

HAWAII ADMINISTRATIVE RULES

TITLE 12 DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

SUBTITLE 5

APPRENTICESHIP DIVISION

CHAPTER 31

A STATE PLAN FOR EQUAL EMPLOYMENT
OPPORTUNITY IN APPRENTICESHIP PROGRAMS

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Historical Note: Chapter 31 of title 12 is based substantially upon Regulation XLV, entitled "Relating to a State Plan for Equal Employment Opportunity in Apprenticeship Programs", Department of Labor and Industrial Relations. [Eff. 11/4/78; R 7/30/81]

§12-31-1 Definitions. As used in this chapter:
"Department" means the department of labor and industrial relations.
"Director" means the director of the department of labor and

industrial relations.

"Employer" means any person or organization employing an apprentice whether or not such person or organization is a party to an apprenticeship agreement with the apprentice.

"Minority", as used in Title 29, CFR 30, includes Blacks not Hispanic, American Indian or Alaskan Native, Asian or Pacific Islander, and Hispanic (including Latin Americans, Mexican Americans, and Puerto Ricans).

"Secretary" means the Secretary of Labor, U.S. Department of Labor (USDOL), the Assistant Secretary of Labor for Employment and Training, USDOL, or any person specifically designated by either of them.

"Sponsor" means any person, corporation, association, committee, or organization operating an apprenticeship program and in whose name the program is approved and registered. [Eff. 7/30/81] (Auth: HRS §372-5) (Imp: HRS §372-2)

§12-31-2 Scope and purpose. (a) This chapter sets forth the state plan for equal employment opportunity in apprenticeship programs which are registered with the department in accordance with chapter 372, Hawaii Revised Statutes, and chapter 30, title 12 Administrative Rules.

(b) The purpose of this state plan is to:

- (1) Promote equality of opportunity in apprenticeship programs by prohibiting discriminatory practices as cited in section 378-2, Hawaii Revised Statutes; and
- (2) Require affirmative action to provide equal opportunity in such apprenticeship programs. [Eff. 7/30/81] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-3 Equal opportunity standards. (a) Each sponsor shall:

- (1) Prohibit discriminatory practices, in accordance with section 378-2, Hawaii Revised Statutes, in the recruitment, selection, employment, and training of apprentices;
- (2) Uniformly apply apprenticeship standards, including, but not limited to, equality of wages, periodic advancement, promotion, assignment of work, job performance, rotation among all work processes of the trade, and imposition of penalties or other disciplinary action; and
- (3) Take affirmative action to provide equal opportunity in apprenticeship, including adoption of an affirmative action plan as required by this chapter.

(b) Each sponsor shall include in its standards the following equal opportunity pledge;

"The recruitment, selection, employment, and training of apprentices during their apprenticeship shall be without

discrimination on the basis of race, color, religion, national origin, sex, age, physical handicap, marital status, or arrest and court record which does not have a substantial relationship to the functions and responsibilities of the prospective or continued employment, provided that a sponsor may refuse to refer for employment an individual for good cause relating to the ability of the individual to perform the work in question. Affirmative action shall be undertaken to provide equal employment opportunity in apprenticeship and the apprenticeship program shall be operated as required under chapter 31, title 12, Administrative Rules."

(c) A sponsor of a program seeking registration with the department shall take the following actions:

- (1) Include in the standards of its apprenticeship program the equal opportunity pledge prescribed in subsection (b);
- (2) Adopt an affirmative action plan required by section 12-31-4; and
- (3) Adopt a selection procedure required by section 12-31-6. A sponsor adopting a selection method under section 12-31-7, 12-31-8, or 12-31-9 shall prepare, and have available for submission upon request, copies of its amended standards, affirmative action plan, and selection procedure. A sponsor adopting a selection method under section 12-31-10 shall submit to the department copies of its standards, affirmative action plan, and selection procedure in accordance with the requirements of that section.

