

Attachment A
Glossary of Terms and Abbreviations used in the
Provision of Services to Migrant and Seasonal Farmworkers (MSFWs)

This glossary provides a reference to terms, acronyms and abbreviations that apply to the Workforce Innovation and Opportunity Act (WIOA) regulations, Parts 652 through 658, 675 through 688 and 29 Part 38. In addition, the terms set forth are used by MassHire Career Centers (MCCs) and MassHire Department of Career Services (MDCS) in the performance of providing services to Migrant Seasonal Farm Workers (MSFWs).

Act means the Wagner-Peyser Act (codified as 29 U.S.C. 49 *et seq.*).

Agricultural employer means any employer as defined in this part who owns or operates a farm, ranch, processing establishment, cannery, gin, packing shed or nursery, or who produces or conditions seed, and who either recruits, solicits, hires, employs, furnishes, or transports any migrant or seasonal farmworker or any agricultural employer as described in 29 U.S.C. 1802(2).

Agricultural worker see *Farmworker*.

Apparent violation means a suspected violation of employment-related laws or employment service (ES) regulations by an employer, which an ES staff member observes, has reason to believe, or regarding which an ES staff member receives information (other than a complaint as defined in this part).

Applicant holding office means an ES office that is in receipt of a clearance order and has access to U.S. workers who may be willing and available to perform farmwork on less than year-round basis.

Applicant holding state means a State Workforce Agency that is in receipt of a clearance order from another State and potentially has U.S. workers who may be willing and available to perform farmwork on a less than year-round basis.

Career services means the services described in section 134(c)(2) of the Workforce Innovation and Opportunity Act (WIOA) and [20 CFR 678.430](#).

Clearance order (formerly “job order”) means a job order that is processed through the clearance system under the Agricultural Recruitment System (ARS). *Intrastate clearance orders MUST be circulated to all Employment Service (ES) offices within the state.*

Complainant means the individual, employer, organization, association, or other entity filing a complaint.

Complaint means a representation made or referred to a State or Employment Service (ES) office of an alleged violation of the ES regulations and/or other Federal laws enforced by the Department's Wage and Hour Division (WHD) or Occupational Safety and Health Administration (OSHA), as well as other Federal, State, or local agencies enforcing employment-related law.

Complaint Officer means the individual responsible for ensuring that the MassHire Unified Complaint System process is implemented and being adhered to across the Commonwealth and that the rights and legitimate interests of service users and staff are protected throughout the complaint system process.

Complaint System Representative means a trained ES staff individual who is responsible for processing complaints.

Decertification means the rescission by the Secretary of Labor (Secretary) of the year-end certification made under sec. 7 of the Wagner-Peyser Act to the Secretary of the Treasury that the State agency may receive funds authorized by the Wagner-Peyser Act.

Department means the United States Department of Labor (DOL), including its agencies and organizational units.

Employer means a person, firm, corporation, or other association or organization which currently has a location within the United States to which U.S. workers may be referred for employment, and which proposes to employ a worker at a place within the United States and which has an employer relationship with respect to employees under this subpart as indicated by the fact that it hires, pays, fires, supervises, and otherwise controls the work of such employees.

Employment and Training Administration (ETA) means the component of the Department of Labor that administers Federal government job training and worker dislocation programs, Federal grants to States for public ES programs, and unemployment insurance benefits. These services are provided primarily through State and local workforce development systems.

Employment-related laws means those laws that relate to the employment relationship, such as those enforced by the Department's WHD, OSHA, or by other Federal, State, or local agencies.

Employment Service (ES) office means a site (MassHire Career Center) that provides Wagner-Peyser Act services as a one-stop partner program. A site must be co-located in a one-stop center consistent with the requirements of §§678.305 through 678.315 of this chapter.

Employment Service (ES) Office Manager means the individual in charge of all ES activities in a one-stop center. Employment Service (ES) regulations means the Federal regulations at this part and parts 652, 653, 654, 658 of this chapter, and 29 and CFR 75.

Employment Service (ES) staff means individuals, including but not limited to State employees and staff of a subrecipient, who are funded, in whole or in part, by Wagner-Peyser Act funds to carry out activities authorized under the Wagner-Peyser Act.

Equal opportunity data (or EO data) means data on race and ethnicity, age, sex, and disability required by 29 CFR part 38 of the Department of Labor regulations implementing sec. 188 of WIOA, governing nondiscrimination.

Farm labor contractor means any person or entity, other than an agricultural employer, an agricultural association, or an employee of an agricultural employer or agricultural association, who, for any money or other valuable consideration paid or promised to be paid, recruits, solicits, hires, employs, furnishes, or transports any migrant or seasonal farmworker (MSFW).

