



Prohibiting Illegal Discrimination in Registered Apprenticeship Programs

Docket No. ETA–2025–0006

RIN 1205–AC21

The International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART) and the Sheet Metal and Air Conditioning Contractors' National Association (SMACNA) submit these comments in response to the U.S. Department of Labor's Notice of Proposed Rulemaking, *Prohibiting Illegal Discrimination in Registered Apprenticeship Programs*.¹ SMART and SMACNA jointly sponsor a national training fund, the International Training Institute for the Sheet Metal and Air Conditioning Industry (ITI), which works in conjunction with our 146 local joint apprenticeship and training committees (JATCs) in the United States to provide high-quality training to apprentices in the construction industry.

Our comments are divided into two parts. The first part addresses the rescinded affirmative action regulations (pre-admission standards), and the second part concerns anti-harassment and anti-retaliation protections for admitted apprentices and options for redress (post-admission standards).

¹ 90 Fed.Reg. 28947 (July 2, 2025).

PART I: PRE-ADMISSION STANDARDS

I. The Proposed Rule Would Significantly Impede Legitimate Recruitment, Particularly in Tight Labor Markets, Where Broad Outreach is Needed to Locate Sufficient Numbers of Qualified Candidates for Apprenticeship

The NPRM does not draw a clear line between actions prohibited as illegal discrimination versus actions that are no longer required under part 30, but are legal if voluntarily undertaken by sponsors of RAPs. Strategies for maximizing the pool of qualified candidates when the demand in labor markets is high serve a legitimate business purpose, i.e., the “creation of additional skilled apprentices” to “expand local talent pools and allow employers to more easily fill in-demand occupations.”² The DOL’s broad pronouncement about the dangers of discrimination against the “majority” will have the unintended consequence of sharply limiting recruitment options for RAPs who wish to avoid the risk of engaging in outreach that the DOL may deem “legally vulnerable” or “legally suspect.”³

Clarity is needed in the regulated community as stakeholders assess historic recruitment practices based on the DOL’s 2016 Rule to ensure that they are consistent with updated expectations, as evidenced by the dialogue during an August 5, 2025 webinar sponsored by Apprenticeship for America (AFA), *NPRM: Eliminating Illegal Discrimination in Registered Apprenticeship Programs*.⁴ During that webinar, participants expressed widely divergent views

² 90 Fed.Reg. at 28962.

³ The NPRM reiterates that the current regulations and practices developed in compliance with the 2016 Rule are legally “suspect” or “vulnerable,” particularly the universal outreach and recruitment provisions. Since the 2016 Rule forbids “establishing quotas, creating set-asides for specific groups, and hiring individuals who do not meet qualifications for the apprenticeship program,” it is unclear how the affirmative action standards in the 2016 Rule are legally vulnerable or suspect. 29 CFR 30.6 (d)(3). *See also* Office of Apprenticeship, Circular 2023-01, November 17, 2022.

⁴ America for Apprenticeship: [*****apprenticeshipforamerica.org/news/events-and-webinars/101/101-NPRM-Prohibiting-Illegal-Discrimination-in-Registered-Apprenticeship-Programs](https://apprenticeshipforamerica.org/news/events-and-webinars/101/101-NPRM-Prohibiting-Illegal-Discrimination-in-Registered-Apprenticeship-Programs)

on whether continuing the universal recruitment and outreach, mandated under the 2016 Rule, would be permissible once the Final Rule becomes effective. A representative from the Colorado State Apprenticeship Agency stated that it was her agency's understanding that it will be impermissible to "go above and beyond" and that the "penalty" would be "deregistration." The divergent interpretations of proposed part 30 demonstrates the need for clarity in the preamble of the purpose, need, and effect of the proposed action. Without explicit notice to RAPs of impermissible outreach and recruitment under the new rule, sponsors would risk noncompliance.

II. Broad Rescission Hinders the Significant Reliance Interests of RAPs That Have Adapted Outreach and Recruitment to Comply with the 2016 Rule

The NPRM states that the DOL is particularly interested in comments from registered apprenticeship stakeholders about "any reliance interests" that may be impacted by this proposed rule.⁵ Under the 2016 Rule, sponsors have been required since January 17, 2017 (its effective date) to develop a list of recruitment sources that generate referrals of women, minorities, and persons with disabilities, with contact information for each source,⁶ and to notify these sources in advance of any apprenticeship opportunities.⁷ The 2016 Rule also requires that sponsors partner with appropriate entities as part of an outreach and recruitment strategy to address underutilization and impediments to equal employment opportunity.

