requirement for a female worker in a female intimate apparel retail outlet.~~
- ~~2. The terms and conditions of work are substandard under A.R.S. § 23-776(C)(2).~~
- ~~3. The position is vacant due directly to a strike, lockout, or other labor dispute or conflict between employers and workers, including wage disputes and collective bargaining efforts.~~
- ~~4. A worker is required to pay a fee for the job.~~

~~D. If an employer refuses to modify a job order deemed unacceptable by subsection (C), the Department shall notify the employer in writing of discontinuance of services. The notification shall include the employer's right of appeal.~~

A. An Employer requesting services from the Department shall complete a registration in the Labor Exchange System, including providing, at a minimum, the Employer's:

1. Company name, address, phone number, and email address; and
2. Federal Employer Identification Number.

B. When placing a Job Order with the Department, an Employer shall provide:

1. The Essential Job Functions in sufficient detail to permit the Department to determine the qualifications a Job Seeker needs to perform the work, with or without Reasonable Accommodation;
2. The Employer's hiring requirements, including any license or certification required, or equipment or tools the worker shall supply;
3. The terms and conditions of work, which may include hours, salary, benefits, advancement opportunities, or travel requirements;
4. The job location; and
5. Instructions for how the Job Seeker shall apply for the job or how to obtain an interview with the Employer.

C. The Department shall not accept a Job Order from an Employer if:

1. The Employer's requirements do not comply with federal and state nondiscrimination laws unless the Job Order requires a Bona Fide Occupational Qualification necessary to perform the job;
2. The wages, hours, or other working conditions offered are of a considerably lesser value or benefit to potential Job Seekers than those prevailing for similar work in the locality;
3. The position is vacant due directly to a strike, lockout, or other labor dispute or conflict between the Employer and workers; or
4. A Job Seeker is required to pay a fee to the Employer to secure or retain the job.

- D. The Department shall notify the Employer in writing in accordance with 20 CFR 658.502, explain why the Job Order is unacceptable and provide the Employer an opportunity to revise the Job Order.
- E. If an Employer refuses to revise the unacceptable Job Order within 20 Business Days of the date the Department notified the Employer as described in R6-2-303(C) or fails to provide evidence in accordance with 20 CFR 658.502(a), the State Monitor Advocate shall initiate discontinuation of services to the Employer in accordance with 20 CFR 658.501.
- F. The Department shall initiate discontinuation of services to an Employer when any of the conditions described in 20 CFR 658.501(a) exist.

R6-2-303. Appeal Rights for Employers

- A. An Employer may request a Hearing when discontinuation of services is initiated.
- B. A Hearing shall be conducted by ASA in accordance with 20 CFR 658.417.
- C. A Hearing Officer shall conduct a Hearing and provide a written decision to the Employer in accordance with 20 CFR 658.418.
- D. An Employer who disagrees with a Hearing Officer's decision may file a written Appeal with the Regional Administrator in accordance with 20 CFR 658.418(c) within 20 Business Days of the Hearing Officer's decision.

ARTICLE 4. ARIZONA APPRENTICESHIP PROGRAM

R6-2-401. Definitions and Location of Definitions

A. Location of Definitions. In addition to the definitions in R6-2-101, the following definitions apply to Article 4:

<u>"Appeal"</u>	<u>R6-2-101(B)</u>
<u>"Apprentice"</u>	<u>29 CFR 29.2</u>
<u>"Apprenticeship Agreement"</u>	<u>29 CFR 29.2</u>
<u>"Apprenticeship Committee"</u>	<u>29 CFR 29.2</u>
<u>"Arizona Apprenticeship Advisory Committee" or "AAAC"</u>	<u>R6-2-401(B)</u>
<u>"AAAC Hearing"</u>	<u>R6-2-402(B)</u>
<u>"Arizona Apprenticeship Office"</u>	<u>R6-2-401(B)</u>
<u>"Arizona Apprenticeship Office Director"</u>	<u>R6-2-401(B)</u>
<u>"Arizona Apprenticeship Office Staff"</u>	<u>R6-2-401(B)</u>
<u>"Arizona Apprenticeship Program"</u>	<u>R6-2-401(B)</u>
<u>"Certification"</u>	<u>29 CFR 29.2</u>
<u>"Collective Bargaining Agreement"</u>	<u>R6-2-401(B)</u>
<u>"Complaint"</u>	<u>20 CFR 651.10</u>
<u>"Department"</u>	<u>A.R.S. § 41-1951</u>
<u>"Employer"</u>	<u>20 CFR 651.10</u>
<u>"Employment Service"</u>	<u>R6-2-101(B)</u>

