

allegedly violated the Fitzgerald Act's implementing regulations by not obtaining OATELS' "prior approval" for the California State Legislature's enactment of Labor Code sec. 3075(b).

By Motion of August 4, 2004 the Parties jointly asked that this matter be heard by cross motions for summary judgment as the parties believed the issues were legal not factual. Pursuant to the Order Canceling Hearing and Setting Briefing Schedule of August 12, 2004, Respondent CDIR hereby moves for summary judgment in respondents' favor, on the grounds that the material undisputed facts establish that the asserted bases for derecognition fail as a matter of law. There is no legal authority for the "prior approval" requirement asserted by OATELS. Indeed, it is inconsistent with the Fitzgerald Act, its implementing regulations, and OATELS' own practices. Likewise, there is no legal authority by which it can be concluded that Labor Code sec. 3075(b) fails to conform with the Fitzgerald Act and its implementing regulations. Congress enacted the Fitzgerald Act to create a partnership between the Secretary of Labor and the various States to provide for minimum quality standards (to protect apprentices and promote apprenticeship opportunities by, among other things, ensuring a match between apprentices and labor market need in the apprenticeable occupations) where States were "recognized" with the responsibility of registering apprenticeship programs for federal, in addition to state, purposes. Labor Code sec. 3075(b) is consistent with both the language and intent of the Fitzgerald Act as a matter of law.

This motion is based on this Motion for Summary Judgment, on Respondent CDIR's Points and Authorities in Support of its Motion for Summary Judgment, filed and served herewith, and on the facts and evidence cited therein, including the Parties' Joint Stipulation of Facts filed with this court. For the reasons explained therein, respondent CDIR respectfully requests that this motion be granted in its favor.

Respectfully submitted,

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