

I am an attorney representing several apprenticeship programs in the building trades that constitute ERISA welfare plans. Apprenticeship programs, by their nature alone as both welfare funds and essentially schools that have employees, apprentices and many other challenges are unique, and tend to find themselves evaluating prohibited transaction concerns fairly regularly. Exemptions are difficult to obtain under the current process, but due to the nature of apprenticeship programs, a process that is any more difficult and complicated than the current one will create an undo burden for apprenticeship programs and will hinder their ability to provide quality training and run efficiently. Having a qualified workforce in the construction industry will be crucial over the course of the next century and the best of the best come out of apprenticeship programs. These programs deserve to be supported in their endeavors to expand and provide a strong and robust curriculum rather than being hindered by additional regulatory red tape. I have worked closely with those at the Department of Labor on several prohibited transaction related matters, and they have always been courteous, understanding and professional. However, what I have run into several times is that many at the Department of Labor are unfamiliar with both the practical needs and the financial constraints of apprenticeship programs and clearing those hurdles is exceedingly difficult and expensive for my clients.

Of all ERISA funds, apprenticeship programs also typically have less funds on hand than their counterparts and the process of obtaining an individual exemption already creates a significant cost barrier for many of my clients. This cost will be substantially increased under the new proposed rules (both due to regulatory requirements and because independent fiduciaries and appraisers will pass their additional costs under the proposed rules to the hiring entity seeking the exemption) and will undoubtedly have a profound chilling effect on the willingness of the apprenticeship programs to submit requests for an individual exemption from the Department. I believe that the prohibitive transaction exemption process, in its current form, allows for those seeking an exemption to work hand in hand with the DOL, which is of benefit to both the Department and the entities seeking an exemption because the process itself encourages communication and education. Those benefits will also either be significantly hindered or lost if the new procedures are adopted. Respectfully, I request that the Department reconsider and not adopt the new rules.