**WorkforceGPS**

**Transcript of Webinar**

**Equal Employment Opportunity Regulations for Apprenticeship: Final Phase-in of Requirements**

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JENNIFER JACOBS: Welcome to " Equal Employment Opportunity Regulations for Apprenticeship: Final Phase-in of Requirements" webinar. And now, without further ado, I'd like to turn things over to our moderator today, Zach Boren, division chief, U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship. Zach?

ZACHARY BOREN: Good morning and welcome all of our registered apprenticeship sponsors. I see a lot of you all joining us. So glad to have you, our state partners, our other educational partners, and all of our staff. Just really appreciate you all joining us on a Friday afternoon.

So we'll start off with a little poll here. And we're just asking you what type of organization you are. So I got a little sense of that from folks signing in. And the question is, "Are you a sponsor with five or more apprentices? A sponsor with fewer than five apprentices? Office of Apprenticeship staff? State Apprenticeship Agency staff? Or other?" And we are asking which sponsors on the webinar have five or more apprentices, as they are likely to be the ones whom affirmative action programs are required.

So we're getting a little bit of that whole coming in and we see a lot of you all are apprenticeship sponsors with five or more apprentices, which means you're in the right place. So we're so glad that – glad to have you and glad to be talking to you today about affirmative action plans. I thank all the staff and other states joining us and other partners. We appreciate it.

So we'll go ahead and get started here on some of our objectives. So today's presentation will continue our discussion about the different aspects of affirmative action programs that many sponsors will need to adopt. We'll talk about affirmative action generally and then, which sponsors will need to develop affirmative action programs.

From there, we'll review the required components of affirmative action plans and then spend most of the session on three aspects of affirmative action programs. The first is setting a 7 percent goal for inclusion of individuals with disabilities and apprenticeship programs.

The second one is conducting targeted outreach and recruitment. And the third is the annual review of personnel practices in your organization to ensure that the apprenticeship program is free from discrimination. And finally, we'll leave a little time for some questions and answers.

So really, hope to hear from you all. If you have questions straightaway, we've got this participant questions and comments chat. Feel free to pop your questions in there as they come to mind. And we'll get to those questions at the end.

So for our today's presentation, I'm really pleased to be joined by my esteemed colleague Jennifer Frey. She's an attorney in the Division of Civil Rights and Labor Management. She's an expert on apprenticeships and EEO plans and affirmative action programs.

We'll also be joined by Keir Bickerstaffe, also in the Division of Civil Rights and Labor Management, and Donna Lenhoff, who's our in-house expert, consultant to the Office of Apprenticeship. And they're really going to help us answer all of your questions today at the end of the presentation. So thanks to my colleagues for joining me today.

So let's go ahead and jump right in here. First, we're going to review the basics of apprenticeship affirmative action programs, which you may hear us refer to as AAPs, if we say that. We'll cover this material during the August webinars, so this is a follow-on. So this will be a quick review. It's a good time to point out that we will use the terms affirmative action program and affirmative action plan throughout the presentation.

The plan is the written description of the sponsor's affirmative action program. So the affirmative action program is what the sponsors will adopt and the plan allows sponsors to describe their programs that address equal employment opportunity.

All registered apprenticeship program sponsors with five or more apprentices are required to develop affirmative action programs. Unless they are already operating in equal employment opportunity programs that includes apprentice and that is in compliance with Title VII of the Civil Rights Act and they agree to extend that program to include individuals with disabilities. Or the requirements of Executive Order 11246 in Section 503 of the Rehabilitation Act.

Title VII is a federal law that prohibits employment discrimination on the basis of race, color, national origin, religion, sex. Executive Order 11246 prohibits the same types of discrimination by federal contractors, as well as including sexual orientation and gender identity discrimination. That Executive Order 11246 requires contractors to take affirmative action to promote equal employment opportunity.

And finally, Section 503 of the Rehabilitation Act provides disability discrimination by federal contractors and requires them to take affirmative action for individuals with disabilities.

To exempt the sponsor from the Office of Apprenticeship affirmative action program requirement, their EEO program must cover apprentices and must include goals equal or greater than those required by the apprenticeship affirmative action plan. So it exempts sponsors, which are typically federal contractors and already have affirmative action plans. Do not need to have to develop additional affirmative action plans under the apprenticeship EEO regulations. OK?