Farmwork means the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities. This includes the raising of livestock, bees, fur-bearing animals, or poultry, the farming of fish, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

It also includes the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

For the purposes of this definition, agricultural commodities means all commodities produced on a farm including crude gum (oleoresin) from a living tree product processed by the original producer of the crude gum (oleoresin) from which they are derived, including gum spirits of turpentine and gum rosin. Farmwork also means any service or activity covered under §655.103(c) of this chapter and/or 29 CFR 500.20(e) and any service or activity so identified through official Department guidance such as a Training and Employment Guidance Letter.

Farmworker means an individual employed in farmwork, as defined in this section. Individual with a disability means an individual with a disability as defined in sec. 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

Field checks means unannounced appearances by ES staff and/or other State or Federal staff at agricultural worksites to which ES placements have been made through the intrastate or interstate clearance system to ensure that conditions are as stated on the clearance order and that the employer is not violating an employment-related law.

Field visits means announced appearances by State Monitor Advocates, Regional Monitor Advocates, the National Monitor Advocate (or National Monitor Advocate staff), or outreach staff to the working, living, and gathering areas of migrant and seasonal farmworkers (MSFWs), to perform the duties described at §§ 653.107(b) (outreach staff), 653.108(o) and (q) (State Monitor Advocates), 658.602(n) (National Monitor Advocates and National Monitor Advocate staff), and 658.603(p) (Regional Monitor Advocates). Monitor Advocates or outreach staff must keep records of each such visit.

Governor means the chief executive of a State or an outlying area.

Hearing Officer means the individual responsible for the administrative hearings process and to preside at administrative hearings.

Individual with a disability means an individual with a disability as defined in sec. 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

Interstate clearance order means an agricultural clearance order for temporary employment (employment on a less than year-round basis) describing one or more hard-to-fill job openings, which an ES office uses to request recruitment assistance from other ES offices in a different State.

Intrastate clearance order means an agricultural clearance order for temporary employment (employment on a less than year-round basis) describing one or more hard-to-fill job openings, which an ES office uses to request recruitment assistance from all other ES offices within the State.

Job development means the process of securing a job interview with a public or private employer for a specific participant for whom the ES office has no suitable opening on file.

Job information means information derived from data compiled in the normal course of ES activities from reports, job orders, applications, and the like.

Job opening means a single job opportunity for which the ES office has on file a request to select and refer participants.

Job order is revised and replaced by the term “Clearance order.”

Job referral means:

- (1) The act of bringing to the attention of an employer a participant or group of participants who are available for specific job openings or for a potential job; and
- (2) The record of such referral. “Job referral” means the same as “referral to a job.”

Labor Market Area means an economically integrated geographic area within which individuals can reside and find employment within a reasonable distance or can readily change employment without changing their place of residence. Such an area must be identified in accordance with criteria used by the Department's Bureau of Labor Statistics in defining such areas or similar criteria established by a Governor.

Limited English proficient (LEP) individual means an individual whose primary language for communication is not English and who has a limited ability to read, speak, write, and/or understand English. LEP individuals may be competent in English for certain types of communication (e.g., speaking or understanding), but still be LEP for other purposes (e.g., reading or writing).

Local Workforce Development Board (or Local WDB) means a Local Workforce Development Board established under sec. 107 of WIOA.

Migrant farmworker means a seasonal farmworker (as defined in this section) who travels to the job site so that the farmworker is not reasonably able to return to his/her permanent residence within the same day.

Migrant food processing worker see Migrant Farmworker.

MSFW is an acronym that means migrant farmworker or a seasonal farmworker.

Non-criteria clearance order means a clearance order that is not attached to an application for foreign temporary agricultural workers pursuant to part 655, subpart B, of this chapter.

Onsite review means an appearance by the State Monitor Advocate and/or Federal staff at an ES office to monitor the delivery of services and protections afforded by ES regulations to MSFWs by the State Workforce Agency and local ES offices.

One-stop center means a physical center (MassHire Career Center) within the one-stop delivery system, as described in sec. 121(e)(2)(A) of WIOA.

One-stop delivery system means a one-stop delivery system described in sec. 121(e) of WIOA. One-stop partner means an entity described in sec. 121(b) of WIOA and §678.400 of this chapter that is participating in the operation of a one-stop delivery system.

Order holding office means an ES office that has accepted a clearance order from an employer seeking U.S. workers to perform farmwork on a less than year-round basis through the Agricultural Recruitment System.

Outreach contact means each MSFW that receives the presentation of information, offering of assistance, or follow-up activity from outreach staff.

