**WorkforceGPS**

**Transcript of Webinar**

**Apprenticeship EEO Regulations:
Understanding Sponsors’ Obligations**

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*Noble Transcription Services*

*Murrieta, CA*

LAURA CASERTANO: So again, we want to welcome you to today's apprenticeship EEO regulations, understanding sponsors' obligations webinar, and if you haven't already done so, please introduce yourself in that chat window.

Now, without further ado, I'd like to hand things over to our moderator today, Daniel Villao. He's the deputy administrator for the U.S. Department of Labor, Employment and Training Administration's Office of Apprenticeship. Daniel?

DANIEL VILLAO: Welcome, everyone. Thank you for making time to join us today. I will be just saying a few words of hello and introducing, first of all, your presenters. Today the speakers that will be joining us will be Donna Lenhoff and Nick Beadle of the Office of Apprenticeship. I will talk – I will go over the agenda with you now. Just letting the agenda catch up to us here.

We're going to cover a couple of quick items. Why is Equal Employment Opportunity, the EEO, still necessary? We'll be doing a general comparison of the old and the new EEO regulations, providing some details on the implementation timeline, and pointing you to some resources and providing some technical assistance.

Today's topic is the Office of Apprenticeship's updated regulations on registered apprenticeship sponsors' Equal Employment Opportunity obligation, and the specific focus of this presentation is the requirements that apply to sponsors registered to us, that is the federal Office of Apprenticeship, and that became effective either back in January of 2017 on the regulations overall effective date or more recently on July 17th of 2017 when a number of provisions were phased in.

So as we go to the next slide, one of the questions is why is EEO still necessary? Even today in 2017 harassment and discrimination often occur to often – occur too often. Forgive me. It happens to all kinds of people in all kinds of businesses and sometimes results in very painful events. The issues that we're watching unfold on television in the news clearly demonstrate the tensions that happen when differences are still present and unexplored, and this is not new.

Years ago – I'll just share a personal anecdote that years ago my mother came here, a college-educated professional, to join a very large institution which shall remain nameless for the attorneys in the room, but it's a large bank whose logos you would recognize today. And she was told when she joined the company that she was to stay in the back of the room, in the back, not to interact with employees because of the color of her skin, not to interact with customers because of the accent in her speech, even though she had a college degree and was actually left a leadership role in the office of a gentleman who would become the president of the country that she just left. And so these types of assumptions are really problematic, especially when we talk about creating opportunity like we focused on in apprenticeship.

My own experience as an apprentice and then eventually as a journeyman in the sector that I was involved in led me to the role that I am today to going back and educating myself and trying to make a difference in generating access. There's a reason why I'm not turning a screwdriver today, and so these rules, these types of frameworks that we ask our sponsors to engage with and that we're updating now are really critical in terms of the pipeline and the opportunity that's generated for the workers that participate in apprenticeship.

Apprenticeship has its own series of examples that are available and we can also point to, but cases like these are why EEO and apprenticeship are in place to begin with. They help us deal with abuse, unfair treatment, and harassment, and to assist our employer partners to model workplace behaviors that support apprentices, not deter them from competing in their professional goals.

And even if discrimination on the basis of sex, race, religion, color, and national origin in apprenticeship programs were completely eradicated, we would still need updated EEO regulations because of the expansion of civil rights protections to include discrimination on the basis of disability, age, sexual orientation, and genetic information.

At the end of the day the EEO rules spotlight discriminatory practices to help our communities correct these problems as they arise and hopefully before they become a problem in the first place.

Now, I'm going to turn this presentation over to Nick Beadle who's going to give you an overview. Nick?

NICHOLAS BEADLE: Hi and good afternoon, everyone. Just to call your attention at what's on the slide now, this is from our EEO website that discusses the changes from the old reg to the new reg. You can find that at doleta.gov/oa/eeo, and there's a very helpful crosswalk at the bottom of that page that helps you kind of compare what changed and what happened to the reg when we changed it last year.

So as you know, we changed part 30 back in 2016, last year, to align it with current EEO law and practice, make it a bit more effective, and ease some burdens on sponsors. There are some important differences between this previous role and the new one. So as an example, age, disability, sexual orientation, and genetic information are now added as protected characteristics.

So sponsors also may now use any selection procedures they want as long as they don't discriminate on any of the prohibited bases, including the new ones I just listed off, and all sponsors, even those with only one apprentice in their program, must disclose their procedures for selecting apprentices and their standards. Previously, only sponsors that had five or more apprentices were subject to this requirement.

Sponsors must not only include their EEO pledges in their standards but also post them physically so that apprentices and applicants can see them. We'll come back and talk about the toaster that we've worked up in a little bit. Sponsors also must post information about procedures for filing discrimination complaint.

They must provide anti-harassment training, and all sponsors, even those with only one apprentice and those whose utilization of various demographic reflects those groups' availability, must make outreach and recruitment efforts. And those efforts must extend to all persons available for apprenticeship within a sponsor's recruitment area, not only persons from underrepresented groups.

Sponsors with five or more apprentices need to ask apprentices to self-identify as having a disability, but they don't need to start doing that until January 2019 at the earliest in some of the – as more portions of the rule roll into effect. Now, sponsors with five or more apprentices need to develop written affirmative action plans, but again, they also don't need to do that until next January – until January 2019 at the earliest. And then also one last little change here, which is once the affirmative action plan stays in, sponsors need to set affirmative action goals for each minority and racial group that is underrepresented, not for minority groups in the aggregate.

So as I said, these and other differences between the previous role and the new one are on the crosswalk at doleta.gov/oa/eeo. Also note the new rule supersedes any circulars, bulletins, or other guidance issued by OA that predate the rule and conflict with it.

Now, we know that some persons have been doing this work of being sponsors for a very long time, and we know that you've been very – become very familiar with the old rule. But as you see, there have been a number of changes. So we caution you not to just assume that you know the current requirements. Make sure you take a look at the regulations or technical assistance resources to make sure you know what has changed.