So the sponsors registered with the national Office of Apprenticeship must adopt their initial affirmative action plans by January 18th, 2019, so coming up here in a few months, or two years after the date of the program registration, whichever is later. So if you've adopted a new program recently, you're going to want to look at the date that that program was signed.

So sponsors with registered and state apprenticeship agencies will also have to develop affirmative action programs. They will need to check with their state apprenticeship agency to determine the deadline for the development of those affirmative action plans. And a lot of those dates are just in progress of getting those plans completed. So just give you a head's up if you're in one of those states.

Each sponsor's affirmative action plan and workforce analysis must be updated at each compliance review and then, at least every three years thereafter. And so we'll dive into this a little bit deeper with Jen Frey, who's going to talk about some of the different aspects of the affirmative action plans. Jen?

JENNIFER FREY: Great. Thanks, Zach. And thanks again to all of you for joining us today. Good afternoon. Happy Friday. So as Zach just mentioned, there are several different components to apprenticeship sponsors' written affirmative action plan. Sorry. Yeah. And we're going to go through them on this slide and the next slide. And then, we're going to spend our time today focusing on the requirements listed on the next slide, on slide nine.

But first, let's recap some of the elements we covered in prior webinars. So while some of these elements are new, such as those involving individuals with disabilities, most of the elements that you see here don't introduce new concepts.

So under the previous version of the apprenticeship EEO regulations, sponsors were still comparing their apprentice workforce composition by race, sex, and ethnicity to that available in a workforce. And then, they set utilization goals where necessary. And the updated regulations provide sponsors with more time and greater assistance in order to accomplish these elements.

So again, as a recap, these are the elements that we discussed previously. The AAP, sponsors will describe the process they use to invite apprentices and applicants for apprenticeship to self-identify as a person with a disability. Again, we had conducted a webinar on that process back in June and the link to that presentation will be listed in the resources slide later in this presentation. All sponsors will use the U.S. Department of Labor Voluntary Disability Disclosure form for that self-identification process.

The second element listed here, sponsors will conduct an analysis of the demographics of their apprentice workforce. And along with the help of the registration agency, they'll then compare the results of that analysis to the race, sex, and ethnicity demographics of the qualified workforce in that sponsor's recruitment area.

In the apprenticeship EEO regulations, this process is referred to as the utilization analysis and it's laid out in section 30.5 of the apprenticeship EEO regulations, which are in Chapter 29 of the Code of Federal Regulations, 29 CFR 30.5. And this is the process, again, that we described in detail during last month's webinar on AAPs. And again, the link to that webinar is going to be listed on the resources slide as well.

So following that analysis, if the comparison between the demographics of the sponsor's workforce, so the breakup of race, sex, and ethnicity within the sponsor's program and the available workforce, shows the individuals from a specific racial, sex, or ethnic group are significantly underrepresented in that sponsor's program, then the sponsor will take the next step of setting aspirational numeric goals for that group or groups where they're underutilized and will document those goals in the sponsor's written affirmative action plan.

So going on to the next slide, these are the main components that we're going to be looking at today. And so similar to the demographic analyses that we just talked about and we talked about in the last webinar, for race, sex, and ethnicity, sponsors will also look at the percentage of individuals with disabilities that are in their apprentice workforce.

And again, they'll compare that to – instead of setting their own goals and national aspirational goals that OA has set of 7 percent for the inclusion of individuals with disabilities in apprenticeship programs. So where is underrepresentation or where sponsors find that their program has fewer individuals with disabilities than this 7 percent goal, sponsors must then identify any impediment to the participation of individuals with disabilities. And sponsors will obtain the information that they need about who in their workforce is identifying as an individual with a disability from the self-identification forms that they'll use to invite apprentices to complete.

If the sponsor finds, again, underutilization or impediments to equal opportunity as a result of doing these demographic analyses for race, sex, and ethnicity, as well as disability, then the sponsor takes another step of engaging in targeted outreach, recruitment, and retention activities to ensure equal opportunity in the program. So that's that second point on the slide you have there.

And finally, sponsors will engage in a thorough review of personnel practices to ensure that the program is free from discrimination. And I want to note that this review should be conducted every year, regardless of whether the demographic analyses show underutilization. So all sponsors with affirmative action programs should be doing this annual review of personnel practices.

And so now let's go through these elements in a little more depth. Next slide, please. So first, let's talk a little bit about what utilization goals are and what they're not. Utilization goals serve as objectives or targets that sponsors can reasonably obtain by applying good faith efforts in order to make all aspects of their affirmative action programs work. So goals are used to measure the effectiveness of the sponsor's outreach, recruitment and retention efforts. So they're really a tool for you to help measure where you are in terms of increasing representation within your program.

