



RUNNING AN APPRENTICESHIP FUND LIKE A BUSINESS

by | Andrew E. Staab



Administering an apprenticeship fund can be complex, requiring funds to follow not only good educational administration practices but also good business practices. This article is excerpted from a chapter in the soon-to-be-released International Foundation *Trustee Handbook: A Guide to Labor-Management Employee Benefit Plans*, Eighth Edition.

Though not as readily quantifiable as a pension or a health benefit, the education of apprentices is essential to preserving a particular craft or trade and provides an ongoing source of workers for employers contributing to the fund. Besides introducing new workers to a craft or trade, many apprenticeship programs strive to educate journeyworkers who want to remain proficient in their craft skills, improve their existing skills and adapt to changing technology.

As educational institutions, apprenticeship funds must adhere not only to good educational administration practices but also to good business practices. This chapter addresses various topics that will help apprenticeship fund trustees and service providers accomplish these objectives. The discussion is focused on those plans governed by the Taft-Hartley Act of 1947—also known as the Labor-Management Relations Act (LMRA)—and the Employee Retirement Income Security Act of 1974 (ERISA).

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Why Should a Fund Embrace Journeyworker Continuing Education?

For labor organizations, the continuing education provided to journeyworkers is an important component in keeping an apprenticeship fund relevant for all union members. An apprenticeship school or training center should not be viewed by journeyworkers as a place one leaves after graduation never to return—Apprenticeship fund trustees and staff must work to preserve the union members' connection to the fund by offering meaningful outreach and programming.

For employers and employer associations, the continuing education of journeyworkers is crucial to keeping the entire workforce in tune with changing technology and methods. In addition, journeyworker training fosters good apprentice/journeyworker relations—particularly on job sites where mentorship is crucial.

What Roles Are Key to Management of an Apprenticeship and Training Program?

Board of Trustees and the Joint Apprenticeship Training Committee (JATC)

One of the most recognizable features of any Taft-Hartley benefit plan is the board of trustees, which consists of an equal number of employer and labor trustees. This board of trustees can choose to (1) have a separate joint apprenticeship training

committee (JATC) or (2) retain for itself the JATC responsibilities of curriculum development, candidate selection and other specific educational administrative issues.

Which option is best for a fund depends on the circumstances particular to the fund. Not having a separate JATC eliminates an administrative layer and may give a board of trustees more confidence that it is fulfilling its fiduciary role. On the other hand, the geographic territory covered by a fund may require delegation of administration to multiple JATCs. Regardless of what is chosen, the board of trustees has ultimate fiduciary responsibility for the fund.

In many apprenticeship plan governing documents, the terms *board of trustees* and *JATC* are used interchangeably. If a governing plan document refers to a separate JATC and there is no separate JATC, the board of trustees is not following the fund's governing documents. This is problematic if a fund is audited by the U.S. Department of Labor (DOL). A board of trustees should make it a policy to regularly review governing documents to verify whether its fund is following the directives provided in these documents.

Other Personnel

With apprenticeship funds, the layers of staffing tend to be greater than with pension and health and welfare funds. Some apprenticeship fund boards of trustees choose an independent staffing model, which means they have staffing responsibility from the receptionist to the coordinator(s), instructors, administrators, etc. There are also apprenticeship funds that share staff with a related labor organization or other fringe benefit fund. In this case, it is crucial to document shared services and justify each party's expense burden. Other funds find it more appealing to partner with another educational group, such as a vocational technical institute that employs craft and trade instructors. Any time an apprenticeship fund hires its own workers, the board of trustees must keep in mind that it is an employer with all the responsibilities that come with being an employer.

Other roles include the following.

- **Administrator.** The task of collecting and processing employer contributions is handled by an administrator. Sometimes there is an arrangement that a vacation fund set aside a portion of an apprentice's vacation fund benefit to pay apprenticeship tuition. In these situations, the plan administrator is responsible for fund segregation and payment. This requires a written

takeaways

- An apprenticeship fund board of trustees can choose to have a separate joint apprenticeship training committee (JATC) or retain for itself the JATC responsibilities of curriculum development, candidate selection and other educational administrative issues.
- Besides the board of trustees, key roles in the management of an apprenticeship fund include the administrator, coordinator and instructor. All funds also should have an attorney and an auditor.
- Like other benefit plans, apprenticeship funds should have written policies on document retention, conflict of interest, trustee expense reimbursement, disaster recovery and investment.
- Funds should consider policies on social media, staff expense reimbursement, credit card use, equipment and vehicle use, financial review, discrimination, and drugs and alcohol, among others.
- Funds should conduct a cost/benefit analysis to determine whether accreditation is worth pursuing.

agreement between the apprenticeship fund and the vacation fund.