Now, this slide shows the overall phase-in schedule for sponsors registered with OA. As you see, there are three major phase-in dates for existing OA registered sponsors, January 18, 2017, back in January of this year, July 17, 2017, about a month ago, and January 18, 2019. New sponsors have to comply with the initial and six-month requirements upon registration, but they have two years from registration to comply with the third set of requirements.

So just to cover that, the new sponsors have to comply with the initial requirements, the January 18, and then also the July 17th requirements. They have another two years to comply with the affirmative action requirement that will roll into effect in 2019. This timeline is also applicable to sponsors registered with OA but located in a state apprenticeship agency state as well as to dual registered sponsors.

Sponsors registered with an SAA now do not have to comply with OA's updated 29 CFR Part 30 regulations until OA has approved a state EEO plan from that state that is compliant with the regulation. Each state EEO plan will set a deadline which must be within about six months or 180 days of OA's approval for all sponsors in that SAA state to come into compliance.

With regard to posting notices of information about filing a discrimination complaint, expanded bases for nondiscrimination protection, anti-harassment training, and other obligations that went to effect in OA states on January 18th of this year or July 17th, 2017, the existing state apprenticeship agency registered sponsors must comply by the deadlines set in the state's approved EEO plan. Pardon.

With regard to written affirmative action plans, invitations to self-identify as having a disability as well as other obligations that will go into effect in January 2019, existing SAA registered sponsors must comply by January 18, 2019 or by the deadline set in the state's approved EEO plan, whichever is later. New sponsors have until two years from registration or the deadline set in the state's approved EEO plan, whichever is later, to reach compliance.

Now, I'm going to hand it over to Donna who will discuss the first and second groups of sponsors' obligations in detail in today's presentation. That third group of requirements, the ones that will phase into effect in 2019, we won't discuss those in any detail in this presentation, but we'll provide resources in the future a little bit closer as the phase-in date approaches. Donna?

DONNA LENHOFF: Thank you again, everybody who's on the phone and listening in to this. I know that was very dense, what Nick was just presenting. Not because of what Nick was – it wasn't anything to do with the way he presented it. It's just that the information is very dense, and I just want to assure you that there is a phase-in timeline that is more detailed that is on the Office of Apprenticeship's EEO website, which Nick told you that – what that was already. It's www.doleta/oa/eeo, and you can find a timeline there. So that can help unpack the density I think because it is complicated.

I'm going to focus first on the first group of the obligations that sponsors have, and again, this is for existing sponsors registered with the Office of Apprenticeship. These provisions have been in effect since January 18th of this past year. First is the non-discriminatory selection procedures.

Under this new rule the sponsors have much greater flexibility than they did before in that they are allowed to select apprentices through any selection method, including the one that they're using currently, as long as that method does not discriminate on any protected bases and complies with the requirements for selection devices under the Uniform Guidelines on Employee Selection Procedures.

So existing sponsors don't need to do anything to comply with this. They can just stick with the selectin procedures that are already in their standards. However, if they do want to change their selection procedures, they can do that. They just have to be non-discriminatory, and they – I'm going to talk more about this, what it means for them to be non-discriminatory, on the next slide.

The second early phase in, I guess I could say, obligation – set of obligations had to do with recordkeeping. And as was true under the prior regs, sponsors are required to maintain records necessary for the registration agency, in this case the Office of Apprenticeship, to determine if the sponsor is complying with the regulations and also have to allow the Office of Apprenticeship access to those records.

You have to maintain the records for five years, and they are records related to selection, the invitation to self-identify as an individual with disability, information about the operation of the program, request for reasonable accommodation, and records relating to compliance with section 30.3, which is sort of a general non-discrimination section and that which we'll discuss today.

And for each of these records the sponsor must be able to identify the race, sex, ethnicity, and, when known, the disability status of each apprentice and each applicant, where possible. Additionally, with certain exceptions, any information regarding the medical condition or history of an applicant or apprentice must be collected and maintained on separate forms and in separate files and treated as a confidential medical record.

OK. Next, complaint procedures. This is different than the previous regs. The rule lays out who can file a complaint and what information they must provide and also requires sponsors to provide written notice to all applicants and apprentices both in the application materials and in a prominent public location of their right to file a discrimination complaint and the procedures for doing so. OA has created a poster to help meet this requirement, which we will cover later.

And then finally, intimidation and retaliation. Similar to the prior regulation, this – the provision in this regulation states that a participant in an apprenticeship program may not be intimidated, threatened, coerced, retaliated against, or discriminated against because he or she filed a complaint or opposed a practice that violates the equal opportunity laws or participated in an investigation or review.

Existing sponsors registered with the Office of Apprenticeship should already be complying with these provisions, and any new Office of Apprenticeship registered sponsors must comply with them upon registration of their apprenticeship program. And that applies to all of the provisions on this slide. OK. Next slide, please.

I mentioned that I was going to talk a little bit more about what it means to have non-discriminatory selection procedures, and so that's what's on this slide. Again, with respect to selection procedures, sponsors may use any method or combination of methods for selecting apprentices that they like so long as the selection procedures are non-discriminatory, and the rule specifies four requirements for being non-discriminatory.

First, the method or methods must comply with the Uniform Guidelines on Employee Selection Procedures, which those in the know call UGESP, and now you are all in the know as well. And I'm going to call it UGESP because it's way to long to repeat every time. UGESP compliance is not a new requirement. It was actually in place in the old regulations as well.

And in short, what it means is the sponsors must be wary of selection procedures or criteria that have an adverse impact on employment opportunities for the members of any race, sex, or ethnic group. Such selection procedures, that is ones that have an adverse impact on a particular group, are only permissible if the procedure is job-related and consistent with business necessity and if there's no alternative procedure that has a less adverse impact available but also serves the sponsor's need in selecting apprentices who are likely to be successful in the program.

So the bottom line is you have to think about the impact on the protected classes of what you're doing, and if there is a disparate impact on the protected class – on a protected class, then it's OK as long as it is related to the job and consistent with business necessity. There are ways that you can have our selection procedures formally validated under UGESP, and those of you in bigger programs are probably familiar with this already but they don't have to be formally validated. They just have to not – essentially, they have to be job related.