(d) A sponsor shall not be required to adopt an affirmative action plan under section 12-31-4 or a selection procedure under section 12-31-6 if it submits to the department satisfactory evidence that it is in compliance with an equal employment opportunity program providing for the selection of apprentices and for affirmative action in apprenticeship, including goals and timetables for women and minorities which have been approved as meeting the requirements of Title VII of the Civil Rights Act of 1964, as amended, and its implementing regulations published in title 29, CFR; chapter XIV (Equal Employment Opportunity Commission Rules and Regulations) or Executive Order 11246, as amended, and its implementing regulations of title 41, CFR, chapter 60.

(e) A sponsor of a program in which fewer than five apprentices are indentured shall not be required to adopt an affirmative action plan under section 12-31-4 or a selection procedure under section 12-31-6, provided that such a program was not adopted to circumvent the requirements of this chapter. [Eff. 7/30/81] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-4 Affirmative action plans. (a) A sponsor's commitment to equal opportunity in the recruitment, selection, employment, and

training of apprentices shall include the adoption of a written affirmative action plan.

(b) Affirmative action is not mere passive nondiscrimination. It includes procedures, methods, and programs for the identification, positive recruitment, training, and motivation of present and potential minority and female apprentices, including the establishment of goals and timetables. It is action which will equalize opportunity in apprenticeship so as to allow full utilization of the work potential of minorities and women. The overall result to be sought is equal opportunity in apprenticeship for all individuals participating in or seeking entrance to the nation's labor force.

(c) An acceptable affirmative action plan shall also include adequate provision for outreach and positive recruitment that would reasonably be expected to increase the participation of minorities and women in apprenticeship by expanding their opportunities of becoming eligible for apprenticeship selection. In order to achieve these objectives, sponsors shall undertake activities such as those listed below. It is not contemplated that each sponsor necessarily will include all the listed activities in its affirmative action program. The scope of the affirmative action program will depend on all the circumstances including the size and type of the program and its resources. However, the sponsor shall be required to undertake a significant number of appropriate activities in order to enable it to meet its obligations under this chapter. The affirmative action plan shall set forth the specific steps the sponsor intends to take in the areas listed below:

- (1) Dissemination of information concerning the nature of the apprenticeship, requirements for admission to apprenticeship, availability of apprenticeship opportunities, sources of apprenticeship applications, and the equal opportunity policy of the sponsor. For programs customarily receiving applications throughout the year, such information shall be regularly disseminated but not less than semiannually. Such information shall be given to the department, local schools, employment service offices, women's centers, outreach programs, and community organizations which can effectively reach minorities and women, and shall be published in newspapers which are circulated in the minority community and in the general areas in which the program sponsor operates;
- (2) Participation in workshops that familiarize school, employment service, and other appropriate personnel with the apprenticeship system and current opportunities therein;
- (3) Cooperation with the state department of education and vocational education systems to develop programs for

- preparing students to meet the standards and criteria required to qualify for entry into apprenticeship programs;
- (4) Internal communication of the sponsor's equal opportunity policy in such a manner as to foster understanding, acceptance, and support among the sponsor's various officers, supervisors, employees, and members and to encourage such persons to take the necessary action to aid the sponsor in meeting its obligations under this chapter;
 - (5) Engaging in programs such as outreach for the positive recruitment and preparation of potential applicants for apprenticeship; where appropriate and feasible, such programs shall provide for pretesting experience and training. If no such programs are in existence, the sponsor shall seek to initiate these programs, or, when available, to obtain financial assistance from the USDOL. In initiating and conducting these programs, the sponsor may be required to work with other sponsors and appropriate community organizations. The sponsor shall also initiate programs to encourage and prepare women to enter traditionally male programs;
 - (6) Encouraging the establishment and utilization of programs of preapprenticeship; preparatory trade training, or others designed to afford related work experience or to prepare candidates for apprenticeship. A sponsor shall make appropriate provision in its affirmative action plan to assure that those who complete such programs are afforded full and equal opportunity for admission into the apprenticeship program;
 - (7) Utilization of journeyworkers to assist in the implementation of the sponsor's affirmative action program;
 - (8) Granting advance standing or credit on the basis of previously acquired experience, training, skills, or aptitude for all applicants equally; and
 - (9) Other appropriate action to ensure that the recruitment, selection, employment, and training of apprentices during apprenticeship shall be without discrimination on the basis of race, color, religion, national origin, sex, age, physical handicap, marital status or arrest and court record. [Eff: 7/30/81] (Auth: HRS §372-5) (Imp. HRS §372-5)