But what they are not is goals (that are ?) not quotas. Utilization goals can't be rigid and inflexible quotas that have be met and are not meant to be considered either a ceiling or a floor for the selection of particular groups as apprentices. So having here quotas are forbidden. So we're not treating goals as quotas. Again, these are just tools that you're using to help you measure. They're not quotas.

And utilization goals may not provide a sponsor with a justification to extend a preference to any individual or select an individual or adversely affect any individual status as an apprentice on the basis of that person's race, sex, or ethnicity. And again, utilization goals (can't ?) be used to create set-asides for specific groups, nor are they intended to achieve proportional representation or equal results.

Utilization goals also may not be used to supersede eligibility requirements for apprenticeship. Affirmative action programs don't require sponsors to select a person who lacks qualifications to participate in the program to select a less-qualified person in preference to a more qualified one. So you can't use a goal as a reason for selecting someone who's less qualified. You still only want apprentices who are qualified for the program.

Finally, sponsors develop their utilization goals in good faith and the determination of that utilization goal is required. Just as a reminder, is not a finding nor an admission of discrimination, not a violation, not (an interval ?), or to have to set a goal. Again, it's just a step that's required by the regulations to help sponsors measure where they are if they find that they're underutilized in any particular group.

During the webinar back in August, we discussed workforce and demographic analyses at length for the characteristics of race, ethnicity, and sex. So the clusters must also analyze the composition of their workforce on the basis of disability.

As we noted earlier, the data for the number of individuals with disabilities in a sponsor's workforce will come from the U.S. Department of Labor's voluntary disability disclosure form, which sponsors who are registered with OA and who are required to maintain NAAP will begin to use that form no later than January 18th, 2019, or two years after the date they registered their program with OA, whichever is later.

So these are the same dates that Zach was talking about earlier. Sponsors registered in FAA states, again, will need to check with their individual FAA to learn the deadline to begin self-identification in your state.

The voluntary disability disclosure form only asks individuals to identify whether they have a disability. It does not ask for any details on the nature of that disability. So sponsors aren't required to know any of the details about the individual's disability in order to help as an individual with disability in their workforce analysis and conduct that demographic analysis. So you don't need the details. You just need what it says on the form.

Once workforce data on disability has been gathered and compiled, sponsors will then be in a position to see what proportion of their workforce is comprised of individuals with disabilities. And where you discover that that proportion may be less than the national aspiration goal of 7 percent, sponsors have to take steps to determine whether and/or where impediments to equal opportunity exists for individuals with disabilities. So what is it about the program that may be keeping you from reaching that goal? That's what that process is about.

Beginning no later than January 18th, 2019, or two years after the program's registration date, again, whichever is later, OA-registered sponsors will also invite applicants for apprenticeship to self-identify as individuals with disabilities. So in addition to look at the apprentices already in your program, you'll also start looking at whether individuals who are applying to be in your program are identifying as individuals with disabilities.

And the applicant data will help sponsors identify whether they need to change anything about their outreach practices in order to recruit more qualified individuals with disabilities to apply for their program. But please note these analyses will be done by a major occupation group. So this, for when you're doing your workforce analysis for individuals with disabilities, you're grouping by major occupation group. And the slide that you see now shows a sample matrix that you could use when you do your workforce analysis to document and analyze that data.

So again, after you've done the workforce analysis for individuals with disabilities and if you've determined that less than 7 percent of your apprentice workforce is comprised of individuals with disabilities, then the next step is to see if the program has any impediments to hiring or retaining individuals with disabilities.

An impediment are practices that prevent individuals from having an equal opportunity to apply for and participate in apprenticeship programs. And in making this determination about whether there are impediments, the sponsor should look to his assessment of personnel practices, which we'll cover later, and it's required by Section 30.9 of the apprenticeship EEO regs; as well as it should assess the effectiveness of any outreach and recruitment efforts that the sponsor is required to undertake under Section 30.8. Again, something we'll discuss in more detail later on in this presentation. But those are the two things you should be looking at to discover if you have any impediments to your program.

And as you can see on the slide here, EEO impediments can take many different forms. So some examples of things to look out for include a lack of effective outreach. So make sure that populations of individuals with disabilities are aware of your apprenticeship opportunities. It means you're not reaching all the populations that you really could be. So see if your outreach is effective there in reaching all the people that are available.