If a plan chooses to hire a third-party administrator (TPA) versus handling administrative responsibilities on its own, the Taft-Hartley Act requires a written agreement stating the contractual relationship between the fund and the TPA. Accordingly, it is good practice for a fund's board of trustees, in consultation with fund counsel, to review the administrative tasks being performed for the fund and verify whether there are written agreements reflecting reasonable compensation.

- **Coordinator.** Apprenticeship fund coordinator is a generic title assigned to a person responsible for making sure educational curriculum matches the requirements for being qualified by the respective registration agency. The coordinator may also be an instructor, receptionist, bill payer, etc. If a coordinator is a member of the board of trustees, a written document is needed that describes the separation of duties between a service provider and trustee.

In larger programs, a coordinator's role may be more focused on instructor hiring and development. There are no legal requirements for being a coordinator, but trustees have a fiduciary responsibility to hire and monitor fund service providers. If a coordinator is not suited for his or her job responsibilities, it is also the responsibility of the trustees to address shortcomings by modifying the coordinator's duties. If this approach does not resolve concerns, trustees have the responsibility to terminate the employment relationship with the coordinator.

- **Instructor.** Choosing the individuals who educate apprentices and journeyworkers cannot be done lightly. Depending on whether the registration for a fund lies with a state or with DOL, there are requirements as to what background instructors must have. When a fund hires instructors directly, the task of vetting and monitoring instructors usually falls within the coordinator's job description. In contrast, if the fund is aligned with a vocational technical institute, instructor employment is handled by the institute—and the institute is considered a service provider to the fund. Instructor quality must be such that the students are learning, and the content taught is appropriate for the craft or trade that is the focus of the training fund.

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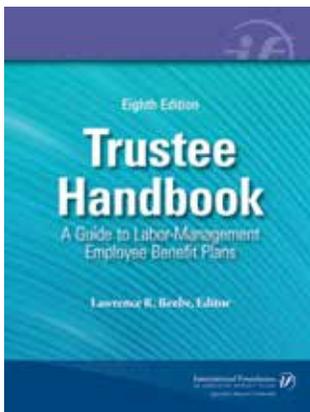
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- **Other.** All funds should have an attorney and an auditor. In the case of an apprenticeship fund independently hiring staff, as opposed to partnering with a vocational technical institute, other staff positions may be needed:
 - Clerical staff to support various aspects of training fund administration
 - An on-site facility manager to assist instructors with classroom and workshop readiness
 - A recruiting director employed solely to recruit new apprentices.

What Written Policies Should an Apprenticeship Fund Have, and Why Should It Have Them?

In recent years, DOL has focused substantial attention on apprenticeship fund administration. These initiatives have led to numerous fund examinations around the United States and uncovered some abuses—particularly with respect to fund assets. The result has been a new crop of apprenticeship fund policies and internal controls. While these plan rules may seem onerous at first, they provide evidence to regulators that a fund is aware of the potential for abuse and that the fund has taken steps to eliminate or greatly reduce such a risk.

The board of trustees of an apprenticeship fund has a responsibility to make sure its fund is operating in accordance with all applicable state and federal regulations as well as plan documents. Accordingly, a fund's board of trustees should seek the input of plan professionals—particularly fund counsel and the fund auditor—to develop written policies that help trustees and other fund personnel meet this challenge.



The website for the International Foundation of Employee Benefit Plans has a page devoted to employee benefit plan policies: www.ifebp.org/SampleDocuments. Click on the “Multiemployer” link for samples specific to multiemployer plans. Policies that all benefit plans should have are:

- Document retention
- Conflict of interest
- Trustee expense reimbursement
- Disaster recovery
- Investment.