§12-31-5 Goals and timetables. (a) The following shall apply in the establishment of goals and timetables:

- (1) A sponsor adopting a selection method under section 12-31-7 or 12-31-8, which determines on the basis of the

analysis described in subsection (b) that it has deficiencies in terms of underutilization of minorities or women, or both, in the craft or crafts represented by the program, shall include in its affirmative action plan percentage goals and timetables for the admission of minority or female applicants, or both, into the eligibility pool;

- (2) A sponsor adopting a selection method under section 12-31-9 or 12-31-10, which determines on the basis of the analysis described in subsection (b) that it has deficiencies in terms of the underutilization of minorities, or women, or both, in the craft or crafts represented by the program, shall include in its affirmative action plan percentage goals and timetables for the selection of the underutilized groups of applicants for the apprenticeship program;
- (3) "Underutilization" as used in this chapter refers to the situation where there are fewer minorities or women, or both, in the particular craft or crafts represented by the program than would reasonably be expected in view of an analysis of the specific factors in subsection (b). Where, on the basis of the analysis, the sponsor determines that it has no deficiencies, no goals and timetables need be established. However, the affirmative action plan shall include a detailed explanation why no goals and timetables have been established;
- (4) Where the sponsor fails to submit goals and timetables as part of its affirmative action plan and fails to provide an explanation thereof, or submits goals and timetables which are unacceptable, the department shall establish goals and timetables applicable to the sponsor for the admission of minority or female applicants, or both, into the eligibility pool or selection of apprentices, as appropriate. The sponsor shall make good faith efforts to attain these goals and timetables in accordance with the requirements of this section.

(b) The sponsor's determination as to whether goals and timetables should be established shall be based on an analysis of at least the following factors, which analysis shall be set forth in writing as part of the affirmative action plan:

- (1) The size of the working age minority and female population in the program sponsor's labor market area;
- (2) The size of the minority and female labor force in the program sponsor's labor market area;
- (3) The percentage of minority and female participation as apprentices in the particular craft as compared with the percentage of minorities and women in the labor force in

- the program sponsor's labor market area;
- (4) The percentage of minority and female participation as journeyworkers employed by the employer or employers participating in the program as compared with the percentage of minorities and women in the labor force in the sponsor's labor market area and the extent to which the sponsor should be expected to correct any deficiencies through the achievement of goals and timetables for the selection of apprentices; and
 - (5) The general availability of minorities and women with present or potential capacity for apprenticeship in the program sponsor's labor market area.

(c) The goals and timetables shall be established on the basis of the sponsor's analyses of its underutilization of minorities and women and its entire affirmative action program. A single goal for minorities and a separate single goal for women are acceptable unless a particular group is employed in a substantially disparate manner in which case separate goals shall be established for such group. Such separate goals would be required, for example, if a specific minority group of women was underutilized even though the sponsor had achieved its standards for women generally. In establishing the goals, the sponsor shall consider the results which could be reasonably expected from its good faith efforts to make its overall affirmative action program work. Compliance with these requirements shall be determined by whether the sponsor has met its goals within its timetables, or failing that, whether it has made good faith efforts to meet its goals and timetables. Its "good faith efforts" shall be judged by whether it is following its affirmative action program and attempting to make it work, including evaluation and changes in its program where necessary to obtain the maximum effectiveness toward the attainment of its goals. However, in order to deal fairly with program sponsors, and with women who are entitled to protection under the goals and timetables requirements, the program sponsor would generally be expected to set a goal for women for the entering year class at a rate which is not less than fifty per cent of the proportion women are of the workforce in the program sponsor's labor market area and set a percentage goal for women in each class beyond the entering class which is not less than the participation rate of women in the preceding class.