Rescission of part 30 threatens to disrupt hard-earned, past success by JATCs in developing recruitment sources and partnerships in compliance with the DOL's direction in 2016. This potential disruption is particularly disturbing in blue collar fields since recruitment

⁵ 90 Fed.Reg. at 28949.

⁶ 29 CFR § 30.3(b)(3)

⁷ *Id.*

has become increasingly competitive, as vocational training and careers lose popularity in educational circles.⁸ Using reliable sources developed through a JATC's past successful recruitment aids recruiters in yielding highly qualified candidates despite the societal trend toward directing all graduating high school students to college, the decline in vocational education in public schools, and the increasing stigma attached to blue collar employment,⁹ all of which collectively cause a reduction the number of qualified young workers moving into registered apprenticeship. These sources have included partnerships with specific schools, community colleges and community organizations. Past success in recruitment at a particular school, community college, community-based organization, or zip code is useful in selecting current and future recruitment targets, but based on the NPRM's warnings of the legal vulnerability of the affirmative action standards in the 2016 Rule, there is serious concern that such a strategy would cause a RAP to risk deregistration.¹⁰ Relationships with community colleges are arguably threatened under the NPRM, since women, students with children, students of color, and low-income students are all disproportionately represented at them.¹¹

Recruitment at high schools further illustrates the dangers and benefits of continuing to use reliable sources because the demographics at high schools, such as race, ethnicity, graduation rates, and college matriculation, vary geographically and it is not possible for a part-time

⁸ Belman, Ph.D. (2022). *Registered Apprenticeship in Construction: Built to Last?* Institute for Construction Employment Research, at 12-13.

⁹ *Id.*

¹⁰ OA Circular 2022-02 (February 16, 2022).

¹¹ Elise Colin, Daniel Lopez, & Shayne Spaulding (2023). *Present-Day Experiences of Students of Color at Community Colleges*. Urban Institute. *See also* Andresse St. Rose, Ed.D. Catherine Hill, Ph.D. (2013). *Women in Community Colleges*.

recruiter¹² to visit all high schools in a state or in the JATC's geographic jurisdiction. A JATC must, therefore, exercise its judgment based on past success in selecting which high schools are likely to yield students with the greatest interest in construction work. Past experience developed in compliance with the 2016 Rule has been a reliable indicator of student interest. JATCs have found greatest success at high schools with robust vocational programs regardless of zip code or demographic composition of the student body. Rather than confidently building upon that success, JATCs are already experiencing a chilling effect based on an apprehension that the current DOL may view some recruitment sources as biased against the majority if they happen to be disproportionately represented by minorities. There is a legitimate business reason, however, for selecting high school based on past success, as well as the relatively lower rates of college matriculation that are more typical at schools with vocational programs. Higher rates of college matriculation at some high schools, regardless of geographic location, would make outreach and recruitment a futile endeavor regardless of the racial or ethnic composition of the schools.¹³

JATCs in the sheet metal industry have also established win-win partnerships with reliable recruitment sources. An example is the SMART Heroes program, which assists veterans in integrating into civilian life while enabling JATCs and signatory contractors to benefit from skills obtained in the military. Through this partnership, JATCs have a reliable source of trained veterans who receive credit in the JATCs based on years of training and skills attained and the veterans are provided an avenue for marketing their skills, and thereby, connecting occupational

¹² JATCs typically lack the resources to hire staff whose only functions are recruitment and selection of apprentices; interviewers are typically instructors who take time out of their demanding schedules to take participate in the selection process.

¹³ Thomas Jefferson High School for Science and Technology (TJHSST) in Alexandria, Virginia, for example, has an 80.3% minority enrollment (65.3% Asian, 6.1% Hispanic, 4.0% Black, and 4.4% two or more races) and a matriculation rate of about 99%.

training within the military to employment with signatory contractors. Since the proposed rule does not “invalidate” any “special provisions” in the 2016 Rule for veterans,¹⁴ the partnership between sheet metal JATCs and veterans’ groups are not in jeopardy even though people who identify as African Americans, Hispanic, or Latino are overrepresented in the military relative to the U.S. population (and women are underrepresented) given the express exemption in the NPRM for recruitment of veterans. Our JATCs’ partnerships with other entities may, however, be in jeopardy since there is no express exemption for other groups that may be disproportionately comprised of women or minorities.