Another impediment could be eligibility requirements that are not related to or required by the occupation for which the program is training apprentices. So all of the requirements that you have for apprentices, take a good look at them. Are they really necessary in order to participate in your apprenticeship program? And if not, are any of those requirements screening out individuals with disabilities unnecessarily?

Another impediment could be hostile or otherwise unwelcoming attitudes toward or treatment of individuals with disabilities, failure to provide equal opportunity in employment actions. Those actions could include training, pay, work assignment, and discipline to individuals with disabilities. So look through all of those elements of your program. See if individuals with disabilities have equal access to all of those elements. And another impediment could be reluctance to provide reasonable accommodations that would permit individuals with disabilities to perform the duties of the job in your program.

And so again, sponsorship, be careful you're viewing all aspects of their program to see how individuals with disabilities may be able to participate more fully. And we want to emphasize here that a sponsor does not need to change any eligibility requirements that are related to you and are necessary for the job generally, but that sponsors are always required to make reasonable accommodations where appropriate. And you're encouraged to think about whether there are other ways to fulfill the requirements while also being more inclusive.

And please note that staff will assist sponsors in assessing their practices for impediments to EEO for individuals with disabilities during the periodic reviews of sponsors' programs. And staff are available for technical assistance upon request with any issue that you have in conducting your review.

So now, we'll turn to the affirmative action program areas of outreach, recruitment, and retention, and – targeted outreach, recruitment, and retention. And these activities are meant to attract more qualified applicants from the specific groups in which you find underutilization and are required in the two following circumstances; the first one being where the demographic analyses shows significant underutilization of women, Hispanics, or one or more of the specific racial group; or in the second circumstance, where the review of impediments to equal opportunity for individuals with disabilities reveals the need for changes.

So if you're doing a review of your program, you're doing your demographic analyses and your workforce analyses for individuals with disabilities, and you find that you're underutilized or that you have – there are impediments in your program that you've changed to create more equal access for individuals with disabilities, that's when you would move to this next step of engaging in this targeted outreach, recruitment, and retention.

And importantly, these targeted activities are in addition to the sponsor's universal outreach and recruitment activities that are required under Section 30.3B3 (ph) of the regulation. And they focus on those groups whom the sponsor determines are underutilized. So we have the universal recruit that apply to all sponsors and we have this more targeted outreach and recruitment that is required of sponsors with AAPs who find these underutilizations or impediments.

So again, where a sponsor has found that one of the two circumstances we just discussed exist, the sponsor then has to take the following specific, but still mostly familiar, targeted outreach and recruitment steps, which are shown here on the slide. Those steps include disseminating information about the apprenticeship program, including the sponsor's equal opportunity pledge to organizations serving the underutilized group or groups.

Advertising apprenticeship openings in media with wide circulation in the recruitment area. Cooperating with local schoolboards or vocational education systems to develop relationships with any pre-apprenticeship programs targeting students from the underutilized group or groups. And finally, establishing linkage agreements or partnerships with pre-apprenticeship programs, community-based organizations, or other appropriate organizations in recruiting qualified individuals for the program.

So the regulations provide specific things that sponsors need to do, but they also provide some flexibility on exactly how to do them. For example, with whom to enter into linkage agreements or to whom EEO policies should be disseminated. This flexibility allows sponsors to try things they think will work for their program.

So sponsors will also then need to evaluate whether these targeted outreach and recruitment activities that they're engaging in are effective. And you do this by doing an evaluation after every recruitment cycle in which new apprentices are selected. And so if the steps that you're currently engaging in are not effective, the sponsor should try something new within the categories of required activities that we have just discussed.

So if you do a review and you find that one of these outreach efforts isn't really generating a response, try something new. We've outlined a few different options and, again, you have different partners that you can reach out to. So that's where we expect sponsors to take advantage of some of the flexibilities worked into the reg to try to experiment with what can better enhance equal opportunity in your program.

Sponsors will also include in their written affirmative action plans the specific outreach, recruitment, and retention activities that they'll undertake. And of course, sponsors maintain records of these activities and of their evaluation of these activities.

So while not required, the previous elements that we discussed are a required element of targeted outreach and recruitment and retention activities. But the regs also provide a number of other suggested optional activities that sponsors may find have a positive impact on their targeted outreach, recruitment, and retention.

For instance, sponsors are encouraged to have current apprentices and journey workers from the underutilized groups help recruit and retain new apprentices with these characteristics. It can also be quite informative to conduct exit interviews with all apprentices that leave the program before completion because their feedback can really help identify any impediment to equal opportunity that may exist in the program.