The second sort of spelling out of the non-discrimination requirements in the regs is that whatever the selection method is that's being used, it must be uniformly and consistently applied to all candidates. So you can't say, well, we're going to give a test only to the women candidates, a test for physical requirements but not to the male candidates, for example. We're not going to assume – because we're going to assume the men can do it. No. That would not be uniformly and consistently applied.

Third, the method must comply with the Americans with Disabilities Act, which means not discriminating on the basis of disability, and that is a requirement that is in effect now.

And then finally, the method must be facially neutral in terms of race, color, religion, national origin, sex, sexual orientation, age, genetic information, and disability. And at the end of this presentation there's going to be a quiz, and you all are going to have to recite that list of protected characteristics. No. Not really, but that is race, color, religion, national origin, and sex of course have been the protected characteristics under the Office of Apprenticeship regs since 1978. The ones that are added, as Nick already mentioned, are sexual orientation, age, genetic information, and disability. OK. Next slide.

To help existing sponsors that want to change their selection procedures and new sponsors that are developing selection procedures, the Office of Apprenticeship is collecting resources about how to identify non-discriminatory selection procedures, and they are going to be on a subpage on the apprenticeship EEO website.

So the resources there will include the applicable regulatory provisions, some general provision principles, and some examples of acceptable selection procedures that sponsors can use. These haven't been posted yet, but keep an eye out. It will be posted soon, and hopefully that can answer further questions that you might have about what non-discriminatory selection procedures are. Next slide.

In addition, as of January 18th of this year there are three additional provisions that went into effect that don't affect sponsors, but they do affect what the Office of Apprenticeship does to implement the EEO regs. And I'm just going to mention them briefly because they might – although they don't require sponsors to do anything, I guess they do affect what sponsors can expect from the Office of Apprenticeship.

One is Section 30.13, which requires us to regularly conduct EEO compliance reviews to determine if the sponsor maintains compliance, and that has to be done both regularly and when circumstances warrant. And there's a procedure that is set out in the regulations involving the registration agency presenting a written notice of compliance review findings to the sponsor and formal procedures and a timeline for sponsors to respond to those findings with a compliance action plan or a rebuttal.

Second, there is a section requiring the Office of Apprenticeship to receive and investigate complaints of discrimination, and the deadline for filing those complaints, which was 180 days under the previous regs, has been extended to 300 days from the date of the alleged discriminatory act. The rule calls for written acknowledgement of receipt of the complaint to the complainant, a thorough investigation, and written notice of findings to both the complainant and the sponsor. And it also allows the Office of Apprenticeship in its discretion to refer complaints to the EEOC.

And then the third change is the change to the enforcement mechanism which now will allow the Office of Apprenticeship to suspend a sponsor's registration of new apprentices for a period of time while the sponsor works to achieve compliance. So this is an additional mechanism that the Office of Apprenticeship can use rather than simply resorting immediately to deregistration proceedings if we find non-compliance. And so it essentially is – it makes it – it's a little – it gives a little more flexibility to sponsors as well as to the Office of Apprenticeship when they're a problem.

And as to all three of these, when the SAA states adopt new state plans that conform to 29 CFR Part 30, they too will have to comply with these three provisions. Next slide, please.

OK. So now, I'm going to turn to the main focus of today's presentation, the requirements of the regulations that were just phased in last month for OA registered sponsors. And these are applicable to all sponsors, including those with fewer than five apprentices, and they are contained in 29 CFR Section 30.3.

Existing sponsors, as we mentioned before, have to comply with these requirements on July 17th or had to start to comply on July 17th, and new sponsors have to do so upon registration. As stated earlier, sponsors registered with an SAA will need to comply with these requirements on the compliance dates determined in their SAA state EEO plan once it is approved by the Office of Apprenticeship.

And for the remainder of this presentation then, unless specified otherwise, when I use the term sponsor, I'm going to be referring to sponsors registered with the Office of Apprenticeship so I don't have to say that over and over again. OK. Next slide.

So this is the basic prohibition of discrimination, and this is what I just talked about. These other prohibited – I guess the characteristics upon which discrimination is prohibited, race, color, religion, national origin, sex, plus sexual orientation, age, 40 or older, genetic information, and disability. And complaints about – against sponsors based on any of these grounds will now be recognized because it is after July 17th. And we actually have a new complaint form up on our website that apprentices and applicants can use. OK. Next slide.

So sponsors may not discriminate on any of these bases with respect to really any personnel action, and we listed the different kinds of personnel actions that discrimination regulations apply to on this slide and the next one. So on this slide, as you see, things having to do with the initial employment relationship, recruitment, selection, hiring, placement, things having to do with any possible next stages like promotion or demotion or transfer, things having to do with work processes. Next slide, please.

Rates of pay, that's a really important one. Conditions of work, hours, job assignments. Some of these I think are a little bit repetitive of one another. Leaves or other benefits, and notice that even if a term or condition of employment isn't specifically listed in this list, number 10 is kind of a catch-all provision, any other benefit, term, condition, or privilege associated with apprenticeship. So any decision materially affecting the conditions of the apprenticeship is covered. Next slide.

The previous regulation requires sponsors to take affirmative action to provide equal opportunity in apprenticeship. Those were the exact words actually of the previous reg, but it didn't provide really any guidance on what this required sponsors to do outside of maintaining an affirmative action plan for sponsors with five or more employees. So the revised rule provides four specific things that are part of every sponsor's general duty to engage in affirmative action, and these apply, note, to every sponsor, not just those that have five or more apprentices.

So we have assigning responsibility for EEO. Well, I'm going to discuss them each individually. So you can read them on this slide, but I'm not going to read them here because I'm going to be repeating them in a minute. But I do want to tell you that the Office of Apprenticeship is providing resources to help sponsors take the second, third, and fourth of these steps. And as we discuss these steps, we will also discuss the resources and how Office of Apprenticeship staff can help sponsors access and use them. Next slide, please.