III. JATCs Have a Legitimate Business Purpose for Outreach and Recruitment Based on Construction Project Locations and Availability of Reliable Transportation to Ever-Changing Job Sites

A. The 2016 Rule Recognizes that the Legitimate Business Reasons upon Which the Geographic Scope of Recruitment is Based are Unique to Each RAP

In the construction industry, there are legitimate business reasons for RAPs to develop geographically-focused outreach and recruitment plans, including proximity to the training center(s) (since in-person attendance is required for key aspects, such as safety training, of related instruction) and ever-changing job sites to which apprentices will be dispatched for OJT over a four or five-year apprenticeship in highly skilled trades. Recruitment in the construction industry typically involves outreach to community colleges, high schools, county or state fairs, unemployment offices, veteran’s groups, parks and recreation, and other entities that have historically been a viable source of candidates for admission to JATCs. Such discretion has been, in large part, influenced by the physical locations of jobsites where participating contractors have work in progress, where future work is “on the books,” and/or where

¹⁴ See proposed 29 CFR Part 29.11, *Limitations*.

contractors expect to obtain work. Anticipated demand for apprentices is subject to cyclical and seasonal fluctuations, regional labor shortages, and many other variables beyond the control of recruiters.

The preamble to the 2016 Rule recognizes that the legitimate business reasons upon which the geographic scope of recruitment is based are unique to each RAP. Accordingly, it offers sponsors flexibility in defining the pertinent geographic area so long as the sponsor justifies the scope of its recruitment area and does not draw the relevant recruitment area in such a way as to have the effect of excluding individuals based on race, sex, or ethnicity from consideration.¹⁵ The DOL also recognized during the 2016 rulemaking that the sponsor's "availability analysis need only account for those individuals available for apprenticeship who are likely to be reached by the sponsor's recruitment efforts and who are likely able to commute or relocate to the program."¹⁶ The preamble further states that "Each sponsor's relevant recruitment area is unique and may depend on how that sponsor chooses to advertise its apprenticeship program and the distance that past apprentices were willing to travel to attend the apprenticeship program."¹⁷

B. A JATC's Recruitment for Apprentices Requires an Educated "Prediction" of Contractor Demand for Labor in a Highly Volatile Industry and Development of Geographic Lines for Recruitment Based on Best Estimates

The construction industry is fraught with uncertainty, is highly volatile, and subject to "large swings" in the demand for workers, such as those caused by the recessions and the pandemic, which greatly depressed the demand for labor in the construction industry.¹⁸ Another

¹⁵ See 29 CFR 30.5(c)(4) - *Utilization analysis for race, sex, and ethnicity*.

¹⁶ Final Rule, *Apprenticeship Programs, Equal Employment Opportunity*, 92026, 92058 (Dec. 19, 2016).

¹⁷ *Id.*

¹⁸ Belman, at 15.

factor causing uncertainty in the JATC recruitment process is delays or cancellations of projects, particularly when the projects are valued at more than one billion dollars and involve tens of thousands of workers.¹⁹ The location of work requiring the greatest percentage of workhours varies from year to year depending on the location of major construction projects in a state, particularly in areas with large, publicly-funded projects. In the construction industry, the completion of a large, multi-year construction project may substantially diminish the need for recruitment efforts in an area in which the sponsor formerly sought apprentices.

The apprenticeship system is particularly vulnerable to these fluctuations since depressed demand for labor impedes the ability of apprentices to complete OJT requirements and results in higher rates of noncompletion.²⁰ JATCs recruit apprentices when there is a reasonable expectation that work assignments will be available. Without relevant work assignments during the term of the program, an apprentice would lack the necessary, hands-on experience to acquire the skills to become a journeyworker. Sponsors of registered apprenticeship programs may sharply decrease the number of new apprentices admitted during periods of high unemployment. The size of an incoming class of apprentices varies greatly depending upon market demand.²¹ The typical model for recruitment of apprentices in the union sector involves making an educated prediction or projection, based on the input of participating contractors, of future demand for apprentices based upon work within the JATC's geographic area and an estimate of the number of retirees in the upcoming year.

¹⁹ See e.g., Construction Dive. *Developers delay billions in projects amid mounting uncertainty* *****[.constructiondive.com/news/developers-delay-billions-projects-uncertainty/745939/](https://www.constructiondive.com/news/developers-delay-billions-projects-uncertainty/745939/).

²⁰ Belman, at 15.

²¹ One of dozens of distinguishing features between selection of the freshman class at elite universities and apprentices for construction RAPs is that the size of the freshman class at universities may be fairly constant. See Jonah S. Berger (Feb 12, 2021). *The Case for Increasing Undergraduate Enrollment*. Harvard Crimson.

