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4101:9-4-16 Apprentices, serving laborers, assistants, helpers, and trainees.

- (A) Apprentices, serving laborers, assistants, helpers, and trainees, shall not be categorized as common labor.
- (B) Apprentices may be categorized in their particular trades, and paid less than the prevailing rates of wages for qualified laborers, workmen, or mechanics in such particular trades, only if there is in force at the time work is being performed under a contract for the public improvement project, in the locality of such project, a collective bargaining agreement or understanding between employers and bona fide organizations of labor which authorizes the employment of apprentices.
- (C) Where the foregoing condition is not fulfilled, except as provided in paragraph (K) of this rule and in accordance with section 4115.05 of the Revised Code, with respect to any individual apprentice or group of apprentices, such apprentice or group of apprentices shall be categorized according to the type of work performed and shall be paid the full prevailing rates of wages applicable to qualified laborers, workmen, or mechanics who performed that type of work.
- (D) Serving laborers, assistants, and helpers may be categorized as such in their particular trades, and paid less than the prevailing rates of wages for qualified laborers, workmen, or mechanics in such particular trades, only if there is in force at the time work is being performed under a contract for the public improvement project, in the locality of such project, a collective bargaining agreement or understanding between employers and bona fide organizations of labor which authorizes the employment of serving laborers, assistants, and helpers.
- (E) Except as provided in paragraph (K) of this rule and in accordance with section 4115.05 of the Revised Code, where the foregoing condition applicable to serving laborers, assistants, and helpers is not fulfilled, with respect to individual serving laborers, assistants, and helpers, or groups of serving laborers, assistants, and helpers, such individuals or groups shall be classified according to the work performed, and shall be paid the full prevailing rate of wages as stated in the wage rate schedule issued by commerce, applicable to qualified laborers, workmen, or mechanics who perform that type of work.
- (F) Trainees may be categorized in their particular trades, and paid less than the prevailing rate of wages for qualified laborers, workmen, or mechanics in such particular trade, only if there is in force at the time work is being performed under a contract for the public improvement project, in the locality of such project, a collective bargaining agreement or understanding between employees and bona fide organizations of labor which authorizes the employment of trainees.
- (G) Except as provided in paragraph (K) of this rule and in accordance with section 4115.05 of the Revised Code, where the foregoing condition is not fulfilled with respect to an individual trainee or group of trainees, such trainee or group of trainees shall be categorized according to the type of work performed and shall be paid the full prevailing rate of wages applicable to qualified laborers, workmen, or mechanics who perform that type of work.
- (H) Except as provided in paragraph (K) of this rule and in accordance with section 4115.05 of the Revised Code, ratios of apprentices to skilled workers for the jobsite of the public improvement may not exceed the allowable ratio contained in the applicable prevailing wage schedule. The allowable ratio of apprentices to skilled workers set forth in the prevailing wage schedule shall be the ratio of apprentices to skilled workers in the collective bargaining agreement applicable to the locality of the project. If a contractor or subcontractor has employed apprentices in excess of the allowable ratio contained in the prevailing wage schedule, all such apprentices are considered to have been improperly classified and will be entitled to an equitable share of the total of the wages which would have been paid had such employees been properly

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classified. For purposes of ratios, a working foreman, supervisor, or owner may be counted as a laborer, workman, or mechanic; however, if an employer has miscategorized any employee, including a working foreman, supervisor or owner, or utilized an excessive number of apprentices, such employees cannot be counted as laborers, workmen, or mechanics for ratio purposes.

- (I) Except as provided in paragraph (K) of this rule and in accordance with section 4115.05 of the Revised Code, ratios of serving laborers, assistants, and helpers to skilled workers at the jobsite of the public improvement may not exceed the allowable ratio contained in the prevailing wage schedule. The allowable ratio of serving laborers, assistants, and helpers to skilled workers set forth in the prevailing wage schedule shall be the ratio of serving laborers, assistants, and helpers to skilled workers in the collective bargaining agreement applicable to the locality of the project. If a contractor or subcontractor has employed serving laborers, assistants, or helpers in excess of the allowable ratio contained in the prevailing wage schedule, all such serving laborers, assistants, and helpers are considered to have been improperly classified and will be entitled to an equitable share of the total of wages due if such employees had been properly classified. For purposes of ratios, a working foreman, supervisor, or owner may be counted as a laborer, workman, or mechanic; however, if an employer has miscategorized any employee, including a working foreman, supervisor or owner, or utilized an excessive number of serving laborers, assistants, or helpers, such employees cannot be counted as laborers, workmen, or mechanics for ratio purposes.
- (J) Except as provided in paragraph (K) of this rule and in accordance with section 4115.05 of the Revised Code, ratios of trainees to skilled workers at the jobsite of the public improvement may not exceed the allowable ratio contained in the prevailing wage schedule. The allowable ratio of trainees to skilled workers set forth in the prevailing wage schedule shall be the ratio of trainees to skilled workers in the collective bargaining agreement applicable to the locality of the project. If a contractor or subcontractor has employed trainees in excess of the allowable ratio contained in the prevailing wage schedule, all such trainees are considered to have been improperly classified and will be entitled to an equitable share of the total of wages due if such employees had been properly classified. For purposes of ratios, a working foreman, supervisor, or owner may be counted as a laborer, workman, or mechanic; however, if an employer has miscategorized any employee, including a working foreman, supervisor or owner, or utilized an excessive number of trainees, such employees cannot be counted as laborers, workmen, or mechanics for ratio purposes.
- (K) Ratios of apprentices to skilled workers may not exceed the permissible ratio at the jobsite of the public improvement project as contained in the applicable prevailing wage schedule within a valid collective bargaining agreement or understanding between employers and bona fide organizations of labor. However, it is not a violation of this rule or of section 4115.05 of the Revised Code when:
- (1) The number of apprentices working on a public improvement project exceeds the permissible ratio by two or fewer apprentices; and
 - (2) This occurs for a period of two days or less in any thirty day period.