

Attachment D

APPARENT VIOLATIONS

- **Apparent Violations** – An Apparent Violation is a representation made or referred by a state or local One-Stop Career Center (OSCC) employee based on a personal observation, or a reasonable belief or receipt of information regarding a suspected violation of employment related law(s), or Employment Service (ES) requirements by an employer; as it pertains to a **Migrant Seasonal Farmworker (MSFW) customer**. The OSCC employee must document the suspected violation and refer this information to the OSCC manager.

Examples of *Apparent Violations* may include (but are not limited to):

- ✓ An interested party reports to the OSCC that his next door neighbor son / daughter are operating equipment at the farm down the street.
- ✓ A local staff person speaks with a MSFW who complains about unfair treatment by an employer and, though the individual provides credible information alleging an employer violation, the person chooses not to file a complaint (through the formal Complaint Process). The staff person still suspects a violation occurred.
- ✓ A One-Stop Career Center staff person attempts to take a job order from an agricultural employer (non-H-2A or H-2A) who insists on a requirement that is a violation of employment related law(s).
- ✓ An H-2A employer refuses to hire an otherwise qualified U.S. worker referred by the OSCC.

Processing Apparent Violations

If any Central DCS or local Career Center employee suspects an apparent violation occurred, he/she must document the suspected violation and refer this information to their supervisor. At the local level, this must be reported to the Local Complaint Officer (CO) simultaneously. The Local CO must log the reported Apparent Violation (Complaint Log) and determine:

1. if the employer **has** filed a job order with the OSCC within the past 12 months:
 - a. If yes, the OSCC must attempt informal resolution documenting the process and outcome. If not resolved within 5 days, the alleged violation must be elevated to the State Monitor Advocate (SMA).
2. if the employer **has not** filed a job order with the OSCC during the past 12 months:
 - a. The suspected violation of an employment-related law must be referred to the appropriate enforcement agency in writing.

Complaint Officers are to forward to the DCS State Monitor Advocate (SMA) a copy of all Apparent Violations for review and consideration after the 5 day period. If the Apparent Violation involves an H-2A employer, the SMA will contact the U.S. DOL ETA, Chicago National Processing Center (CNPC) in the event that U.S. workers have been withheld from the job.