Because of fluctuating labor markets in the construction industry, development of geographic lines for recruitment based on the volume of work at anticipated job sites is a legitimate business purpose and is not a proxy for preferences based on race, sex, or ethnicity.

*C. Outreach and Recruitment Based on the Geographic Location of Projects
Further the Legitimate Business Purpose of Minimizing Premature
Termination*

Basing outreach and recruitment on the geographic location of projects benefits all apprentices, regardless of race, sex, or ethnicity, because it serves the legitimate business purpose of minimizing premature termination of apprenticeship. Studies demonstrate the importance of transportation for successful completion of RAPs and community colleges, with a greater amount of data studying the impact of lack of reliable transportation to community colleges.²² Leaders at these schools often say that their students are “one flat tire away from dropping out.”²³

IV. The Process of Selecting the Best and the Brightest Apprentices in the Construction Industry for Legitimate Business Reasons Bears No Relationship to University Admissions

The outreach and recruitment processes of selective universities bear no relationship to recruitment for apprentices,²⁴ particularly in the construction industry, where there is a serious labor shortage, which is expected to grow given the high median age of workers in the industry.

²² See e.g., Gauri Rege, Christina Curnow, & Chelsi Campbell (2023). *Improving Apprenticeship Completion Rates*. AIR, which states that “real-life financial hardships or other challenging situations (e.g., family care needs, transportation issues) can prevent apprentices from continuing with their careers, especially if they have limited or no savings.”

²³ Abigail Seldin, Dr. Matthew Crespi, & Dr. Ellie Bruecker (2022). *Are community colleges transit accessible?* Seldin/Haring-Smith Foundation (SHSF).

²⁴ Indeed, 60% of RAPs serve only one employer. Robert Lerman, Lauren Eyster, & Kate Chambers (2009). *The Benefits and Challenges of Registered Apprenticeship: The Sponsors’ Perspective*. The Urban Institute Center on Labor, Human Services, and Population.

JATCs are tasked with making potential applicants aware that apprenticeship is a viable option for a career and convincing them to pursue it. Unlike elite universities, RAPs do not have the time, budgets, desire, or ability to engage in redundant recruitment,²⁵ and must, therefore, use their limited resources to make judgment calls, based on past experience, about which sources will produce the best pool of qualified candidates. In the construction industry, the goal of JATCs is to refer one highly qualified candidate for each employment opening. By contrast, highly selective universities are flooded with applicants, but nonetheless, engage in outreach and recruitment to maximize the number of applicants beyond the amount that they would reasonably need to fill a freshman class with highly qualified students. Furthermore, unlike JATCs, highly selective universities have world-wide name recognition, tens of millions of dollars in recruitment budgets for aggressive outreach and advertising, and the ability to attract students throughout the world, with 30 to 40% of their slots filled by students from foreign countries.²⁶ Universities collectively spend in excess of \$2.2 billion annually in advertising and recruitment.

Unlike selective universities, which have a greater ability to rely (or choose to ignore) documented, quantitative predictors²⁷ of success, construction RAP are tasked with selecting apprentices without such benchmarks. Even when RAPs apply facially neutral criteria uniformly and consistently to all applicants in compliance with part 30, an admissions committee is hampered by the fact that a candidate's ability to meet the physical and mental challenges

²⁵ Harvard's admissions committee (which consists of 40 members who recommendations from subregional committees), for example, offers admission to 2,000 individuals from a pool of 60,000 applicants for 1,600 spots. 600 U.S. at 192-193, 295.

²⁶ Emily Badger, Aatish Bhatia, Asmaa Elkeurti, Steven Rich & Ethan Singer (May 23, 2025). *These Are the U.S. Universities Most Dependent on International Students*. [*****.nytimes.com/2025/05/23/upshot/harvard-trump-international-students.html](https://www.nytimes.com/2025/05/23/upshot/harvard-trump-international-students.html)

²⁷ In the university context, detection of unlawful quota-based admissions systems involves the relatively straightforward process of undertaking a quantitative analysis of the applicant pool versus admitted students using evidence-based predictors of academic success at a university, namely standardized test scores and grade point averages.