<u>"Informal Resolution"</u>	<u>R6-2-401(B)</u>
<u>"Journeyworker"</u>	<u>29 CFR 29.2</u>
<u>"On-the-Job Training"</u>	<u>29 U.S.C. 3102</u>
<u>"Pre-apprenticeship Program"</u>	<u>R6-2-401(B)</u>
<u>"Provisional Registration"</u>	<u>29 CFR 29.2</u>
<u>"Quality Assurance Assessment"</u>	<u>29 CFR 29.2</u>
<u>"Registered Apprenticeship Program"</u>	<u>R6-2-401(B)</u>
<u>"Registration Agency"</u>	<u>29 CFR 29.2</u>
<u>"Registration of an Apprenticeship Program"</u>	<u>29 CFR 29.2</u>
<u>"Related Instruction"</u>	<u>29 CFR 29.2</u>
<u>"Sponsor"</u>	<u>29 CFR 29.2</u>
<u>"State Apprenticeship Agency"</u>	<u>29 CFR 29.2</u>
<u>"Workforce Arizona Council"</u>	<u>R6-2-401(B)</u>

B. The following definitions apply in this Article:

1. "Arizona Apprenticeship Advisory Committee" or "AAAC" means the same as the State Apprenticeship Council in 29 CFR 29.2.
2. "AAAC Hearing" means a proceeding conducted by the AAAC.

3. "Arizona Apprenticeship Office" means the unit in the Department that has responsibility and accountability for the apprenticeship functions within Arizona and the authority to register and oversee Arizona Apprenticeship Programs and Apprenticeship Agreements for federal purposes authorized under 29 CFR 29 and 29 CFR 30.
4. "Arizona Apprenticeship Office Director" means the Department employee who manages the Arizona Apprenticeship Office.
5. "Arizona Apprenticeship Program" means a complement of a structured education and work based training approved and recognized by the Arizona Apprenticeship Office which includes Pre-apprenticeship and Registered Apprenticeship Programs.
6. "Collective Bargaining Agreement" means a written agreement negotiated between an employer (or a group of employers) and the bargaining representative(s) of a labor union to which employees of the employer(s) belong that addresses such topics as wages, hours, workplace health and safety, employee benefits, and other terms and conditions of employment.
6. "Informal Resolution" means a voluntary process for resolving a Complaint without an AAAC Hearing, that includes Parties involved in a Complaint.
7. "Pre-apprenticeship Program" means a structured education and work based training program for individuals who do not currently possess the minimum qualifications for admission into a Registered Apprenticeship Program or registered career technical education apprenticeship with the foundational knowledge and skills needed to gain acceptance into, and succeed in, a Registered Apprenticeship Program, and provides participants with a hands-on introduction to the competencies and techniques used in one

or more occupations that are suitable for Registered Apprenticeship Program training, with access to educational and career counseling and other supportive services, and may include opportunities to earn industry-recognized credentials.

8. "Registered Apprenticeship Program" means a structured education registered by the Arizona Apprenticeship Office that comprises a paid, supervised On-the-Job Training component and a Related Instruction component in accordance with 29 CFR 29.4 which discusses the criterion for an apprenticeable occupation and is available to anyone who is at least 16-years old.

9. "Workforce Arizona Council" means the State Workforce Development Board, as described in 20 CFR 679.110.

R6-2-402. Arizona Apprenticeship Program

A. The Department is designated as the Registration Agency for apprenticeship functions, in accordance with A.R.S. § 41-1955(6), and conforms with the requirements of 29 CFR 29 and 29 CFR 30. Types of apprenticeships may include a Pre-apprenticeship Program and a Registered Apprenticeship Program

B. Arizona Apprenticeship Advisory Committee

1. The AAAC shall consist of members appointed by the Governor's Executive Order in accordance with A.R.S. § 41-5401.

2. The Workforce Arizona Council shall designate the AAAC chairperson from the AAAC's voting members to carry out the responsibilities described in R6-2-403(B).