And so now we just want to take a minute to remind you of the key resources to help sponsors conduct their targeted outreach and recruitment activities. The Office of Apprenticeship has developed a universal outreach tool, which can be found on the Apprenticeship EEO website at www.doleta.gov/oa/eeo/outreach\_recruitment/outreach-tool.

On that site, you'll also find a video tutorial showing how to use the tool. The tutorial can be accessed directly at the second Web address displayed on the slide here. And the universal outreach tool can be very helpful when sponsors perform the universal outreach and recruitment that all sponsors are required to do, especially in putting together their universal outreach list. But relevant to this presentation, the tool was also designed to be helpful when sponsors do their targeted outreach and recruitment that we're discussing now. Because it allows – the tool allows sponsors to sort their recruit sources according to the particular population that that source – that recruitment source is serving.

So for example, if women are underutilized in a sponsor's program, you can use the tool to help identify recruitment sources in that sponsor's recruitment area which search women so that the sponsor can intensify its outreach efforts with these sources.

Or, for example, if the sponsor has defined its recruitment area as within a 25-mile radius from its location, it might want to broaden the recruitment area to a 50-mile radius for purposes of targeted outreach and recruitment. And in that case, the universal outreach tool can also easily produce a list of programs that serve women in that broader recruitment area.

So the final element of the AAP that we'll discuss today is the annual comprehensive review of the apprenticeship program personnel practices. The purpose of this review is to ensure that none of the practices in your program discriminate on any of the protected bases. If you want to learn more about any of the specific protected bases, we have a new landing page on the protected characteristics. And that link will also be included at the end of this presentation.

An important point about the annual personnel practices review, which I mentioned earlier, but I want to reemphasize now, is that it is required regardless of whether or not the sponsor finds underutilization for any specific group or whether the sponsor finds impediments to equal employment opportunity for individuals with disabilities. And even though the term personnel processes review can sound a little limited, in fact, this review is really designed to be comprehensive and should look at all aspects of the program's practices to see if there are any impediments or if there's anything hindering equal access and equal opportunity in the program.

And it should look at a variety of elements of the program, including all the things you see on your slide here; for example, qualifications for apprenticeship. We're also going to look at application and selection procedures, wages, outreach and recruitment activities, advancement opportunities and promotions, work assignments, job performance, rotations across work processes, disciplinary actions, handling of requests for reasonable accommodations, and accessibility for individuals with disabilities.

So those are all things that should be incorporated into a sponsor's review of their personnel practices that they're doing every year. And so now I'm going to turn it back over to Zach to walk us through a couple of examples of personnel process review.

MR. BOREN: Thanks, Jen. Great. Let's give a couple of hypothetical examples of issues that may come up in the annual review process. So the first example is an apprenticeship program in welding. It's an entry qualification that apprentices must be able to lift 50 pounds or more. This qualification is likely to screen out many women, individuals with disabilities, and perhaps older workers.

The sponsor may want to explore this requirement further. Is it necessary for the job to lift that much weight? How often will the apprentices have to do so? And is there equipment that could help the apprentices unable to lift the 50 pounds to carry out their duties that could be purchased with minimal expense to the sponsor? Those are a few questions you might want to ask yourself if you have such qualifications.

Another example is an apprenticeship program for a customer service representative has always used a written test that applicants complete on the sponsor's testing computers. Although blind applicants have applied for the position, the sponsor doesn't have a screen reader on his testing computers. So no visually impaired applicants have ever been successful in entering the program.

This practice limits qualified applicants to ones that can read the test materials without assistance. By including assistive technology on at least one of its testing computers, the pool of applicants for these apprenticeship positions could be expanded to include qualified individuals with visual impairments. And by partnering with organizations that serve individuals with disabilities, the sponsor may identify ways to obtain this technology without substantial expense.

While these are merely examples, they illustrate the fact that programs may not be aware of the ways in which practices are limiting the pool of available applicants and excluding individuals that might be a good fit for the program. As with other components of the APP, sponsors must describe their review of personnel practices in a written affirmative action plan and identify any modifications made or that will be made as a result of these reviews.

This completes the review of the components of the affirmative action plan. Now, let's look at how everything gets put together. So here, the elements to be included in the affirmative action program and the written plan.