OK. So assignment of EEO responsibility, this is really important. Sponsors need to designate an individual who has appropriate authority to be responsible and accountable for overseeing the sponsor's commitment to equal opportunity in registered apprenticeship.

And so that individual will be responsible for these various tasks, maintaining records, monitoring activity, reports, the affirmative action plan, if necessary, and the person or persons – can be more than one – have to have appropriate authority under the program and the resources to support them and access to the sponsor's leadership to ensure effective implementation. And this role can likely be filled by individuals who are already providing oversight for the program such as a named apprenticeship coordinator, or it can be someone else. Next slide, please.

The second of the four affirmative action requirements is to disseminate the equal opportunity policy, and that policy has to be incorporated into the sponsor's Equal Employment Opportunity pledge. There was a pledge under the old regs as well. So what's different about this pledge is there's new language, and the new language includes the protected bases added by the new rule, which, as you know by now, are sexual orientation, age, disability, and genetic information.

And actually, it also goes farther and explains in a parenthetical that sex discrimination includes discrimination based on pregnancy and gender identity. So the Office of Apprenticeship is publishing an amended pledge provision. This actual language is in the regs, but we are also going to put it up separately on our website that sponsors can adopt and attach as an appendix to your existing standards, and thereby, you will automatically incorporate the revised pledge.

And if you do so, you will not have to submit this change standard for Office of Apprenticeship approval, and John Ladd actually just signed a circular to that effect which will go up on the website hopefully this week. So you all can feel confident that by amending your pledge or adding this language – adding this as an appendix to your existing pledge in your standard, you don't have to resubmit that standard to the Office of Apprenticeship. Next slide, please.

So disseminating – not only do you have to update the EEO pledge but also disseminate it internally by making – and make sure that it reaches applicants as well as apprentices and other individuals connected with the administration or operation of the apprenticeship program who work with apprentices. Excuse me. Next slide, please.

And this is a little bit more about what that internal dissemination must look like. It has to be published in the standard – excuse me – published in company handbooks, manuals, and similar documents, posted on bulletin boards, and included in the apprenticeship opportunity announcements that you send out. And we are going to be providing resources on the apprenticeship EEO website to help sponsors comply with this provision.

As I mentioned, there's going to be a Word version of the EEO pledge language that you can just copy and paste into handbooks, policy manuals, and other appropriate publications and into the apprenticeship opportunity announcements. We are going to have a poster that contains the EEO pledge in two sizes for you to download, so best in terms of size for your printer, and I'm going to give you a little preview of that poster in a minute.

And also appearing on the EEO pledge poster is the complaint notice which I mentioned earlier that sponsors have to provide to inform apprentices and applicants of their right to file a discrimination complaint and give them the contact information for the relevant agencies where complaints can be filed. So next slide, please.

This is what the EEO pledge and complaints notice poster is going to look like. Now, I just want to say nobody's required to use this poster. The idea is to make it easier for you, if you want, but if you don't use this particular poster, you are required to use the specific language set forth in the regulations, which is what's in this poster, in whatever posting you do use.

And the poster requires you to fill out the information. You can't really see it on this slide, but those blanks down on the lower left are the places where you can – as well as actually at the top. The blanks at the top are just to fill in the sponsor's name, and the blanks at the bottom left are to fill in the information about the agencies where apprentices can file complaints – federal agencies and state agencies where apprentices can file EEO complaints. OK. Next slide, please.

So in addition to the posting and publishing of the revised EEO pledge, sponsors are also under the new reg required to conduct orientation and periodic information sessions – excuse me – and to provide required anti-harassment training. And sponsors may choose either to provide separate training sessions to communicate the EEO policy information and the anti-harassment training or to incorporate them into existing regularly scheduled communications and training sessions that sponsors have with apprentices and others who work with apprentices.

And then also, sponsors need to keep records necessary to show that they did this so in case we ask for them. So some kind of memorialization of when the sessions occurred and who attended. Next slide, please.

Universal outreach efforts. So this is one of the – oh, I'm just looking, trying to find the previous slide. I don't see here what number it was, but anyway, one of – remember I mentioned there were four affirmative steps to providing equal opportunity, assigning EEO responsibility, and internally disseminating the policy?

So this is the third one, universal outreach efforts, and the universal outreach efforts really require three things. The previous regulations were vague about this. They said sponsors had to undertake a significant number of 10 specified outreach and positive recruitment activities as part of their affirmative action plan, but nowhere did it say what was significant. Was six significant; was four significant, etc. So this rule basically boils this down to three commonsense, simple, and effective outreach and recruitment activities. And note, again, this obligation applies to all sponsors, not just those that are required to do affirmative action plan.

So first – and this is new – sponsors – well, it's new in that it has to be done – there has to be a list. Sponsors must develop and annually update a list of recruitment sources. So, I mean, I guess it could be an electronic list, but there needs to be a list. I was going to say you have to have a physical list, but in these days there – we often don't have anything physical.

It's all just done on computers, but the idea is what we're looking for here is recruitment sources that can generate referrals of available and eligible candidates for the sponsor's apprenticeship program. And the reg provides examples of such sources at section 30.3(b)(3). Notice the section number's in the lower right-hand side of the slide.

So, for example, One-Stop career centers, which also known as American Job Centers, community-based organizations, community colleges, voc ed schools, Job Corps programs, the idea is to identify organizations from the geographic areas from which sponsors recruit that work closely with individuals who might be interested in registered apprenticeship programs regardless of race, national origin, sex, or disability.

When looking for – and you should be looking for organizations that provide services to individuals interested in employment. An organization that provides mental health services, for example, would probably not be an appropriate recruitment source, even if it serves a diverse population, because people who need mental health services are not real likely to – or not necessarily are a target population for people who want to become apprentices. As part of the technical assistance that we are providing to sponsors, we will be posting a non-exhaustive directory of some national resources websites from which sponsors may be able to find the appropriate local recruitment sources.