3. Each member of the AAAC shall receive training from the Arizona Apprenticeship Office on 29 CFR 29, 29 CFR 30 and this Article, which governs the Arizona Apprenticeship Program.
4. The Department shall ensure the AAAC provides advice and guidance to the Department regarding Arizona Apprenticeship Programs.

C. Sponsor.

1. A person or organization who wants to register an Arizona Apprenticeship Program with the Arizona Apprenticeship Office shall contact the Arizona Apprenticeship Office to register as a Sponsor. Contact information for the Arizona Apprenticeship Office shall be made available on the Department's website.
2. A complete Sponsor registration requires a person or organization to provide the following:
 - a. Federal Employer Identification Number;
 - b. The occupation or industry in which the person or organization is seeking to provide a Registered Apprenticeship Program on the approved list of occupations or trades on the Arizona Apprenticeship Office website and meets the criteria under 29 CFR 29.4;
and
 - c. The contact information of the recognized subject matter expert for the Registered Apprenticeship Program at the location in which the Registered Apprenticeship Program will be provided.

3. A person or organization shall not be considered a Sponsor until all required information and documentation is approved by the Arizona Apprenticeship Office.
4. After successfully registering with the Arizona Apprenticeship Office as a Sponsor, the Sponsor shall contact the Arizona Apprenticeship Office to request Registration of an Apprenticeship Program.
5. Registration of an Apprenticeship Program shall not be considered complete until the Sponsor provides all required information and documentation to the Arizona Apprenticeship Office.

D. Registration of an Apprenticeship Program.

1. To complete the Registration of an Apprenticeship Program, the Sponsor shall provide standards of the Arizona Apprenticeship Program in writing in accordance with 29 CFR 29.5.
2. The Arizona Apprenticeship Office shall not approve an Arizona Apprenticeship Program in which standards provided in the Arizona Apprenticeship Program's written plan contain language that governs the wages, working conditions, employment, or fringe benefits for a Journeyworker.
3. Any revisions to an Arizona Apprenticeship Program's written plan submitted under R6-2-402(D)(2) shall be submitted to the Arizona Apprenticeship Office for review and approval.
4. Arizona Apprenticeship Office Staff shall register the Sponsor's Arizona Apprenticeship Program and enter the Arizona Apprenticeship Program into a federal online portal.

E. Apprenticeship Committee.

1. A Sponsor may establish an Apprenticeship Committee that consists of an equal number of Employer and employee representatives appointed by the organization in the trade or group of trades affected. If a Sponsor elects to establish an Apprenticeship Committee, the Apprenticeship Committee shall:
 - a. Receive applications, interview, and select or decline to select an individual to participate in an Arizona Apprenticeship Program based on the individual's qualifications and in accordance with 29 CFR 30.10, or may designate this function to a third party;
 - b. Ensure an Apprentice selected to participate in an Arizona Apprenticeship Program completes an Apprenticeship Agreement;
 - c. Ensure all Apprenticeship Agreements as described in R6-2-402(G) are registered with the Arizona Apprenticeship Office;
 - d. Ensure an Apprentice selected to participate in an Arizona Apprenticeship Program receives work experience and instruction as provided in the standards of the written plan of the Arizona Apprenticeship Program under R6-2-402(D)(4); and
 - e. Maintain records in accordance with 29 CFR 30.18(b) of each Apprentice who participates in an Arizona Apprenticeship Program, including the progress of job performance and Related Instruction in the Arizona Apprenticeship Program.
2. If a Sponsor does not appoint an Apprenticeship Committee, the Sponsor shall be responsible for the duties in R6-2-402(E)(1)(a) through (e).