And one more reminder, that for sponsors with five or more apprentices registered in Office of Apprenticeship states that do not already have an applicable affirmative action plan in place, the deadline to adopt the initial affirmative action plan is January 18th, 2019, or two years from the date of program registration, whichever is later.

So sponsors often ask what criteria the Office of Apprenticeship uses to evaluate whether a sponsor is in compliance with its affirmative action requirements. First, most importantly, OA did not determine the compliance based on whether the sponsor has met its individual utilization goals. The touchstone for evaluating compliance instead is the sponsor's good-faith efforts to make sure that all aspects of the entire affirmative action program work and eliminate impediments to equal employment opportunity.

When assessing good faith efforts, OA will look at the sponsor's compliance with provisions of the apprenticeship EEO regulations and, in particular, requirements discussed today regarding targeted outreach, recruitment, and retention activities, and the review of personnel practices.

Examples of things OA will look at are whether the sponsor's affirmative action plan incorporates a commitment to equal employment opportunity in every aspect of the apprenticeship program. We'll also look at whether the sponsor has implemented each step of its written affirmative action plan. OA will also look at whether the sponsor has made adjustments to its practices in light of any findings of underutilization or impediment to equal employment opportunity and whether the sponsor's leadership has communicated its commitment to EEO in carrying out its affirmative action plan in good faith to apprentices in its program, to its trainers and administrators, to participating employers, and to anyone who's involved in the operation of the apprenticeship program.

In evaluating good-faith efforts, OA will also review the sponsor's progress towards meeting any race, sex, ethnicity, utilization goals it's established. Its efforts will – undertook to meet those goals and the reasons why those goals were not obtained, if, in fact, they were not obtained.

I do want to emphasize, however, that OA will not find a sponsor out of compliance simply for not meeting a goal. The emphasis is on good-faith efforts of the sponsor that it has evaluated and tailored its efforts. So now, we'd like to hear from you. So just to remind folks, we have a chat option, to go ahead and put your questions in. What questions do you have? Please enter them into the chat window. It's at the lower left-hand side of the screen and we'll answer them, as many as possible, that we can get to today.

So we have a few already. So the first question we have, and we'll go ahead and answer this one right away, "We are a sponsor who places apprentices with employers for the duration of the apprenticeship program. Is it that we must have an affirmative action plan for our organization if we have five or more apprentices that we sponsor? Or is it that the employer needs the affirmative action plan if they have five or more apprentices in their particular rotation?"

And just want to reiterate the responsibility for affirmative action plans lays solely on the sponsor of the program. So if you are a sponsor with five or more apprentices, you are going to be developing the affirmative action plan for the employers that participate with each in the program. So this question really comes from a – it sounds like an intermediary or a multiemployer program. Just keep that in mind, that the responsibility continues to lie with the sponsor.

And you just want to make sure that the employers that participate in the program have seen the affirmative action plan. That they know what they need to do in order to be compliant and understand what resources are available to them to ensure that no discrimination occurs within the program. OK. Keir, did you want to answer that?

KEIR BICKERSTAFFE: No. I think you got that well, Zach.

MR. BOREN: All right. Thank you. All right. The next one is – I'm going to turn to Keir for this one. And it's, "How do you define reasonable accommodation?" Keir, you want to take that one?

MR. BICKERSTAFFE: Sure. So the regulations that we've put define reasonable accommodation – and you can reference those. It's the same definition that is used under the American Disability Act. We want to make sure that it was consistent throughout. Generally speaking, a reasonable accommodation are any assistance or changes to a position or a workplace that enables the employee to do his or her job despite having a disability.

And so under the ADA and under these regs, employers are required to provide a reasonable accommodation to qualified employees with disabilities, unless doing so would pose and undue hardship. And so that kind of leads into the question of what's an undue hardship? That's also defined in the regulation. And essentially, it's a case-by-case analysis, but it essentially looks at whether the reasonable accommodation would cost a lot of money or taking into account the resources of the sponsor.

There's a lot of good guidance on this and other questions out there. I really do recommend looking at our website for some of these. The EEOC also has good guidance on a lot of these topics. And also, the jobs accommodation network, which is a resource the department provides, is another great resource. There is a link to this from the Office of Apprenticeship's disability protected characteristic page. So I would also invite you to look at that as well.

MR. BOREN: Thanks, Keir. And we have another question here, which is, "Will we be provided tables for the analysis, similar to the affirmative action program workforce analysis worksheet from Appendix T of the U.S. DOL – (inaudible) – templates?" And the answer is yes. You know, part of the work that we are doing in undertaking care of the department is really to streamline the paperwork for all sponsors.