presented by working in the construction industry cannot be reduced to a single standardized test or a grade point average, and are thus, far less susceptible to quantitative predictors of success. The criteria used by individual JATCs in selecting apprentices are not uniform nationwide and may include: validated third-party testing of mechanical aptitude, comprehension, math, and spatial relations, completion of a pre-apprenticeship program, relevant work experience, a record of long-term employment, military experience, trade school certificates, a demonstrated interest in construction trades (such as participation in vocational technical training during or after high school), ability and willingness to perform the essential functions of the job, a valid driver's license, and access to reliable transportation to reach construction sites inaccessible by public transportation. The legitimate, non-discriminatory rationale for use of these criteria is that sustaining continued employment and/or completing a pre-apprenticeship program, military service, or a trade school are reliable indicators of the candidate's ability to commit to a program or job. Other non-quantifiable (and often unpredictable) factors include a candidate's willingness to persevere in a physically demanding, high-injury job, with layoffs caused by poor weather or project delays, and long and often unpredictable hours. A JATC's selection process is further constrained by a candidate's demonstrated ability, including the availability of reliable transportation, to follow the construction work as projects commence and end at ever-changing locations during a four or five year program.

V. No JATCs in the Sheet Metal Industry Have Been Deterred from Continued Participation in Registered Apprenticeship by the EEO Requirements in the 2016 Rule

The NPRM solicits comments from all interested parties on the "extent to which the administrative burdens associated with AAP requirements have impacted the operation of their

program or their decision to participate in registered apprenticeship.”²⁸ Our records demonstrate that there are no JATCs in the sheet metal industry that have been deterred from continued participation in registered apprenticeship by the EEO requirements in the 2016 Rule. In fact, the number of registered apprentices in sheet metal JATCs has risen by about 43% since January 18, 2017, the effective date of the 2016 Rule.

PART II: POST-ADMISSION SAFEGUARDS

I. The Remedial Purpose of the National Apprenticeship Act Would Be Best Served by Retention of the Post-Admission Provisions in the 2016 Rule

SMART and SMACNA encourage the DOL to retain all provisions in part 30 that safeguard the interests of all admitted apprentices regardless of protected category, including but not limited to: 1) a sponsor’s “pledge”²⁹ that harassment will not be tolerated; 2) anti-harassment training for the protection of apprentices;³⁰ 3) procedures for handling and resolving complaints about harassment;³¹ and 4) the anti-intimidation and anti-retaliation provisions for exercising rights under part 30.³² Rescission of these standards would deprive apprentices of the protections against abuse and mistreatment rather than safeguarding their welfare, which is the very purpose of the National Apprentice Act of 1937 (NAA).³³

²⁸ 90 Fed.Reg. at 28955.

²⁹ 29 CFR § 30.3(b)(2)(i) - *Publish its equal opportunity pledge*

³⁰ 29 CFR § 30.3(b)(4)(i)

³¹ 29 CFR § 30.14 – *Complaints*

³² 29 CFR § 30.17 - *Intimidation and retaliation prohibited.*

³³ 29 U.S.C. § 50.

A. The NPRM Removes Key Protections that Safeguard the Welfare of Apprentices

Recission of the post-admission protections in the 2016 Rule is contrary to the purpose of the NAA, which is to safeguard the welfare of apprentices. In eliminating basic tools designed to protect apprentices from discrimination, such as anti-harassment training, anti-retaliation protection, posting of an equal opportunity pledge, and viable complaint mechanisms, the DOL ignores that the NAA was enacted to safeguard the welfare of apprentices, not to increase or expand participation in RAPs to their detriment.

B. Anti-Harassment Training is a Proactive Means to Protecting All Apprentices from Abuse that Might Otherwise Result in Premature Withdrawal From an Apprenticeship Program

Under the 2016 Rule, sponsors are required to provide anti-harassment training to “individuals connected with the administration and operation of the apprenticeship program, including all apprentices and journeyworkers who regularly work with apprentices.” The 2016 Rule clarifies that the training content must include, at a minimum, the communication of the following information: a statement that harassing conduct will not be tolerated; a definition of harassment and examples of the types of conduct that would constitute unlawful harassment; and the right to file a harassment complaint.³⁴ In adopting the 2016 Rule, the DOL stated its belief that “communicating these elements as part of anti-harassment training is fundamental to creating an environment where it is broadly understood what constitutes harassment and that such harassment has no place in an apprenticeship program.”³⁵

Based on the DOL’s findings in 2016 Rule and other evidence, it is clear that the benefits of anti-harassment training far outweigh the minimal burdens. In the 2016 rulemaking, the DOL

³⁴ See EEOC’s *Enforcement Guidance on Harassment in the Workplace*.

