

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF APPRENTICESHIP STANDARDS

January 16, 2004

DAS File No.: 19602
District No. 04

Findings of Fact and Decision on the Application of the Western Electrical Contractors Association Inc. to Expand the Geographic Area of Operation of its Apprenticeship Program for the Occupation of Electrician, Construction DOT 824.261.010.

The Western Electrical Contractors Association ("WECA"), a Unilateral Multi-Employer Association, sponsors an existing Apprenticeship Program in this occupation and seeks to expand its geographic area of operation to include all 58 counties in the state of California.

A previous expansion was found to be procedurally defective, and this proceeding is being conducted under Title 8, California Code of Regulations, section 212.2(g) and is in compliance with the decision issued by Acting Chief Deputy Director Suzanne Marria on April 22, 2003 and affirmed by the California Apprenticeship Council ("CAC") on October 23, 2003. In connection with that decision, the Division of Apprenticeship Standards had been instructed by Sacramento Superior Court Judge Gail D. Ohanesian to begin program approval procedures under section 212.2(g) on October 6, 2003, including the notice and comment provisions in connection with WECA's request for statewide geographical expansion.

Since the CAC had previously approved WECA's apprenticeship standards, the specific issues of most concern to the Division of Apprenticeship Standards ("DAS") are WECA's ability to provide statewide opportunities for Related and Supplemental Instruction ("RSI") classes and work opportunities in additional counties, as well as reasonable access to the committee by apprentices. WECA had already been operating its program in an expanded area pursuant to an amendment to its standards approved by DAS, but as noted above, that expansion has been modified by the decision of Acting Chief Deputy Director Marria that was affirmed by the CAC.

WECA has expressed a desire to expand and fund its unilateral apprenticeship program for employees of the participating employers in the Association. The proposed standards have been reviewed and they meet the requirements of the Labor Code and the California Code of Regulations. I find that WECA has the ability to provide, and under these standards will provide, worksite facilities and skilled workers for training in all aspects of the occupation of Electrician, construction in the selected geographic area.

Copies of WECA's proposed standards and selection procedures were sent certified mail to the existing programs in the same occupation for review and comment on October 6, 2003. Written comments were received from eight programs and the National Electrical Contractor's Association ("NECA") chapter of Contra Costa.

Various concerns were raised by the existing programs about the content of WECA's apprenticeship program standards. Some of the concerns dealt with curriculum content and instructor selection and training. Under Labor Code section 3074 however the curriculum development is the responsibility of the Local Education Agency ("LEA") and the program sponsor. I find that the standards in this case do identify the LEAs and WECA has provided evidence that those LEAs have agreed to oversee the Related and Supplemental Instruction. Other concerns were mentioned, but none of these identified concerns were a basis for denial of approval.

The following comments warrant further discussion:

- A concern was voiced about a reference in the proposed standards, Article III, Organization, paragraph two, to subcommittees that will be established as needed. The comment asked how the main committee would handle changes in the subcommittees and notification of where they are located.

After review and consultation I find that WECA has the following subcommittees already set up throughout the State that are utilized for WECA's other statewide training programs:

Santa Rosa	Sacramento	Union City	San Jose
Stockton	Fresno	Ventura	San Diego

WECA represents that others will be added as the program grows and the need exists.

WECA represented that under the program's standards and rules all subcommittees meetings, including disciplinary meetings, are held monthly and that the minutes would be recorded and all actions would be approved by the main committee. Members of the subcommittee also would periodically attend the main committee meetings as well. The subcommittee membership, communications, meeting coordination and minutes are coordinated by a WECA staff liaison.

- Questions were raised about the LEAs, including how the LEA would conduct the lab portion of the RSI training, specifically whether this would be done in school buildings or at the site of member companies.

After review and consultation I find that training is currently taking place in WECA's Sacramento and San Diego training facilities and both have well-equipped and functional labs with hands on materials, diagrams, tools, and capability of demonstrations.

- Questions were raised about whether the WECA program has appropriate numbers of graduates.