And so we've been undertaking that work in partnership with our attorney and we will be releasing those documents here shortly ahead of when sponsors are required to have an affirmative action plan in place.

So those boilerplates, we will make sure that when they are posted online, that you'll be able to find those and we'll link them certainly to our equal employment and apprenticeship program website. I believe we have a resource page that we will be bringing up here in a minute, so I have all of those websites.

Why don't we just go ahead? Can we talk a little bit about that quick resource page? OK. So you can see some of those resources. When that becomes available, we'll be sure to make it available on that top website, www.doleta.gov/oa/eeo.

So the next one, I'm going to turn to our resident expert here, Donna, to take. The question is, "I am new to the American Job Center. What material would you recommend for a newbie to learn about the program in detail?" Donna, do you want to take that one?

DONNA LENHOFF: Sure. I have to say I was a newbie to apprenticeship myself about a year ago and the absolute best resource for understanding the apprenticeship program, I think, is OA's website. It has just a wealth of information on it about programs and about essentially what a registered apprenticeship program is and what the basic requirements for it are. It's almost too much information.

And in particular, with regard to equal employment opportunity, the 29 CFR Part 30 website of the Office of Apprenticeship overall website that is – we call it the Equal Employment Opportunity section of the website, is definitely the best resource. And there, we've really tried to organize the materials so that they're not overwhelming. And you can find that – well, that was the slide that was just shown, actually. It was, I believe, on that slide. So I would start there.

And also, I think that your colleagues in the Office of Apprenticeship would be happy to answer questions, if I may speak for them.

MR. BOREN: Yeah. Please do. Yes. We are glad to help any newbie to equal employment opportunity and understand kind of the rules of the road. And that's why we're having these webinars to make sure you know what they are.

We'll go to this next question. "What is the acceptable definition of disability?" Is it an applicant who has an IEP definition or defining a learning disability acceptable to be counted in the 7 percent requirement? And I'm going to turn to Keir from our Civil Rights division to be able to cover that one.

MR. BICKERSTAFFE: Sure. And so the definition of disability, again, like we talked about with reasonable accommodation, it is the same definition that the American Disabilities Act uses. And it's meant to be interpreted very broadly. And so the definition of a disability is a physical and mental impairment that substantially limits one or more major life activities of an individual. Or if the individual has a record of having that impairment or if they simply are regarded as having that impairment, even if they don't actually have it, any one of those qualifies as a disability under the law.

And so without knowing more, I would think that it is likely that if an individual has an IEP that identifies that they have a specified disability that that is probably acceptable in order to be counted towards the 7 percent requirement. I think it's important to note that under the regulations, we – the sponsors are supposed to allow individuals to self-identify whether or not they have a disability. And they're – sponsors are not supposed to second-guess that self-identification. The person identifies as having a disability on their self-identification form. The contractor should take that as the truth.

The only possible exemption to that or alternative to that would be if the contractor has actual knowledge that an individual has a disability and the person hasn't identified as such. In that case, the sponsor, when tabulating its workforce, can count that person as having a disability. But it's important that the sponsor has actual knowledge. It cannot be a guess. It must be actual knowledge.

MR. BOREN: Thanks, Keir. We have a clarifying question, I believe from the first question we got in. And I'll just read it verbatim and then I'll try to be really clear this time. "To clarify, are you confirming intermediary partners do not need to have an AAP even if they assist the employers with the recruitment of the registered apprentices?"

And so just to be really clear, if you're an intermediary partner and you are a sponsor of an apprenticeship program, you need to have an affirmative action plan. I think –

MR. BICKERSTAFFE: Yeah. This is Keir. I'll just – yeah. Just to chime in. I mean, it all turns on who is the sponsor. The regulations that we have put out are regulating apprenticeship sponsors, not necessarily the employers. So that we do talk about how employers need to help – participate in the process to help sponsors. But the obligations fall to whoever is considered the sponsor.

MR. BOREN: OK. So I just want to take a quick second, and we're getting up to about seven minutes until the end of the hour. And we're running out of questions here. So if you want to send us a few more of your questions, please go ahead and type those into the chat now and we're glad to cover those questions. So we'll give you just a second to type those questions in and then we'll queue them up here in just a sec.

All right. We have one more question put into the chat here. "Do you have any specific examples of reasonable accommodations that may be made for individuals with disabilities by construction or building trades related to sponsors?" And I like to start with Keir to kick off that question and then, Donna, if you have more information you'd like to add on to it, I'd invite you to reply to that one as well.