So once you've identified the recruitment sources, this next step is simple. Part of identifying them is identify a contact, and it needs not to be just generic contact information. Sponsors need to figure out who at each source is in the best position to share information about apprenticeship openings with potential candidates.

And then third – and this is the sort of obvious thing – what is the point of collecting all this information? Sponsors have to provide these contacts with advance notice of apprenticeship openings, preferably 30 days prior to the opening. Sponsors that have to develop affirmative action plans; that is, those with five or more apprentices, may be required to do more.

If at their first utilization analysis the sponsor finds some sort of underutilization, it may be required to take additional targeted outreach steps if members of a particular group are underutilized, but we will cover that in a later training. That is not a requirement that goes into effect yet. So again, next screen.

Here is a screenshot of what we think the directory of national outreach and recruitment resources that I just mentioned is going to look like. And from this sponsors can – will be able to identify chapters or affiliates in their recruitment areas that can be the kind of recruitment sources that can actually to find apprentice – likely apprentice candidates for them. So, for example, this national director that we'll be providing will include a link to the website for the American Job Centers, and when you go to that page, you can click through to the American Job Center in your recruitment area.

Just a few caveats. We will do our best to keep this list current and we will continue to add to it but it's not exhaustive and we don't guarantee that it's accurate and up to date. We can't possibly keep up with all the local chapters and affiliates of all these national organizations. So sponsors need to double check all of this, make sure that the organization is really still in existence, and sponsors should also use other means to identify sources of diverse apprentices in their areas to enable them to reach all who might be qualified for and interested in their programs. OK. Next slide.

So the fourth thing – affirmative step that sponsors have to take has to do with harassment, intimidation, and retaliation. The former EEO regs did not contain any specific obligations about harassment beyond the general prohibition on discrimination, but the current regulations do address this topic.

And if you think about it for a minute, when the previous reg was written in 1978, sexual harassment law, much less racial harassment law, had hardly been recognized by the courts. I don't think the Supreme Court recognized it until the early '80s. So it makes sense that the previous regs didn't address it, and it makes sense that this reg does. And this reg makes clear that harassment may be unlawful, and it also sets forth the affirmative things that sponsors need to do to prevent harassment. So it's very forward thinking in that it looks at prevention.

So before addressing what those obligations are, though, I'm just going to quickly go over what harassment is and when it is unlawful. Harassment in the workplace is unwelcome or offensive conduct that has the purpose or effect of being detrimental to an employee's work performance, professional advancement, and/or mental health. And next slide.

Not all harassment is unlawful. Harassment against – or at least not unlawful under our regulations and most other EEO laws because to be unlawful under those laws, it has to be because of one of the characteristics explicitly protected by the rule, race, color, religion, sex, sexual orientation – I wish I could call on somebody to ask you to give me this list – national origin, age, disability, and genetic information. And it also to be unlawful needs to create an intimidating, hostile, or offensive work environment or result in an adverse employment decision. So this definition on this slide is really close to the legal definition, and next slide.

It is what sponsors need to educate their apprentices and the journey workers and others who work with the apprentices about, and it – the Office of Apprenticeship added this – these prevention requirements because merely addressing harassment after the fact is not good enough. So we tried to set forth things that sponsors – that would be effective for sponsors to do to prevent harassment, and this is based on the experience of many stakeholders that sponsors must – that by conducting some kind of anti-harassment training for all individuals, not just the people who potentially would be targets of harassment – that is the apprentices – but also the people who potentially would be doing the harassment, the people that they work with.

So there must be training that is for everybody who works regularly with the apprentices, including supervisors and journey workers, and the training needs to be interactive in some way so that there's some sense that they – the trainees are really getting it. It can be conducted online or remotely or in person, any of those, but it must provide some method of participation by the trainees in order to be interactive. And then it must communicate at a minimum the three things that are the sub-bullets under number one on this slide, that harassing – unlawful harassing conduct will not be tolerated, what the definition is, and the right to file a harassment complaint and how to do that.

Also for this, our website is going to contain technical assistance resources for you all to make your life easier. We are going to be posting a suite of materials that sponsors can use either off the shelf or with customization to assist in complying with the training requirement. And I will show you a sub-page for these materials on the next slide. So I can tell you a little bit more about it when we are looking at that.

In addition to providing the training, the sort of advance preventive training, sponsors also have to make sure that they make all facilities and apprenticeship activities available to all without regard to any of the protected bases, although there is an exception for when the sponsor provides restrooms or changing facilities. If it does that, it must provide sex segregated or single-user facilities.

And sponsors are also required to establish their own procedures for handling and resolving complaints about harassment or retaliation which are in addition to the registration agency complaint process. So that – these would be internal complaint processes or procedures, and they need to include a mechanism for apprentices who have experienced or witnessed harassment to report it to an appropriate organizational contact such as the human resources office. And OK. I think that's it for this slide. OK. Next slide.

Suite of anti-harassment training materials. I mentioned that we were going to be providing this, and this is the preview of what that looks like. This is again going to be accessible from www.doleta/oa/eeo, and it's going to contain a customizable interactive training program that contains the content required by the regulation. So this is really – it can be plug-and-play for you.

There will be a video which can be used either in an in-person or in online training sessions, a PowerPoint presentation that can be used for facilitator-led training sessions, and a web-based knowledge check to assess trainees' understanding of the material presented in the video. Therefore, it will be interactive because they will be – because the trainees will be interacting with the knowledge check.

There will also be FAQs on sponsors' anti-harassment obligations, a one-page tip sheet for apprentices and other employees explaining their rights and responsibilities with respect to workplace harassment, and a fact sheet for supervisors and managers of apprentices to help with prevention of workplace harassment. And those tip sheets and fact sheets and things can be some supplemental materials that sponsors can disseminate to their workforces.

We hope that you will find these resources to be effective and useful communication vehicles for you, and they're pretty in depth. So I hope you like them. That's all I can say. They are going to be available quite soon. Next slide, please.