After review and consultation, including review of information from DAS records, I find that during past three years of operation, WECA had a number of graduates which are appropriate for a program of its size and nature. The graduation rate was appropriate when compared to other programs taking into consideration all surrounding facts and circumstances.

- It was suggested that the proposed standards, in Article VI "Responsibilities," need to define further the responsibility of LEAs for the hiring of instructors and need to specify who conducts the evaluations of the skill level of the trainers.

Under the Labor Code, the quality instruction is a joint responsibility of WECA and the LEAs. The standards reflect this. The selection and training of instructors is in cooperation with LEAs. Review and consultation discloses that their chief instructor as well as a team of credentialed full time instructors on staff review the electrical knowledge as well as the training capability of each instructor selected. WECA strives to hire credentialed instructors whenever possible. LEAs evaluate

instructors during instructional observation and assessment sessions. WECA also allows students, journeymen, and member contractors to evaluate each instructor and the curriculum for all years of training.

- Questions were raised about how an apprentice living in Southern California would be able to handle the problem of appearing before the main committee if he or she disagrees with the action of a subcommittee over discipline or removal.

After review and consultation, I find that an apprentice has the right to appeal to the Apprenticeship Director, Executive Director, the main Committee or the Division of Apprenticeship Standards as stated in their Rules and Regulations. Under WECA procedures any apprentice regardless of location wishing to appeal to the main committee may be heard via conference call. Other arrangements can be made if the situation is warranted.

- Questions were raised concerning the need for an expanded program.

According to the latest published California Employment and Development Department Survey for Labor Market Information (Revised 4/10/03), electrician was listed as one of the occupations with the greatest growth for the years 2000 – 2010. The total increase listed is 18,000 additional electricians needed.

DAS statistics for total electrician graduates from all approved sponsors for a similar period as listed above were as follows:

	<u>2001</u>	<u>2002</u>	<u>2003</u>
All Electrical Program graduates	758	790	690

As these projections show, the industry is in need of far more trained workers than are currently graduating from existing programs.

Labor Code section 3075(b)(2) provides that a new program can be established where existing programs “do not have the capacity, or neglect or refuse, to dispatch sufficient apprentices to qualified employers at a public works site who are willing to abide by the applicable apprenticeship standards.” I find that this test requires me to look at the capacity of existing programs to meet the needs for trained workers. In the prior administration, the Department explained the nature of this test. Director Stephen Smith, on behalf of the Department in response to a federal

Department of Labor inquiry stated in a letter of April 11, 2002, "I have thought all along that the test of the "need" for a program is whether the existing programs lack the capacity to train all the apprentices we need. While a public process of comment will let the existing programs make their case that they have unused capacity available, no one has demonstrated to me that we have all the capacity to train that we need for California's future skilled workforce." The CAC and the Department have repeated this understanding in formal proceeding before the Department of Labor. I agree and find that the existing programs have not demonstrated to me that we have all the capacity to train that we need for California's future skilled workforce. By carrying out this policy consistent over two administrations we will be able to expand apprenticeship opportunities and supply California's workforce with the trained workers needed for the future.

In addition to the above findings, I make the following findings of fact and decision concerning this request for approval:

I find that WECA has a need for trained workers in the Electrician, Construction occupation and that there are workers who want and need the training in the expanded geographic area set out in the request.

I further find that the Apprenticeship Standards and Selection Procedures developed by WECA meet the requirements of the Labor Code and the California Code of Regulation sections, including 8 C.C.R. § 212 and 212.2. Although the decision of Acting Deputy Director Marria authorized me to apply the statutes and regulations in effect in 1997 when the original expansion request was made, I find that the program meets the current requirements of statute and regulation as well and I find that I would approve this expansion under either the current statute and regulations or the prior statute and regulations.

Therefore, it is my decision that the WECA Apprenticeship Standards developed for the occupation of Electrician, Construction in a statewide geographic area are approved January 16, 2004.



Henry P. Nunn III

Chief

Division of Apprenticeship Standards

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