(d) The department shall make available to program sponsors data and information on minority and female labor force characteristics for each standard metropolitan statistical area and for other special areas as appropriate. [Eff. 7/30/81] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-6 Selection of apprentices. In addition to the development of a written affirmative action plan to ensure that

minorities and women have an equal opportunity in apprenticeship, each sponsor shall further provide in its affirmative action program that the selection of apprentices shall be made under one of the methods specified in section 12-31-7, 12-31-8, 12-31-9, or 12-31-10. [Eff. 7/30/81] (Auth.: HRS §372-5) (Imp: HRS 372-5)

§12-31-7 Selection on basis of rank from pool of eligible applicants. (a) A sponsor may select apprentices from a pool of eligible applicants created in accordance with the requirements of subsection (e) on the basis of the rank order of scores of applicants on one or more qualification standards where there is a significant statistical relationship between the rank order of scores and performance in the apprenticeship program. In demonstrating such relationship, the sponsor shall follow the procedures set forth in guidelines on employee selection procedures published in title 41, CFR, part 60-3.

(b) The sponsor adopting this method of selecting apprentices shall meet the requirements of subsections (c) through (g).

(c) A pool of eligibles shall be created from applicants who meet the qualifications of minimum legal working age; or from applicants who meet qualification standards in addition to minimum legal working age; provided that any additional qualification standards conform with the following requirements:

- (1) The qualification standards, and the procedures for determining such qualification standards, shall be stated in detail and shall provide criteria for the specific factors and attributes to be considered in evaluating applicants for admission to the pool. The score required under each qualification standard for admission to the pool shall also be specified. All qualification standards, and the score required on any standard for admission to the pool, shall be directly related to job performance, as shown by a significant statistical relationship between the score required for admission to the pool, and performance in the apprenticeship program. In demonstrating such relationship, the sponsor shall follow the procedures set forth in title 41, CFR, part 60-3. Qualifications shall be considered as separately required so that the failure of an applicant to attain the specified score under a single qualification standard shall disqualify the applicant from admission to the pool;
- (2) Any qualification standard for admission to the pool consisting of aptitude test scores shall be directly related to job performance, as shown by significant statistical relationships between the score on the aptitude tests required for admission to the pool and

performance in the apprenticeship program. In determining such relationship, the sponsor shall follow the procedures set forth in title 41, CFR, part 60-3. The requirements of this paragraph shall also be applicable to aptitude tests utilized by a program sponsor which are administered by the state employment service, or any other person, agency, or organization engaged in the selection or evaluation of personnel. A national test developed and administered by a national joint apprenticeship committee shall not be approved by the department unless such test meets the requirements of this paragraph;

- (3) All educational attainments or achievements as qualifications for admission to the pool shall be directly related to job performance as shown by a significant statistical relationship between the score required for admission to the pool and performance in the apprenticeship program. In demonstrating such relationship, the sponsor shall meet the requirements of title 41, CFR, part 60-3. School records or a passing grade on the general education development tests recognized by the state board of education or University of Hawaii shall be evidence of educational achievement. Education requirements shall be applied uniformly to all applicants.

(d) Oral interviews shall not be used as a qualification standard for admission into an eligibility pool. However, once an applicant is placed in the eligibility pool, and prior to selection for apprenticeship from the pool, the applicant may be required to submit to an oral interview. Oral interviews shall be limited to such objective questions as may be required to determine the fitness of applicants to enter the apprenticeship program, but shall not include questions relating to qualifications previously determined in gaining entrance to the eligibility pool. When an oral interview is used, each interviewer shall record the questions and the general nature of the applicant's answers, and shall prepare a summary of any conclusions. Each applicant rejected from the pool of eligibles on the basis of an oral interview shall be given a written statement of such rejection, the reasons therefor, and the appeal rights available to the applicant;