F. Provisional Registration.

1. An Arizona Apprenticeship Program that is recommended for approval by the Arizona Apprenticeship Office shall be approved for Provisional Registration in accordance with 29 CFR 29.3(g) and (h) for one year and the Sponsor shall receive a Certificate of registration when:
 - a. The Arizona Apprenticeship Office receives all required information and documentation to complete a Registration of an Apprenticeship Program; and
 - b. The standards of the Arizona Apprenticeship Program provided in the written plan are for an approved trade or occupation and meet or exceed standards set forth in 29 CFR 29 and 29 CFR 30.
2. The Arizona Apprenticeship Office shall review each Arizona Apprenticeship Program and shall provide technical assistance during the Provisional Registration, as needed.
3. Upon satisfactory completion of the Provisional Registration, the Arizona Apprenticeship Office shall permanently approve the Registration of an Apprenticeship Program. The Arizona Apprenticeship Office shall notify the AAAC of the Registration of an Apprenticeship Program's permanent approval status.

G. Apprenticeship Agreement.

1. An Apprenticeship Agreement between a Sponsor and an Apprentice shall include information in accordance with 29 CFR 29.7.
2. The Arizona Apprenticeship Office shall review and approve an Apprenticeship Agreement that conforms to 29 CFR 29.7. If an Apprenticeship Agreement does not conform to 29 CFR

29.7, the Arizona Apprenticeship Office shall assist the Sponsor and Apprentice until the Arizona Apprenticeship Office Director is able to approve the Apprenticeship Agreement.

3. An Apprenticeship Agreement may only be modified when factors related to On-the-Job Training or Related Instruction changes in the standards of the Arizona Apprenticeship Program identified in the written plan under R6-2-402(D)(1).

H. Periodic Reviews of an Arizona Apprenticeship Program.

1. Arizona Apprenticeship Office staff shall verify that the Arizona Apprenticeship Program is conducted in accordance with 29 CFR 30.
2. The Arizona Apprenticeship Office shall conduct a periodic Quality Assurance Assessment of each Arizona Apprenticeship Program to determine whether the Arizona Apprenticeship Program complies with the written plan submitted under R6-2-402(D)(4) and applicable federal and state laws and regulations.
3. The Arizona Apprenticeship Office shall provide a report to the Apprenticeship Committee that contains information found during the Quality Assurance Assessment for review and resolution.
 - a. The Arizona Apprenticeship Office shall recommend the continuance of an Arizona Apprenticeship Program that successfully meets the standards of the Arizona Apprenticeship Program identified in the written plan.
 - b. The Arizona Apprenticeship Office shall recommend an Arizona Apprenticeship Program be deregistered in accordance with 29 CFR 29.8.

R6-2-403. Complaints and Appeals Regarding the Arizona Apprenticeship Program

A. Complaints.

1. Each Sponsor or Apprenticeship Committee shall ensure that Complaint procedures are provided to the Arizona Apprenticeship Office regarding noncompliance with or any matter concerning:
 - a. The standards of the Arizona Apprenticeship Program identified in the written plan under R6-2-402(D)(4);
 - b. An Apprenticeship Agreement; or
 - c. Federal or state laws or regulations, or a Sponsor's or Apprenticeship Committee's administrative policies.
2. An Apprentice who has a Complaint about an Arizona Apprenticeship Program not covered by a Collective Bargaining Agreement shall seek Informal Resolution with the Sponsor or Apprenticeship Committee in accordance with the Sponsor's or Apprenticeship Committee's Complaint procedures.
3. An Apprentice who has a Complaint about an Arizona Apprenticeship Program that is covered by a Collective Bargaining Agreement shall comply with the standards in the Collective Bargaining Agreement
4. If a Complaint is unable to be resolved through Informal Resolution or through a Collective Bargaining Agreement, an Apprentice or an Apprentice's Authorized Representative may submit a written Complaint to the Arizona Apprenticeship Office within 60 calendar days of the final decision provided during Informal Resolution or Collective Bargaining Agreement in accordance with 29 CFR 29.12.