OK. So looking ahead, as I had mentioned earlier, there is a third phase-in date, which isn't until January of 2019 for existing sponsors, but I'm mentioning a few just for your awareness. We also will release additional materials in the future to assist sponsors with complying with these provisions.

This includes the requirement to draft a written affirmative action plan for sponsors of five or more apprentices, and as part of doing the affirmative action plan, to conduct an initial workforce analysis for race, sex, and disability, to review personnel practices, to begin to invite persons – to invite all apprentices to identify as whether or not they have a disability at the pre-offer and post-offer stages, and you should know that we will be using the same self-identification form that the OSCCP uses under their Section 503 regulations. So those of you who are familiar with that, it's a simple form, and we will be making that available online as well. Next slide, please.

So as part of the phase-in, at the time of the sponsor's first compliance review following implementation of these provisions, the sponsors will also need to conduct a utilization analysis for race and sex and, if necessary, to set a utilization goal and assess impediments to EEO and undertake action-oriented programs. So again, we'll provide – we'll be providing much more detail on what that all means and how to do it when it gets closer to the 2019 phase-in date.

I'm going to turn this back to Nick who is just going to talk for a little bit about other Equal Employment Opportunity laws that probably already are governing what you are doing and so, therefore, remind you that this – what I've just gone through for – under our regs is probably not new to many of you. And he's also then just going to review the technical assistance resources that we have available or will be having available on our website. Nick?

MR. BEADLE: Thanks, Donna. And like Donna said, this is just a – the next few slides are just a review of other Equal Employment Opportunity laws that you're probably aware of, and this is – I'm not going to go over this chart line and verse. I'm just – we're just mainly going to point out that these are laws that most likely already apply to sponsors outside of the apprenticeship context.

Part 30 deals with you have to comply with Part 30 to continue registering apprentices and also remain registered, but these other laws, which are federal civil rights laws, especially the Title VII, the ADA, as well as the Age Discrimination Employment Act cover many, if not most, of the sponsors. So hopefully, you're already familiar with them, and this should make complying with the new Part 30 a little bit easier.

And just skipping ahead one more slide, this is also other federal laws that sponsors may be already subject to that includes the Genetic Information Non-discrimination Act, Executive Order 11246, and the Rehabilitation Act, if you are a federal contractor, then Title IX if you receive federal education – or federal financial assistance in education.

There are also fair employment practice laws at the state and local level. These are generally administered at the state/local level by the fair employment practice agencies. Most states, many cities, and dozens of counties have these rules and laws.

Regardless of whether you're registered with OA or a state apprenticeship agency, sponsors must follow the fair employment practice laws of the jurisdictions in which they're located. In the location covered by both a state and one of these state/local laws or – pardon – a state or a local FEP law, sponsors in that location must follow both of those laws.

This next slide kind of also covers some of these laws that may be subject now. You're probably familiar with some of these like the example I frequently use is that Maryland has a sexual orientation law, but these also can cover also genetic information like the GINA, marital status, family responsibilities, political affiliation, and veteran status.

This slide brings together in one list all of the technical assistance resources that will be available. Again, you can find these at www.doleta.gov/oa/eeo. They're meant to help sponsors comply with the new EEO obligations of Part 30, and hopefully they will make this up – they're designed to make implementation of these obligations easier, and again, we urge you to take advantage of them.

And now, if there are anybody with any questions, we'll turn it over to that.

MS. LENHOFF: OK. Well, we have some questions on the chatroom. So I think Nick and I will try to address them, and also I will take a moment to introduce Keir Bickerstaffe, who's on the line with us who is our counsel in the Civil Rights and Labor Management Division of the Department of Labor's Office of the Solicitor and who is the sort of ultimate legal authority, if we have questions about that.

I'm going to just read one of them, the first one. Excuse me. "Will we give guidance as to what it means when the term affirmative action is used?" Do I think the regs do do that? They're pretty specific about what affirmative action is required. When – I mean, I can't give when the people in the world use the term affirmative action. It means a lot of different things to a lot of different people. It's why these regulations try to define the specific affirmative action obligations of apprenticeship sponsors.

So if it isn't in these regs, then it's not affirmative action that's required by the Office of Apprenticeship. If you are a federal contractor or part of a federal contractor or the employers who participate in your program are federal contractors, they may be subject to other affirmative action requirements that are specified in the Office of Federal Contract Compliance programs regulations, but that's not what these regulations are. They are quite similar, but they're not necessarily entirely the same.

KEIR BICKERSTAFFE: And, Donna, this is Keir. I just wanted to add onto that. I mean, what we were talking about today, the obligations that kicked in within the past month are really affirmative steps that sponsors need to take to try to satisfy Equal Employment Opportunity principles. What we will get into – and then so there's that piece, and then separate from that there's the affirmative action plan program that sponsors need to do.

We're going to be, as Donna said, doing some training on that later. I think it may be important to note from the outset that the regulations – the new regulations are really clear on the point that there's nothing in any of those obligations that requires any sort of preferential treatment or quotas or anything like that. Indeed, the regulations specifically say that those things are prohibited. Treatment, hiring someone, giving someone a hiring preference because of a protected category that they fall into is unlawful.

MS. LENHOFF: Thank you, Keir. I'm going to answer a couple of questions about where the poster can be obtained, what the websites are, where the resources can be located. It's all this – there's one answer to all of those questions which is www.doleta for Department of Labor, Employment and Training Administration /oa/eeo.

That said, the poster isn't posted up there yet. I expect it will be posted in the next couple of weeks. The same is true with all of these resources. We're really giving you a preview, but we still have to go through the – some of the final steps of just getting this stuff online. So keep an eye out.

We also have inaugurated, as I think you saw, sort of a newsletter, periodic updates about EEO, and when we do post new materials and resources online, we will send out one of these updates to all of the sponsors who are in RAPIDS and who are registered with the Office of Apprenticeship.

So if you're not sure if you're registered in RAPIDS and you want to be sure to get these updates, it might be a good idea to make sure your RAPIDS registration is correct. Again, it's www.doleta/oa/eeo.