³⁵ 2016 Rule at 92049.

opined that addressing discrimination would “lead to an improvement in the **retention rates** of apprentices that are currently under-represented in apprenticeship programs so that they not only begin but also complete apprenticeships, and continue on as skilled journeyworkers in their respective occupations.”³⁶ In compliance with anti-harassment requirements, sheet metal JATCs have developed anti-harassment programs that communicate the requirements set forth in the 2016 Rule. SMART-SMACNA JATCs find these actions to be a proactive means to protecting all apprentices from actions that might otherwise deprive them of an equal opportunity to complete the programs in which they are enrolled. Anti-harassment training is an important tool to ensure that JATCs receive a return on their investment.

Furthermore, studies have shown that bystander intervention is a very effective tool for stopping and preventing incidents of harassment. Coworkers who witness harassment can be encouraged to report it and use both direct and indirect methods to address harassers. Bystander intervention demonstrates that there is an organizational commitment to taking action and holding people accountable.³⁷

An additional benefit to anti-harassment training is avoidance of liability for non-supervisory harassers (in this case, other apprentices or journeyworkers, for example). Under EEO law, an employer is only liable for the alleged harassment if the employer was negligent by failing to take reasonable actions to prevent the harassment or to take reasonable corrective action once it knows or should know of the harassment.³⁸ An employer must show that it acted reasonably both to prevent and promptly correct harassment. It is a well-established principle of

³⁶ NPRM, *Apprenticeship Programs, Equal Employment Opportunity*, 80 Fed.Reg. 68908, 68919 (Nov. 6, 2015).

³⁷ District of Columbia Bar’s Pro Bono: *Beyond Anti-Harassment Training: Holistic Strategies for Combating Sexual Harassment*

³⁸ *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998).

discrimination law that, if the employer learns of harassing conduct and fails to take reasonable care to prevent and promptly correct the harassment, the employer can be held liable.”³⁹ Anti-harassment training ultimately saves money by reducing litigation fees and potential damages.

C. Providing Apprentices with a Viable Means of Redress Effectuates the Purpose of the NAA

The NPRM proposes rescission of the provisions regulating complaints in the 2016 Rule, and thereby, deprives apprentices of a viable means of redress of harassment, discrimination, intimidation, and retaliation. The proposed rule further diminishes the protections afforded apprentices by proposing a time frame for initiating complaints that would effectively bar it, particularly in programs with a relatively short duration.⁴⁰ To effectively safeguard the interests of apprentices, it is important to increase an apprentice’s reporting options. The EEOC recommends giving multiple people in every organization the responsibility of receiving reports offer more reporting options.⁴¹

D. Appropriate Accommodations and Support Enable All Apprenticeship Candidates to Have an Equal Opportunity for Participation and Graduation from a RAP

The NPRM’s rationale for the rescission of the 2016 Rule focuses on admission and does not accord sufficient weight to the end goal of RAPs, which is to ensure that the sponsoring employers receive a return on their investment. RAPs make choices following the admission process that may aid a majority or minority group, but not at the expense of any protected class or individual. Accommodation and support have facilitated the DOL’s goal of providing “equality of opportunity for every individual that participates in the labor force” and the end goal

³⁹ 2016 Rule at 92049.

⁴⁰ 90 Fed.Reg. at 28951.

⁴¹ District of Columbia Bar Pro Bono Center, *supra* at fn. 43.

of a quality RAP, which is to graduate each apprentice that it enrolls. As a practical matter, a failure to provide necessary accommodations and support results in premature drop outs from RAPs ⁴² Funding supportive services is key to overcoming retention challenges.⁴³

CONCLUSION

SMART and SMACNA appreciate the opportunity to comment on the proposed rescission of part 30. We encourage the DOL to consider the reliance interests of RAPs in developing outreach and recruitment in compliance with the 2016 Rule and the chilling effect that overbroad statements about legal vulnerabilities of 2016 Rule would have on the non-discriminatory goals of sheet metal JATCs, which is selection of the best and brightest apprentices. We also strongly urge the DOL to reconsider the benefits of protection against harassment, discrimination, intimidation, and retaliation against apprentices in post-admission standards in executing its statutory duty under the NAA to safeguard their welfare and to retain these protections.

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Respectfully submitted,



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⁴² Matt Helmer & Dave Alstadt (2013). *Apprentice Completion and Cancellation Rates in Building Trades*, Aspen Institute Workforce Strategies Initiative, at 9.

⁴³ Bhavani Arabandi and Leslee Haisma (Mar. 2025). *Strategic Investments to Advance Apprenticeships in the US*. Urban Institute, at 3.