Minutes of the Rules, Regulations and Operating Procedures Committee
May 3, 2007

The Rules, Regulations and Operating Procedures Committee meeting was called to order at 9:15 AM on May 3, 2007. The Committee members in attendance were Bill Callahan, Anne Quick, Dave Rowan, Leo Garcia, Wayne Lindholm and Aram Hodess.

The meeting was called to discuss ways to increase apprenticeship employment opportunities and to explore obstacles to such employment.

Chief Rowan introduced Pacia Parker of DAS staff. Ms. Parker reported her observations on why employers do not employ apprentices on Public Works projects. She stated that these employers either don't want to sign agreements with programs providing for the payment of apprentice fringes or they have shop rates, for example, with 5 journeymen in the field and 1 apprentice working in the shop, an arrangement that does not conform with their legal obligation to train and employ apprentices.

Ms. Parker further noted on inquiry from Chief Rowan that when nonparticipating contractors request apprentices, some programs will dispatch apprentices on request, some will dispatch on satisfaction of certain conditions (Ex: subscription agreements) and some will not dispatch. There were questions as to whether some employers were refusing to sign subscription agreements out of fear that they would be obligating themselves to a collective bargaining agreement. Some speakers from the audience agreed this was a concern. Sandra Benson noted that unions and their collective bargaining arrangements are legally separate entities from apprenticeship committees.

There was a discussion of the effects of indentured apprentices being paid their total wage and fringe in cash instead of having fringe payments being made to their Plan. In some cases, such apprentices could well run-out their hour banks and lose health and welfare coverage. A question was asked about whether apprentices who were paid their wage and fringe package in cash could make self-payments to their Trust Fund to continue Health and Welfare as well as pension benefits. It was explained that there were severe tax implications for the apprentice and legal questions about whether such self-payments could be legally received.

Commissioner Garcia expressed the opinion that employers in public works <u>must</u> be required to employ apprentices or they should not be allowed to do public works. There was wide-spread support for his position.

Sandra Benson stated that CAC Regulation 230.1 does not conform with Labor Code section 1777.5. She noted that Section 1777.5 requires employers performing public work to employ apprentices, whereas Regulation 230.1 simply obligates an employer to request dispatch of an apprentice from a single program.

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Jack Davis expressed the opinion that 230.1 should be harmonized with 1777.5. Employers should not be relieved of their obligation to employ and train apprentices on Public Works projects simply by applying to a single program that is unable to provide an apprentice. Mr. Davis also noted that some contractors are refusing to deduct and pay fringe benefit contributions to the trust funds in which apprentices are participants, resulting in benefit termination.

Questions were raised as to the obligations and liabilities of a Committee dispatching an indentured apprentice, when that apprentice were dispatched to an employer who refused to train to that apprentice's program standards. There is uncertainty as to the content of the training standards of the CAC referred to in box 3 on the DAS 140.

There was an extended discussion on the DAS 140 form and CAC regulation 230.1(c). It was expressed that while the Legislature intended the mandatory employment of apprentices, both 230.1 as currently written and the DAS 140 currently provide a simple way around hiring apprentices.

John Upshaw of IRCC voiced his objections to box 3 on the DAS 140 form and also noted that there is not enough notice required on the DAS 140 for the dispatch of apprentices. There was discussion as to what it means to train to the standards of the CAC? Does this conform to the requirements of 1777.5?

Mark Gonzalez of the Cement Masons' program agreed that there was not enough time for notice of dispatch on the DAS 140 form.

Dan Smith of the Roofers joint program in Santa Clara described his program's longstanding willingness to dispatch apprentices to non-signatory employers and explained his requirement that an employer commit to a safe work environment for the apprentice, a description of the journeyman trainer's work experience, and a subscription agreement for receipt of apprentice fringe payments.

John Bullock of the N. California Carpenter's program suggested that awarding bodies require employers to employ apprentices as part of a pre-qualification process for bidding. Richard Freeman suggested that there be an increased economic incentive for employers to employ apprentices that might take the form of an hourly penalty on contractors who don't employ apprentices. He also suggested increasing the number of programs.

Director Rea noted that no programs currently have their training standards or a "short form" for contributions posted on the Internet or DAS website. 2 speakers said that DAS should do this. There was discussion on creating a vehicle by which an apprentice could direct an employer to pay his/her fringes to his/her Trust Funds.

It was agreed that the Chairman would convene an Ad Hoc Committee to review the issue, including the language of 230.1 and the DAS 140 and that written suggestions from the apprenticeship community on this issue were invited.

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Respectfully submitted,

Aram Hodess

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