(e) All applicants who meet the requirements for admission shall be notified and placed in the eligibility pool. The program sponsor shall give each rejected applicant who is not selected for the pool or the program a notice of rejection, including the reasons for the rejection, the requirements for admission to the pool of eligibles, and the appeal rights available to the applicant;

(f) The sponsor shall establish, where required by section 12-31-5, percentage goals and timetables for the admission of

minorities and women into the pool of eligibles in accordance with the provisions of that section;

(g) A sponsor shall be deemed to be in compliance with its commitments under subsection (f) if it meets its goals or timetables or if it makes good faith efforts to meet these goals and timetables. In the event of the failure of the sponsor to meet its goals and timetables, it shall be given an opportunity to demonstrate that it has made every "good faith effort" to meet its commitments. All the actions of the sponsor shall be reviewed and evaluated in determining whether such good faith efforts have been made. (Eff. 7/30/81] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-8 Random selection from pool of eligible applicants. (a)

A sponsor may select apprentices from a pool of eligible applicants on a random basis. The method of random selection is subject to approval by the department. Supervision of the random selection process shall be by one or more impartial persons selected by the sponsor, but not associated with the administration of the apprenticeship program. The time and place of the selection, and the number of apprentices to be selected shall be announced. The place of the selection shall be open to all applicants and the public. The names of apprentices drawn by this method shall be posted immediately following the selection at the program sponsor's place of business.

(b) The sponsor adopting this method of selecting apprentices shall meet the requirements of section 12-31-7(c) through (e) relating to the creation of a pool of eligibles, oral interviews, and notification of applicants.

(c) The sponsor shall establish, where required by section 12-31-5, percentage goals and timetables for the admission of minorities and women into the pool of eligibles in accordance with the provisions of that section.

(d) Determinations as to the sponsor's compliance with its obligations under this chapter shall be in accordance with the provisions of section, 12-31-7(g). [Eff. 7/30/81] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-9 Selection from pool of current employees. (a)

A sponsor may select apprentices from an eligibility pool of the workers already employed by the program sponsor in a manner prescribed by a collective bargaining agreement where one exists, or by the sponsor's established promotion policy. The sponsor adopting this method of selecting apprentices shall establish goals and timetables for the selection of minority and female apprentices, unless the sponsor concludes, in accordance with the provisions of section 12-31-5, that it does not have deficiencies in terms of underutilization of minorities or women, or both, in the apprenticeship of journeyworker crafts represented by the program.

(b) Determination as to the sponsor's compliance with obligations under this chapter shall be in accordance with the visions of section 12-31-7(g). [Eff. 7/30/81] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-10 Alternative selection methods. (a) A sponsor may select apprentices by means of any other method, including its present selection method, provided that the sponsor meets the following requirements:

- (1) The sponsor shall complete development of the revised selection method it proposes to use along with the rest of its written affirmative action program including, where required by section 12-31-5:
 - (A) Its percentage goals and timetables for the selection of minority or female applicants, or both, for apprenticeship; and
 - (B) Its written analysis, upon which such goals and timetables, or lack thereof, are based.
 - (C) The establishment of goals and timetables shall be in accordance with the provisions of section 12-31-5. The sponsor shall not implement any such selection method until the department has approved the selection method as meeting the requirements of this chapter and has approved the remainder of its affirmative action program including its goals and timetables. If the department fails to act upon the selection method and the affirmative action program within thirty days of its submission, the sponsor then may implement the selection method.
- (2) Apprentices shall be selected on the basis of objective and specific qualification standards. Examples of such standards are fair aptitude tests, school diplomas or equivalent, occupationally essential health requirements, fair interviews, school grades, and previous work experience. Where interviews are used, adequate records shall be kept, including a brief summary of each interview and the conclusions on each of the specific factors, e.g., motivation, ambition, and willingness to accept direction which are part of the total judgement. In applying any such standards, the sponsor shall meet the requirements of title 41, CFR, part 60-3.