MR. BICKERSTAFFE: Sure. And, I mean, I'll just start by saying, I mean, that the reasonable accommodation process is a very individual one. It's going to depend highly on the type of disability that the individual has and what sorts of accommodations might be necessary to allow them to do the job. And then, as we talked about before, those – if those reasonable accommodations don't provide an undue hardship for the individual.

So, I mean, potential examples could be, for instance, if there is certain types of clothing or devices or equipment that would allow an individual to be able to do some physical task that they would not be able to do without it. If that would allow them to perform the essential job functions of the position that they are in, that could be an example. It is really hard to say, though, given that it is such an individual inquiry. Donna, do you have anything you want to add to that?

MS. LENHOFF: Well, I would just add that people, I think, tend to make an assumption that individuals with disabilities are in a wheelchair or are blind. You know, have a – what – an observable disability like that. But there other kinds of disabilities that are perhaps not visible that also require reasonable accommodations.

For example, if somebody has diabetes, that could be a disability and maybe the accommodation that they need is breaks, perhaps more frequent breaks than other people so that they can take insulin shots or eat something that maintains their blood sugar levels. Something like that would be a reasonable accommodation. So don't assume that all people with disabilities have physical disabilities that will interfere with the physical aspects of their jobs. And those people with those kinds of disabilities count towards your 7 percent.

MR. BOREN: Great. Thanks, Donna. Another good question. Do you have any resources or databases where we can access the race, gender, ethnicity in various geographical areas? That's a great question. So the Department of Labor made a commitment in the regulations to putting out a tool that will help sponsors to determine what the various utilization rates ought to be in their particular area? And we are calling that the demographic analysis tool.

And it's currently being beta tested by our Office of Apprenticeship staff, who will be utilizing this tool in partnership with sponsors as we look at utilization analysis. So this tool is really intended – and eventually, we'll be releasing it publicly online for sponsors to be able to use.

And it's really intended to make it a lot simpler. It really gathers all of the demographic analysis from census data. And so we're really excited about the release of this tool. And so that's really going to help facilitate this process, determining underutilization analysis for our records.

MS. LENHOFF: If I could add to that, Zach.

MR. BOREN: Sure.

MS. LENHOFF: A couple things about the tool. First and most important in their decision about the tool, this is about the whole question of how this demographic analysis by race, ethnicity, and sex is done. You don't have to – your sponsors – I'm addressing sponsors when I say you here. Sponsors don't have to do this by themselves. This is only – the regs only require that this be done in conjunction with Office of Apprenticeship staff. Can be on the phone if that's the way that the compliance review is done. And so the Office of Apprenticeship staff will have access to the database and the tool.

The second thing is that the tool is right from the census data. That is and remains the single best national source of data for different localities. It's – you can go down to the county level for demographic analysis using census. That said, the census data, it goes to the county level and it goes by education. That is, high school degree, some college, college, et cetera. But it doesn't have data for more specific qualifications that sponsors might have.

For example, if you have a qualification that somebody have at least two years of high school math, there isn't a national database with that information. In fact, I'm not sure if there's any database. You would have to do some looking. You'd have to probably talk to your local school district in order to find out whether they have data like that. So if that's your qualification, you need to use something in addition to the tool. The data – the demographic analysis tool can be helpful, but it doesn't necessarily cover every situation.

MR. BOREN: Thanks, Donna. That was really helpful. And if – (inaudible) – could help us bring up the resources page again. We're at the top of the hour here. So again, just want to really thank everyone for joining us today. Here's a link to the resources we've mentioned throughout this presentation.

The best starting point is the main apprenticeship EEO page, which is website at www.doleta.gov/oa/eeo/ and also displayed on the slide – the link to the earlier webinars that we have discussed today. So I invite you to take a look at those if you happen to miss those or you want to review some of the webinars that we did previously.

And we'll go to our last slide, which is just thanking you and I've got our contact information here. I'm Zach Boren. I'm the division chief in the Office of Apprenticeship. I'm here with Jen Frey, who's our attorney in the Civil Rights and Labor Management division. And if you want to talk to Keir or Donna, we're glad to help you contact them as well.

So again, thank you all and we'll be talking with you again soon. I believe we have another webinar set up for next month, possibly, but we'll let you know. All right. Thank you all.

MS. JACOBS: Thanks, everybody.

(END)