Let's see. Keir, did you have any of these questions you wanted to jump in on here?

MR. BICKERSTAFFE: Yeah. Sure. So we got one question about how these regs will be applied for persons working in the construction field where safety is a very important feature to workers on the job sites. Of course safety is important to any field. I'm not exactly sure where the definition – where the question is going. I'm assuming that it's going towards employing someone for whom safety may be an issue. I don't know if that's talking about an individual with a disability.

There's established law on this, and the regs do get into this that there's this concept of direct threat, which means that if someone that – that if someone with a disability cannot be employed either with or without an accommodation that essentially does not eliminate the possibility of danger to – harm or – substantial harm to the health or safety of an individual cannot be reduced by reasonable accommodation, then that allows an employer not to employ that person.

They do need to look at a number of different factors when making that determination, but that's all a very well-established part of both the Americans with Disabilities Act and now these regs, which essentially borrows the same standard.

MS. LENHOFF: This is Donna again. Somebody asked, "What is meant by veteran status?" So first, I want to say that the Office of Apprenticeship regulations do not require non-discrimination on the basis of veteran status, and they do not require you to take any special – make any special efforts to recruit people who are veterans.

That said, it certainly doesn't hurt to, and when you're doing your universal outreach, you probably want to include and our resource will include some sites for reaching veterans because it's a very good way of reaching individuals with disabilities as well as people from all races and ethnic origins.

But that is not one of the protected bases under the Office of Apprenticeship regulations. If you – again, if you are a federal contractor, there is a law called – it's known as VEVRA. I don't think I'm going to come up with – Vietnam Era Veterans Referral and something. I'm blanking on what is A.

MR. BICKERSTAFFE: (Inaudible) – assistance – (inaudible).

MS. LENHOFF: Thank you. I should have remembered that. And it does require you to take affirmative action and not to discriminate on the basis of veteran status, and veteran status is defined quite specifically within that law. But I'm not going to – first of all, I can't come – I'm not going to come up with it, and second, I don't want to confuse you because it is – this is not required under the Office of Apprenticeship reg.

Keir, should we just take turns?

MR. BICKERSTAFFE: Sure. I'm comfortable with that, whichever you'd like to do.

MS. LENHOFF: Sure. Why don't you take one?

MR. BICKERSTAFFE: So we got a question what the definition of sponsor is, and our regulations actually do set out a specific definition for sponsor. Means any person, association, committee, or organization operating an apprenticeship program may include – (inaudible) – the program is or is to be registered or approved. And so we tried to make that as broad as possible to identify the fact that it could be individuals. It could be groups that offer the apprenticeship programs, but that's the definition that the regulation provides.

MS. LENHOFF: OK. I'll take one. My friend – (inaudible) – "Can we get a fuller idea of the technical assistance and implementation timeline for conducting a program utilization analysis?" So by program utilization I assume you mean the analysis of how many current apprentices fall into the protected categories under sex, race, national origin, and ultimately disability and then also so as to be able – so as to try to figure out whether the program needs to set goals for increasing the representation or attempting to increase the representation of people in those categories.

So just to be specific – a little bit more specific. One of the things that an affirmative action plan does – that does need to be done once you have an affirmative action plan in place is you have to figure out what percentage of your apprentices – let's just take women – what percentage of the apprentices in your program are women, and then you have to compare that with the availability of women in your local recruitment area who have the – who meet the minimum qualifications for the program.

And if you have only – say you have no women, which I know it happens, and in fact in your local recruitment area, if your requirements are that you – your minimum requirements are that somebody has to have a high school degree or a GED and be at least 18 years old and those are your requirements, you can find out the percentage of people in your local recruitment area who meet those requirements who are women. It's probably pretty close to 50 percent.

So if you're at zero and 50 percent of the people who have high school degrees and are 18 years old and older in your area are women, then you need to do something about that and you need to try to – you need to set a goal and move forward to try to recruit more women for your program.

So the question, though, was what about the timeline for doing that? So the – for new sponsors, as new sponsors come in – again, we're just talking about the sponsors registered with the Office of Apprenticeship. Those new sponsors have two years in order to do that, and existing sponsors need to comply with their existing affirmative action plans; is that right?

But they need to bring their existing affirmative action plans into compliance with the new regs with – by January 18th of 2019. So if under the existing regs they don't need to do anything to – they don't need to, say, do utilization analyses, they will need to do that as of January 18th, 2019. Keir, do you want to add anything to that or amend anything I said to make it more legally exact?

MR. BICKERSTAFFE: No. I just – I guess I would – the only point that I would make is so the implementation timeline on the website will be very helpful in answering this question because it really does lay out obligation by obligation what needs to be done when. The idea – in publishing the final rule, a lot of the comments that we got back said that the sponsors needed a lot of assistance in being able to do these utilization analyses.

And so the reg took that under advisement, and so the idea was that two years from now there are some things that need to – for the new affirmative action program there are some things that the sponsors will need to do, but they are things that sponsors should be comfortable with doing already such as the workforce analysis, just taking their existing – the existing population of apprentices that they have and doing the demographic breakdown.

In terms of doing the utilization analysis itself, comparing that workforce analysis to the recruitment area, that is something that we anticipate that OA staff will be giving sponsors assistance to do. And so in addition to the training that will be coming on those topics, you can expect that Office of Apprenticeship staff will also be assisting the sponsors in completing the utilization analysis.

MS. LENHOFF: I'm sorry. Can we go – oh, can you go up a little bit? I'm just trying to look at the questions in the chatroom. We have quite a few. I'm trying –

MR. BICKERSTAFFE: I'll take the next one. The next question was, "Can a sponsor only hire veterans?" And I guess there's no clear answer to that. It's possible. What you would need to keep in mind is whether or not in hiring veterans only you may be violating other equal employment laws. So, for instance, if your veteran pool contains no women, that may cause a problem.

