



Workforce Issuance

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☒ **Policy** ☐ **Information**

To: Chief Elected Officials
MassHire Workforce Board Chairs
MassHire Workforce Board Directors
Title I Administrators
MassHire Career Center Directors
Title I Fiscal Officers
MDCS Operations Managers

cc: WIOA State Partners

From: Alice Sweeney, Director
MassHire Department of Career Services

Date: January 31, 2019

Subject: **Job Order and Referral Policy With Respect to Labor Disputes**

Purpose: To provide instruction to the MassHire Workforce Boards, MassHire Career Center Operators and workforce partners regarding the taking of job orders from, and referral of job seekers to, an employer involved in a labor dispute.
Note: this policy replaces MassWorkforce Issuance No. 02-37 and has been updated with current nomenclature; the content is unchanged.

Background: Federal regulations regarding the functioning of State Employment Services are explicit:

20 CFR Ch. VI Part 652, Subpart A, §652.9 Labor Disputes.

- (a) State agencies may not make a job referral on job orders which will aid directly or indirectly in the filling of a job opening which is vacant because the former occupant is on strike, or is being locked out in the

course of a labor dispute, or the filling of which is otherwise an issue in a labor dispute involving a work stoppage.

- (b) Written notification must be provided to all applicants referred to jobs not at issue in the labor dispute that a labor dispute exists in the employing establishment and that the job to which the applicant is being referred is not at issue in the dispute.
- (c) When a job order is received from an employer reportedly involved in a labor dispute involving a work stoppage, State agencies must:
 - (1) Verify the existence of the labor dispute and determine its significance with respect to each vacancy involved in the job order; and
 - (2) Notify all potentially affected staff concerning the labor dispute.
- (d) State agencies must resume full referral services when they have been notified of, and verified with the employer and workers' representative(s) that the labor dispute has been terminated.
- (e) State agencies shall notify the regional office in writing of the existence of labor disputes which:
 - (1) Result in a work stoppage at an establishment involving a significant number of workers; or
 - (2) Involve multi-establishment employers with other establishments outside the reporting State.

Policy:

If local career center staff become aware that a labor dispute may exist with respect to an employer that has either listed a job order, or has requested that a job order be listed, the staff person will immediately notify the career center director (or his/her designee) of the potential labor dispute. The career center director (or designee) shall immediately contact the employer to determine:

- if a labor dispute exists,
- if a work stoppage has occurred, and
- its significance in relation to all vacancies covered by the job order.

If it is determined that a labor dispute does exist, that a stoppage has occurred, and that any of the vacancies covered by the employer's job order are related to the labor dispute, the career center director (or designee) shall inform the employer that, in accordance with the regulation cited above, it is the policy of the Massachusetts Workforce Development System that the specific job opening(s) under dispute may not be included in the job order. The employer will also be informed that under the policy job seekers will be notified of the existence of the labor dispute and that none of the job openings included in the job order are in dispute.

The career center director (or designee) will instruct appropriate staff to revise the job order (if one exists) to:

- delete any information regarding openings that are in dispute,
- indicate to job seekers the existence of the dispute, and
- indicate the specific openings listed in the job order *are not* in dispute.

The career center director (or designee) will also notify *all* appropriate career center staff of the existence of the dispute. He/she will also take all appropriate steps to ensure that job seekers utilizing the services of the career center, particularly self-help services, are informed of the existence of the dispute and that the specific openings included in the job order *are not* in dispute.

The career center director (or designee) shall also notify the Rapid Response Unit at 617-626-5300 of the existence of the labor dispute, the number of workers affected, the related job openings (referencing the specific job order number if one exists) and provide a summary of the steps taken to provide appropriate notice to job seekers and career center staff.

If *all* positions included in a job order are in dispute, staff will inform the employer that, as cited above, current policy does not allow the job order to be listed. The employer should be informed, however, that any other positions not in dispute may be listed in a job order.

If the labor dispute and resulting work stoppage involves 25 or more employees, this will be determined to be a significant number of workers for purposes of notifying the U.S. Department of Labor (D.O.L.) regional office under the terms cited at 20 CFR §652.9(e)(1). It will be the responsibility of the Rapid Response Unit to submit the formal written notification to the U.S. D.O.L. regional office in a timely manner. Additionally, if the dispute has resulted in a work stoppage that involves multi-establishment employers with other establishments outside Massachusetts, written notification will also be provided to the U.S. D.O.L. regional office.

For job openings identified from internet searches by either staff conducting job development on behalf of a job seeker (or job seekers), or by the job seeker, him or herself, for which no formal job order exists in MOSES or for which the employer is not seeking to have a formal job order listed in MOSES, should career center staff become aware that a labor dispute exists with regard to the employer, staff and management should follow the steps described above to determine whether the specific positions in question, are in dispute and a work stoppage has occurred. Staff should also attempt to determine what, if any, other of the employer's positions are in dispute.

As above, if it is determined that a position in question is in dispute and a work stoppage has occurred, career center staff must inform the job seeker of those

facts and also inform the job seeker that, based on the regulatory citations cited above, under current policy, neither career center staff nor career center resources may be utilized in effecting a referral to the specific job opening.

In accordance with the policy described above, all career center directors will establish procedures to ensure that each job seeker who is referred to a job opening at an employer where a labor dispute exists and a work stoppage has occurred (and it has been determined that the job to which the job seeker is being referred is not at issue with respect to the dispute) *receives proper written notice* in order that the job seeker may make an informed choice with regard to pursuing the specific job opening. This directive includes two sample notices that may be replicated by local career centers to provide appropriate notice to job seekers (Attachment A).

Action

Required: Please ensure that all staff who will be responsible for carrying out the actions described, herein have reviewed this guidance and understand their responsibilities.

Effective: Immediately

Attachment: A. Notice to Job Seeker Forms – Job Order Referral / Internet Referral

References: 20 CFR Ch. VI Part 652, Subpart A, §652.9 Labor Disputes

Inquiries: Any questions related to this correspondence should be directed to PolicyQA@MassMail.State.MA.US. Please include the Issuance Number and description with the inquiry.