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Submitted via Regulations.gov

Luke Murren
Acting Administrator
Office of Policy Development and Research
U.S. Department of Labor
200 Constitution Ave NW
Room N-5641
Washington, DC 20210

Re: Docket No. ETA-2025-0006, Regulatory Identification Number 1205-AC21; Proposed Rule, Preventing Illegal Discrimination in Registered Apprenticeship Programs.

Dear Mr. Murren:

On behalf of the three million members of the National Education Association (NEA), we write in response to the Department of Labor’s proposed rule, “Preventing Illegal Discrimination in Registered Apprenticeship Programs,” published in the Federal Register on July 2, 2025.

We write with concerns about the proposed changes, primarily the proposed rule’s limitations on apprentice selection, and the chilling effect it will likely have on recruitment and engagement with apprenticeship programs as a whole. As it stands, registered apprenticeship programs (RAP) sponsors are asked to complete a thorough analysis of the workforce their apprentices will be entering, their applicants, and their goals for recruitment. The intention of these requirements is to expand access and representation in apprenticeship programs which serve as a building block of the American workforce. The proposed rule provides a one-dimensional critique of these requirements and cites as the primary reason for rescinding the requirements their purported unconstitutionality in light of the Supreme Court’s decision in *Students for Fair Admission v. President & Fellows of Harvard College*.¹ But the Court held in *Students for Fair Admission* only that race cannot be explicitly considered as a factor in individual higher education

¹ 600 U.S. 181 (2023).

admissions decisions.² The decision has no application to properly designed outreach, recruitment, and retention initiatives in the workplace—indeed, under the current law, even institutions of higher education can engage in targeted outreach and recruiting efforts as long as they do not grant candidates targeted for outreach an advantage in the admissions process.³

In focusing on *Students for Fair Admission*, the proposed rule neglects the value these efforts provide in aligning RAP programs with the original intention of apprenticeships – to reduce barriers to entry into various workforce categories for individuals who previously have had limited access to these jobs. While we acknowledge the detailed data and reporting requirements included in the current rule and the administrative difficulties they may present for some program sponsors, the proposed rule eliminates many important aspects of program management, rather than specifically addressing potentially burdensome reporting.

The proposed rule eliminates the requirement for apprenticeship programs to meet their workforce needs through strategic recruitment and enrollment of apprentices. As apprenticeships continue to grow into new sectors, the analysis, recruitment and reporting parameters as currently written in part 30, will serve as guidelines to allow program sponsors to strategically build apprenticeships in new job categories. Many types of careers benefit from intentional promotion and recruitment, and the proposed rule not only eliminates requirements for this analysis and effort but will likely chill programs from acting on their recruitment efforts to engage diverse candidates. While apprenticeships have historically flourished in the trades, which are majority male and white, they are quickly moving into spaces where the workforce makeup is drastically different. The current rule requires sponsors to expand their outreach and recruitment initiatives to ensure that they are reaching candidates across their recruitment area, from a variety of backgrounds. The proposed rule would discourage new programs from promoting, recruiting, and serving apprentices of all backgrounds to eliminate barriers as they enter the workforce. An alternative option would be for the agency to require the same workforce analysis, recruitment, and enrollment, without targets, to address the needs and make up of that specific workforce. Implementing this change would help modernize the apprenticeship system, which continues to expand and prove itself as a valued point of entry for workers across the country in sectors both within and outside of the trades.

Teaching apprenticeships are relatively new and were registered with USDOL in 2021. In the four years since, 45 states, DC, and Puerto Rico have registered teaching apprenticeship programs. The apprenticeship model has been transformative for non-traditional students and adults who show an interest in teaching. Through the wage scale and other supportive services in the programs, states have been able to lay the foundation for a teacher workforce that reflects the students they serve.

Teacher apprenticeship programs need the ability to meet the needs of the students apprentices serve, and this includes providing them with a teacher workforce that reflects their diversity. In September 2024, Pew Research found that 77% of teachers are women and 23% are men. The gender imbalance is even more pronounced in elementary schools. Teacher apprenticeship programs following the current rule §30 are making efforts to recruit more male teachers, teachers from varying professional backgrounds including career changers, and teachers who come from racial and ethnic backgrounds that are now substantially underrepresented in the teaching workforce even while students from those same racial and ethnic backgrounds comprise the majority of students in many schools. The current rule allows for intentional recruitment to diversify work categories in all ways; continuing to allow

² See *id.* at 230.

³ See, e.g., *Bos. Parent Coalition for Academic Excellence Corp. v. Sch. Comm. for City of Bos.*, 89 F.4th 46, 62 (1st Cir. 2023) (observing that “there is nothing constitutionally impermissible about a school district including racial diversity as a consideration and goal in the enactment of a facially neutral plan”), cert. denied, 145 S. Ct. 15 (2024); *Coalition for TJ v. Fairfax County Sch. Bd.*, 68 F.4th 864, 885-86 (4th Cir. 2023) (noting that the “desire to . . . improve racial diversity and inclusion by way of race-neutral measures” is “a practice that the Supreme Court has consistently declined to find constitutionally suspect”), cert. denied, 2024 WL 674659 (Feb. 20, 2024).

targeted recruitment of applicants while incorrectly labeling the hiring of qualified applicants through that recruitment as “illegal discrimination” may negate recruitment efforts and result in enrollment that does not meet the goals of a program. If the goal of apprenticeship programs is to expand entry into the workforce, the current rule supports that vision, outlined in the National Apprenticeship Act.

Research from Learning Policy Institute has shown that diversifying the teacher workforce is also beneficial for students, particularly students of color, who see a boost in academic performance and graduation rates.⁴ The same studies have shown that students of color and white students alike report positive perceptions of their teachers of color. Similarly, the Department of Education’s Institute for Educational Studies found that efforts to recruit and retain teachers of color may help states close gaps in academic performance and educational outcomes of students of color.⁵ When we have evidence showing that a diverse teacher workforce more adequately supports our students, it seems unreasonable to place limitations on a program’s ability to enroll qualified applicants who help advance educational outcomes. The proposed rule does not consider this educator-specific evidence, whether diversity may create similar benefits for worker efficacy in other industries, or the impacts of its limitations on program outcomes. Nor does it provide for program sponsors, as industry experts, to make those determinations themselves and respond accordingly.

All students, regardless of race, gender identity, sexual orientation, or background, should have access to teachers who they relate to, who affirm their identities, and who teach with an understanding of cultural context of their lives. When the teaching workforce is homogenous, students may feel invisible which in turn harms their learning outcomes. Similarly, all working adults should have equitable access to the teaching profession, through high quality, paid, on the job training.

By investing in an inclusive teacher workforce, the Department can help create and sustain a workforce where every individual has pathways into a fulfilling career. We welcome the opportunity to share additional expertise and resources to help advance this goal.

NEA urges DOL to keep the rule as it stands or to consider alternative rulemaking to reflect the feedback shared in this comment letter. If you have any questions, please contact me or Tess Van Schepen at tvanschepen@nea.org

Sincerely,



Mary Kusler
Senior Director, Center for Advocacy and Political Action
National Education Association

⁴ Carver-Thomas, D. (2018). Diversifying the teaching profession: How to recruit and retain teachers of color. Palo Alto, CA: Learning Policy Institute. <https://doi.org/10.54300/559.310>.

⁵ <https://ies.ed.gov/rel-mid-atlantic/2025/01/infographic-5>