Apprenticeship fund trustees are also encouraged to consider writing and implementing policies concerning:

- **Social media.** There was a time when a social media policy was considered optional, but social media has become increasingly important—particularly as a means to communicate plan information. The purpose of such a policy may be to limit social media usage, or it might embrace social media as a part of apprenticeship and journeyworker education.
- **Staff expense reimbursement.** It is vital to provide employees with guidance on what purchases on behalf of the fund are permissible and how the cost of these items will be reimbursed. The same importance given to trustee expense reimbursement should be applied to staff expense reimbursement. Although a trustee expense reimbursement policy is a good model from which to design a staff expense reimbursement policy, be mindful that the types of expenses incurred by trustees and staff vary. For staff, it is the daily expenses that are affected. Mileage is an example of a typical staff expense. A board of trustees should not presume there is only one method for tracking mileage reimbursement. There are as many variations as there are staff members claiming mileage reimbursement. Trustees should consult with the fund auditor to develop a policy that covers a specific mileage calculation methodology.
- **Credit card use.** If a fund has a credit card, there should be a policy that states who is authorized to use the card, a credit limit per purchase and per individual,

and who will serve on the credit card statement review committee. The review committee should include trustees who do not have authority to use the credit card. Otherwise, the concept of self-oversight creates the possibility of abuse.

- **Equipment and vehicle use.** A policy is needed that addresses staff use of fund property. If a fund owns motor vehicles, there should be criteria for authorized users, such as having a valid driver’s license, insurance, etc. Usage criteria should also be stated. If a fund owns a trailer for towing, the policy should consider the ordinary wear and tear that hauling a trailer might have on a staff member’s vehicle. It is not unreasonable to ban staff members from using their personal vehicles for towing apprenticeship fund trailers and other property. Although an outright ban might impede convenience, it avoids the problem of answering how to compensate for vehicles damaged by towing. Additionally, this policy should address when and how tools owned by the fund can be used by staff, apprentices and journeyworkers. On the flip side, there might be instances in which instructors use their own tools, and the question arises whether they should be reimbursed for doing so.
- **Financial review.** This policy should be developed with the fund auditor and touch on fiscal management issues. A financial review committee is generally charged with helping determine fund budgets, developing a plan for economic downturns and assessing insurance needs. Most apprenticeship funds have one or two persons responsible for monitoring cash receipts, cash disbursements, and payroll and inventory control. The board of trustees typically delegate to the financial review committee responsibility for regular oversight and reporting on these cash flow matters to limit the potential for abuse and malfeasance.
- **Graduation/completion ceremony.** Since the issuance of the DOL *Field Assistance Bulletin 2012-01*, funds have had to create or revise their policies concerning the use of fund dollars to pay for ceremonies and dinners that recognize the completion of training programs. DOL has proclaimed such a policy essential to the administration of an apprenticeship fund and provided an outline of what should be included in such a policy. The policy should be drafted by fund counsel

and indicate which entities are permitted to pay for activities associated with graduation ceremonies.

- **Skills contests.** In *Field Assistance Bulletin 2014-02*, DOL addressed, among other things, what fund expenditures are appropriate with respect to apprenticeship skills contests. DOL also offers an outline of what should be in a skills contest policy.
- **Discrimination.** Any training fund that functions as an employer should have employment policies concerning discrimination with respect to gender, race, age, etc.
- **Sexual harassment.** Plans should clearly state in the student handbook and employee manuals (or in a separate document) what is unacceptable behavior and the consequences that will result from such actions. Trustees should consult with legal counsel in developing this policy.
- **Drugs and alcohol.** Following the model for sexual harassment, a policy should also be prepared and distributed concerning the use of drugs and alcohol. Likewise, fund counsel should be asked to assist with the development of this policy.

Is It Worth Getting Accredited?

Accreditation involves a review by independent examiners who validate that an educational organization meets certain standards. Accreditation is an assurance to potential learners that they will receive quality instruction; it also enhances the educational entity's ability to access public and private funding not available to unaccredited institutions. Moreover, accreditation can lift an apprenticeship program to new heights of community recognition.

The process to become accredited is very detailed and can be expensive; it is wise to investigate the time and cost required to become accredited. A cost/benefit analysis helps fund trustees make the decision whether to pursue accreditation. This analysis should be thorough, and it is prudent for trustees to consider employing an independent consultant to

help with the assessment. There is a wealth of information available with regard to accreditation and funding, but the quantity can also make it seem overwhelming. A good starting point is provided in a DOL publication called *The Federal Resources Playbook for Registered Apprenticeship*, found at www.doleta.gov/oa/federalresources/playbook.pdf.

Conclusion

The duties of an apprenticeship fund trustee are similar but not identical to those of a pension fund or health fund trustee. There are more layers of complexity with apprenticeship fund administration. Despite the additional challenges, individuals should not fear serving as an apprenticeship fund fiduciary. The trades and industries depend on good apprenticeship fund administration and, although the risks appear daunting, the rewards are worth the endeavor. 🎯

bio



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