(b) Determination as to the sponsor's compliance with its obligations under this chapter shall be in accordance with the provisions of section 12-31-7(g). Where a sponsor, despite its good faith efforts, fails to meet its goals and timetables within a reasonable period of time, the sponsor may be required to make appropriate changes in its affirmative action programs to the extent

necessary to obtain maximum effectiveness toward the attainment of its goals. The sponsor may also be required to develop and adopt an alternative selection method, including a method prescribed by the department, where it is determined that the failure of the sponsor to meet its goals is attributable in substantial part to the selection method. Where the sponsor's failure to meet its goals is attributable in substantial part to its use of a qualification standard which has adversely affected the opportunities of minorities or women, or both, for apprenticeship, the sponsor may be required to demonstrate that such qualification standard is directly related to job performance, in accordance with the provisions of section 12-31-7(c)(1) or this subsection. [Eff. 7/30/81] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-11 List of eligibles and public notice. (a) The sponsor shall establish a reasonable period of not less than two weeks for accepting applications for admission to an apprenticeship program. There shall be at least thirty days of public notice in advance of the earliest date for application for admission to the apprenticeship program (see section 12-31-4(c) on affirmative action with respect to dissemination of information).

(b) Applicants who have been placed in a pool of eligibles shall be retained on lists of eligibles subject to selection for a period of two years. Applicants may be removed from the list at an earlier date at their request or following their failure to respond to an apprentice job opportunity given by certified mail, return receipt requested.

(c) Applicants who have been accepted in the program shall be afforded a reasonable period of time in light of the customs and practices of the industry to report for work. All applicants shall be treated equally in determining such period of time. It shall be the responsibility of the applicant to keep the sponsor informed of the applicant's current mailing address. Upon request, a sponsor may restore to the list of eligibles applicants who have been removed from the list or who have failed to respond to an apprentice job opportunity. [Eff. 7/30/81] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-12 Complaint procedure. (a) Any complaint concerning discrimination or other equal opportunity matters shall be submitted, processed, and resolved in accordance with state or federal equal employment opportunity laws.

(b) Sponsors shall provide written notice of the above complaint procedure to all applicants for apprenticeship and all apprentices. [Eff. 7/30/81] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-13 Records. (a) The records pertaining to individual applicants, selected or rejected, shall be maintained in such manner as to permit identification of minority and female participants. Each,

sponsor shall keep adequate records for a period of five years, including:

- (1) A summary of the qualifications of each applicant;
- (2) Basis for evaluation and for selection or rejection of each applicant;
- (3) Records pertaining to interviews of applicants;
- (4) The original application for each applicant;
- (5) Information relative to the operation of the apprenticeship program, including but not limited to job assignment, promotion, demotion, layoff, cancellation, rates of pay or other forms of compensation, hours of work, and, separately, hours of training provided; and
- (6) Any other records pertinent to a determination of compliance with this chapter, as may be required by the department.

(b) Each sponsor shall retain a statement of its affirmative action plan required by section 12-31-4 for the prompt achievement of full and equal opportunity in apprenticeship, including all data and analyses made pursuant to the requirements of that section. Sponsors shall review their affirmative action plans annually and update them where necessary, including the goals and timetables.

(c) Each sponsor shall maintain evidence that its qualification standards have been validated in accordance with the requirements set forth in this chapter.

(d) The department shall keep adequate records, including registration requirements, individual program standards and registration records, program compliance reviews and investigations, and any other records pertinent to a determination of compliance with this chapter, as may be required by the USDOL, and shall report to the USDOL as may be required.

(e) The records required by this chapter and any other information relevant to compliance with these rules shall be maintained for five years and made available upon request to the department, USDOL, or other authorized representatives. [Eff. 7/30/81] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-14 Compliance reviews. (a) The department shall regularly conduct a systematic review of apprenticeship programs in order to determine the extent to which sponsors are complying with this chapter and shall also conduct compliance reviews, when circumstances so warrant, and take appropriate action regarding programs which are not in compliance with the requirements of this chapter. Compliance reviews shall consist of comprehensive analyses and evaluations of each aspect of the apprenticeship program, including on-site investigations and audits.