And so the idea – the sort of underlying idea here is – and we know that a lot of sponsors have direct entry programs that target veterans, and in the guidance that we provided on the regulations, we said that contractor responses can certainly continue those direct entry programs, but it may just be that direct entry is a part of the overall recruitment process, the idea being in the overall outreach and recruitment obligations that we talked about today that we really want to reach as broad a population as possible to make sure that sponsors are able to tap into talent in various different areas.

MS. LENHOFF: OK. I'm going to take an easy one. "Can I sign up for the EEO newsletter if I'm not the point person on RAPIDS?" I am going to try to figure out a way to make that happen. I believe what we are going to be doing – the – you're the second person who has raised this to me just today.

So yes. There's certainly going to be a way to do that I – but at the very least I think we will be sending the EEO newsletter to everybody who is signed up in what's called WorkforceGPS. That's Workforce, G as in gosh. P as in Paul, S as in Sarah – GPS. So just Google it. It is a program that ETA has, and you can sign up to be in the apprenticeship community in that.

And so we'll be – I think we'll be able to send it out to everybody who's in the apprenticeship community in WorkforceGPS. Do you have – that's something you have to affirmatively go and subscribe to. We can't subscribe you to it, but if you subscribe yourself to it, then you can – you will get it, and we will start sending these out to those folks as well at the very least.

Two questions about the anti-harassment training. "Does it include office staff such as instructors and admin staff?" It includes anybody who regularly works with the apprentices, and so I would certainly say instructors. With the admin staff it depends on whether they regularly work with apprentices. So take that for what it's worth. In the end you have to decide who regularly works with apprentices.

There's also the question of whether – well, "How can the program require coworkers, journeypersons, and supervisors who don't actually work for the apprenticeship sponsor to attend the program?" And I'm going to let Keir answer that. Keir, are you there?

MR. BICKERSTAFFE: Sorry. I had to run out of the room, and I'm back. What did you need from me?

MS. LENHOFF: Oh, sorry. I was turning over number 12 to you.

MR. BICKERSTAFFE: OK. So, "How can the program require other coworkers, journeypersons, and supervisors to attend?" I mean, again, I think as Donna was just saying in answering the previous question, that the idea is that anyone who regularly works with the apprentices should get this training.

And so assuming that there is – there are sessions in which the other workers such as journey workers are going to be in proximity with the apprentices and training them and doing other sorts of instructional training, that the harassment training could be folded in at that time.

The idea was we didn't want to necessarily require that there be a separate stand-alone harassment training, but the understanding being that there would certainly be other things in the process – in the structure of an apprenticeship program where all of those folks would be together at the same time and place, that a training could be folded in at that time.

So I'll go ahead and take the next question about, "Will there be a formal EEO AAP filing similar to the federal filing that will need to be completed on an annual basis?" I'm assuming that that's referring to the EEOC's EEO-1 filing. The short answer is no, that these regulations don't require any additional federal filing. If you need to file that EEO-1 form for other reasons, obviously continue to do that, but these regs don't require anything additional in terms of a filing.

Again, as we're getting to when we do the AAP training for sponsors, the AAP, the sponsor is required to keep and maintain and document its affirmative action plan in a written document, but that is not something that they affirmatively submit to the Office of Apprenticeship. That's something they keep on the premises that Office of Apprenticeship will review when they do their compliance reviews.

MS. LENHOFF: Sorry. Yeah. I just wanted to add that – what you just said, Keir, which is that, although there's no formal requirement for filing AAPs or any of the other records that are required under these regs, when the Office of Apprenticeship does compliance reviews, it will look at what the – at those records. It will request to see them, and it will work with the sponsors if there are – if the records show some sort of lack of compliance or lack of understanding of the regs.

I'm sorry. Can you go back a little bit to 16? Yes. OK. I guess we just had that. All right. Somebody asks, "Are there templates available to create an affirmative action plan?" The answer is, yes. There will be. Not yet, but there will be.

"If a sponsor does not hire the apprentices, how are the numbers of women to be increased?" So I'm not sure I entirely understand the question. I assume the questioner is talking about the situation where the sponsor provides the training, but then the apprentices are hired by participating employers.

And it is the responsibility of the sponsor to work with the participating employers to diversify and to be sure that they are providing equal employment opportunity. And so a sponsor can say, well, we can't go on working with you if – let's say in the sort of worst just as a hypothetical if the participating employer says, we are only hiring white men who do not have disability, sorry, we don't care about any darn regs; that's all we're doing.

The sponsor can say, well, we're not going to – then we can't work with you because this is our requirement. And I think that the – I think it's fair to say that most employers are aware that that is – that those are the sponsors' obligations to begin with, and number – that's number one.

And number two, most employers have obligations like this themselves. That was the point of the two slides with the chart that Nick went over with you showing all of the other regulations that apply to employers that require them not to discriminate on any of these same bases and indeed often on additional bases as well and that – and in some cases require them to take – to do more and to take affirmative action, etc.

So an employer that says, well, I'm not going to hire anybody besides white men who don't have disabilities, is probably already violating the law, and I just – I think – first of all, I don't think there will be very many who will be that blatant and – but if you are seeing that you are only getting white men from an employer, especially in a situation where other employers in the same field are hiring people other than white men so that you know there's an interest, that gives you a clue a well as to what's going on.

So we know there were some questions we couldn't get to but we will take a record of them and we will consider doing technical assistance or guidance, putting something out. We are also going to consider redoing this webinar. Certainly, the webinar will – as Jenn said at the beginning of the webinar, it is going to be available on the WorkforceGPS website. I think both the audio and a transcript of it are going to be available. Oh, a video. A video and a tran- – excuse me.

The video with – showing the slides and the audio and the transcript are all going to be available. So we're going to try to do an assessment of whether there's a need to do another one like this, in which case we'll try to get to some of the other questions, or we'll get to them in – try to get to them in some other way. So we really appreciate your submitting them so that we can understand what are the issues that the field is seeing with these.

Anybody else with any last words? We're right at 3:30 Eastern. So I think we are finished for today. We really thank you for your attention and your thoughtful questions, and just let us know what else you need. We want to make complying with these regulations as easy as possible for you all. Thank you.

(END)