Outreach staff means the individuals who conduct outreach to Migrant Seasonal Farm Workers (MSFWs) that are not yet accessing services within the MassHire Career Center network. They also work with employers in the Agricultural industry by obtaining referrals to employment, placements, and assistance with the H-2A program information. *State Monitor Advocates (SMAs) are NOT outreach staff and cannot fulfill the State Workforce Agency's responsibility to provide outreach staff.*

Participant means a reportable individual who has received services other than the services described in § 677.150(a)(3) of this chapter, after satisfying all applicable programmatic requirements for the provision of services, such as eligibility determination. (See § 677.150(a) of this chapter.)

Regional Administrator (RA) means the chief Department of Labor Employment and Training Administration (ETA) official in each Department regional office.

Reportable individual means an individual who has taken action that demonstrates an intent to use ES services and who meets specific reporting criteria of the Wagner-Peyser Act (see [§ 677.150\(b\) of this chapter](#)).

Respondent means the individual or entity alleged to have committed the violation described in the complaint, such as the employer, service provider, or State agency (including a State agency official).

Seasonal farmworker means an individual who is employed, or was employed in the past 12 months, in farmwork (as defined in this section) of a seasonal or other temporary nature and is not required to be absent overnight from his/her permanent place of residence. Non-migrant individuals who are full-time students are excluded. Labor is performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, may not be continuous or carried on throughout the year. A worker who moves from one seasonal activity to another, while employed in farmwork, is employed on a seasonal basis even though he/she may continue to be employed during a major portion of the year. A worker is employed on other temporary basis where he/she is employed for a limited time only or his/her performance is contemplated for a particular piece of work, usually of short duration. Generally, employment which is contemplated to continue indefinitely is not temporary.

Secretary means the Secretary of the U.S. Department of Labor or the Secretary's designee.

Significant MSFW one-stop centers are those designated by the Department and include those ES offices where MSFWs account for 10 percent or more of annual participants or reportable individuals in ES and those local ES offices that the OWI Administrator determines must be included due to special circumstances such as an estimated large number of MSFWs in the service area.

Solicitor means the chief legal officer of the U.S. Department of Labor or the Solicitor's designee.

State means any of the 50 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. State Administrator means the chief official of the SWA.

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State agency or **State Workforce Agency (SWA)** means the State ES agency designated under sec. 4 of the Wagner-Peyser Act.

State hearing official means a State official designated to preside at State administrative hearings convened to resolve complaints involving ES regulations pursuant to subpart E of part 658 of this chapter.

State Monitor Advocate means the individual who monitors each one stop center (MassHire Career Center) to ensure that Migrant and Seasonal Farm Workers (MSFWs) have full access to and receive services on a basis which is qualitatively equivalent and quantitatively proportional to the services provided to non-MSFWs within all MCCs.

State Agency or State Workforce Agency (SWA) official means an individual employed by the State Workforce Agency or any of its subdivisions. **State Workforce Development Board or State WDB** means the entity within a State appointed by the Governor under sec. 101 of WIOA.

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Supportive services means services that are necessary to enable an individual to participate in activities authorized under WIOA or the Wagner-Peyser Act. These services may include, but are not limited to, linkages to community services, assistance with transportation, assistance with housing, needs-related payments, assistance with educational testing, reasonable accommodations for individuals with disabilities, referrals to health-care, assistance with books, fees, school supplies, and other necessary items for students enrolled in postsecondary education classes, and payments and fees for employment and training-related applications, tests, and certifications.

Tests means a standardized method of measuring an individual's possession of, interest in, or ability to acquire, job skills and knowledge.

Training services means services described in sec. 134(c)(3) of WIOA.

Wagner-Peyser Act Employment Service (ES) also known as **Employment Service (ES)** means the national system of public ES offices described under the Wagner-Peyser Act. Employment services are delivered through a nationwide system of one-stop centers and are managed by State Workforce Agencies and the various local offices of the State Workforce Agencies and funded by the United States Department of Labor.

WIOA is an acronym that means the Workforce Innovation and Opportunity Act (codified at 29 U.S.C. 3101 et seq.).

Workforce development activity means an activity carried out through a workforce development program as defined in sec. 3 of WIOA.

Working or business days means those days that the order-holding ES office is open for public business, for purposes of the Agricultural Recruitment System.

Information Sources:

- **Electronic Code of Federal Regulations (eCFR) Title 20, Chapter V, Part 651, § 651.10**

URL - [eCFR :: 20 CFR Part 651 -- General Provisions Governing the Wagner-Peyser Act Employment Service](#)