5. The Arizona Apprenticeship Office Director shall review each Complaint and any supporting documentation and may propose a resolution to the Complainant to resolve the Complaint.
 - a. If the Arizona Apprenticeship Office Director determines that the Complaint is unable to be resolved and warrants further investigation, the Apprenticeship Office Director shall schedule a complete review of the Arizona Apprenticeship Program to determine if the Arizona Apprenticeship Program is in compliance with 29 CFR 29 and 29 CFR 30, including determining if an Apprentice is receiving:
 - i. On-the-Job Training in all phases of the apprenticeable occupation;
 - ii. Scheduled wage increases consistent with the standards of the Arizona Apprenticeship Program identified in the written plan under R6-2-402(D)(4);
 - iii. Related Instruction through the curriculum and delivery methods consistent with the standards of the Arizona Apprenticeship Program identified in the written plan under R6-2-402(D)(4); and
 - iv. Equal opportunity in all aspects of the Arizona Apprenticeship Program, in accordance with 29 CFR 29 and 29 CFR 30.
 - b. A summary of the facts based on the Complaint, supporting documentation, and a complete review of the matter submitted shall be provided to an administrative sub-committee appointed by the AAAC chairperson.
 - c. The sub-committee shall determine if the Complaint warrants an AAAC Hearing by the AAAC within 30 calendar days of receiving the Complaint. The AAAC shall

notify each Party in writing in accordance with 29 CFR 30.14(c)(v) regarding whether or not a Complaint warrants an AAAC Hearing and shall include Appeal rights in the notifications.

6. A Complaint shall be referred to the AAAC for an AAAC Hearing as described in R6-2-403(B)(2), if:

- a. The Complainant is not satisfied with an Informal Resolution; or
- b. The sub-committee refers a Complaint to the AAAC after a complete review.

B. AAAC Hearing.

1. The AAAC shall schedule an AAAC Hearing for a Complaint described in R6-2-403(A)(5).

2. The AAAC shall provide a written notice, which may be provided via United States Postal Service, or its successor, or email, to each Party involved in the Complaint that includes:

- a. The date, time, and location, whether virtual or in-person, of the AAAC Hearing;
- b. A statement of the issues involved in the Complaint; and
- c. A general statement of the AAAC Hearing procedures.

3. An AAAC Hearing shall be conducted by the AAAC chairperson.

4. The AAAC chairperson shall provide an opportunity for each Party to present evidence to be considered in the AAAC chairperson's decision regarding the Complaint.

5. If the Complainant does not appear at the AAAC Hearing, the AAAC shall reschedule the AAAC Hearing. If the Complainant fails to appear at the rescheduled AAAC Hearing, the AAAC shall dismiss the Complaint without prejudice.
6. The AAAC chairperson shall provide a decision to the Parties in writing within 30 calendar days of the date of the AAAC Hearing.
7. A Party who is unsatisfied with the decision of an AAAC Hearing may file an Appeal with the United States Department of Labor, Office of Apprenticeship, within 30 calendar days of the date a Party receives the decision of the AAAC.

C. Discrimination Complaints.

1. An Apprentice or applicant for an Arizona Apprenticeship Program who alleges a violation of federal and state non-discrimination laws regarding selection or participation in an Arizona Apprenticeship Program may submit a written Complaint with the Department's Office of Equal Opportunity within 300 calendar days of the alleged occurrence that includes:
 - a. The Complainant's name, address, and telephone number or other contact information;
 - b. The person or entity the Complainant alleges is responsible for the alleged discrimination;
 - c. A description of the event or events the Complainant alleges were discriminatory, including the date of the alleged discrimination and the reason the Complainant believes the action was discriminatory; and

- d. The Complainant's or Complainant's Authorized Representative's signature.
2. The Office of Equal Opportunity shall provide a written notice to the Complainant and the Arizona Apprenticeship Office upon completion of an investigation of a discrimination Complaint within 30 calendar days of receipt of the Complaint, in accordance with 29 CFR 30.14(c).
3. If the Office of Equal Opportunity determines a Sponsor is not in compliance with 29 CFR 30, the Arizona Apprenticeship Office shall initiate enforcement actions in accordance with 29 CFR 30.15.

D. Deregistration and Reinstatement

1. The Sponsor or Arizona Apprenticeship Office may deregister an Arizona Apprenticeship Program in accordance with 29 CFR 29.8.
2. A Sponsor may file an Appeal in response to the Arizona Apprenticeship Office's decision to deregister an Arizona Apprenticeship Program with the U.S. Department of Labor in accordance with 29 CFR 29.10.
3. The Arizona Apprenticeship Office may reinstate an Arizona Apprenticeship Program that has been deregistered in accordance with 29 CFR 29.9.