(b) Sponsors seeking new registrations or reregistrations shall be subject to a compliance review by the department, as

described in subsection (a), as part of the registration process.

(c) Where the compliance review indicates that the sponsor is not operating in accordance with this chapter, the department shall notify the sponsor in writing of the results of the review and make a reasonable effort to secure voluntary compliance on the part of the program sponsor within a reasonable time before undertaking sanctions under section 12-31-17. In the case of sponsors seeking new registration, the department shall provide appropriate recommendations to the sponsor to enable it to achieve compliance for registration purposes. [Eff. 7/30/81] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-15 Noncompliance with federal and state equal opportunity requirements. A pattern or practice of noncompliance by a sponsor (or where the sponsor is a joint apprenticeship committee, by one of the parties represented on such committee) with federal or state laws or rules requiring equal opportunity may be grounds for the imposition of sanctions in accordance with section 12-31-17 if such noncompliance is related to the equal employment opportunity of current or former apprentices, or both, of such an apprenticeship program under this chapter. The sponsor shall take affirmative steps to assist and cooperate with employers and unions in fulfilling their equal employment opportunity obligations. [Eff: 7/30/81] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-16 Adjustments in schedule for compliance review or complaint processing. If in the judgement of the department a particular situation requires special processing and determination, the department shall take the steps necessary to permit such determination if it finds that no person or party affected by the determination will be prejudiced by the special processing. [Eff: 7/30/81] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-17 Sanctions. (a) Where, as a result of a compliance review or other reason, the department determines that:

- (1) There is reasonable cause to believe that an apprenticeship program is not operating in accordance with this chapter; and
- (2) Voluntary corrective action has not been taken by the program sponsor;

the department shall institute proceedings to deregister the program or it shall refer the matter for investigation to the Equal Employment Opportunity Commission or to the enforcement division of the department under chapter 378, Hawaii Revised Statutes.

(b) Deregistration proceedings shall be conducted in accordance with section 12-30-9, Administrative Rules.

(c) If a hearing is requested, the hearing shall be conducted

in accordance with section 12-30-10, Administrative Rules. [Eff: 7/30/81] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-18 Reinstatement of program registration. Any apprenticeship program deregistered pursuant to this chapter may be reinstated upon presentation of adequate evidence to the director that the apprenticeship program is operating in accordance with this chapter. [Eff. 7/30/81] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-19 Retaliatory acts or intimidation. Any intimidation, threat, coercion, or retaliation by, or with the approval of, any sponsor against any person for the purpose of interfering with any right or privilege of that person secured by chapter 378, Hawaii Revised Statutes; or Title VII of the Civil Rights Act of 1964, as amended; or Executive Order 11246, as amended; or because a person has made a complaint, testified, assisted, or participated in any manner in any investigation proceeding or hearing under this chapter shall be considered noncompliance with the equal opportunity standards of this chapter. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this chapter, including the conduct of any investigation, hearing or judicial proceeding arising therefrom. [Eff: 7/30/81] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-20 Nondiscrimination. The commitments contained in the sponsors affirmative action program are not intended and shall not be used to discriminate against any qualified applicant or apprentice on the basis of race, color, religion, national origin, sex, age, physical handicap, marital status, or arrest and court record. [Eff: 7/30.81] (Auth: HRS §372-5) (Imp: HRS §372-5)

§12-31-21 Exemptions. Requests for exemption from this chapter, or any part thereof, shall be made in writing to the director and shall contain a statement of reasons supporting the request. Exemptions may be granted for good cause. The department shall notify the USDOL of any such exemptions granted affecting a substantial number of employers and the reasons therefor. [Eff. 7/30/81] (Auth: HRS §372-5) (Imp: HRS §372-5)