

Services to Migrant and Seasonal Farmworkers (MSFWs)

Technical Assistance guide for One-Stop Career Centers





Background

- **1971** Petitioned US Secretary of Labor Brennan to review concerns affecting MSFWs
- **1972** NAACP filed suit alleging various discriminatory actions, including inequitable treatment and services to MSFWs
- **1974**, Judge Richey signed a consent order that required the DOL to make changes
- **1985**, Judge Richey dismissed the lawsuit, provided the regulations the DOL had written remained in effect.
- **1998**, the Workforce Investment Act (WIA) was passed and preserved the MSFW service requirements.
- **2014**, the Workforce Innovation and Opportunity Act (WIOA) was passed and retains the MSFW service requirements.



Requirements

- The U.S Department of Labor, Employment and Training Administration (ETA) established equity and minimum service level indicators for migrant and seasonal farmworkers (MSFWs), that must be met by all states.
- OSCCs are required to ensure that the services provided to Farmworkers (and their families) – whether seasonal or migrant -- are “qualitatively equivalent and quantitatively proportionate” to the services provided to other jobseekers... and ...that all workforce development services, benefits and protections are received on an equitable and non- discriminatory basis.



How do we meet the requirement for universal access to services provided under the WIA regulations?

- By making “labor exchange services” available to all employers and job seekers, including unemployment insurance claimants (UI), veterans, *migrant and seasonal farmworkers*, and individuals with disabilities;
- By offering services as follows:
 - (i) Self-service;
 - (ii) Facilitated self-help service; and
 - (iii) Staff-assisted service;



Who are MSFWs?

SEASONAL FARM WORKER

Worked at least 25 days (or parts of days) performing farmwork during the last 12 months AND earned at least one half of total income performing farmwork AND was not employed in farmwork by the same employer all year.

MIGRANT FARMWORKER

A seasonal farmworker THAT has to travel to do farmwork AND is unable to return to his / her permanent residence within the same day.

MIGRANT FOOD PROCESSING WORKER

Worked 25 days (part of days) doing food processing during the last year AND earned at least one half the total earned income from food processing AND has to travel to do food processing and cannot return to permanent residence within the same day.

MSFW IDENTIFICATION FLOW CHART

<i>Seasonal Farmworker</i>	<i>Migrant Farmworker</i>	<i>Migrant Food Processing Worker</i>
✓ A person who during the preceding 12 months worked at least an aggregate of 25 or more days or parts of days in which some work was performed in farmwork,	✓ A seasonal farmworker who had to travel to do the farmwork	✓ A person who during the preceding 12 months has worked at least an aggregate of 25 or more days or parts of days in which some work was performed in food processing
✓ Earned at least half of his/her earned income from farmwork, and	✓ So that he/she was unable to return to his/her permanent residence within the same day.	✓ Earned at least half of his/her earned income from processing work and
✓ Was not employed in farmwork year round by the same employer.	✓ Full-time students traveling in organized groups rather than with their families are excluded.	✓ Was not employed in food processing year round by the same employer,
✓ For the purposes of this definition only, a farm labor contractor is not considered an employer.		✓ Provided that the food processing required travel such that the worker was
✓ Non-migrant individuals who are full-time students are excluded.		✓ Unable to return to his/her permanent residence in the same day.
		✓ Migrant food processing workers who are full-time students but who travel in organized groups rather than with their families are excluded.
		(As classified in the North American Industry Classification System (NAICS) 311411, 311611, 311421 for food processing establishments),



Resource Room

- Pertinent information shall be kept current
 - Hot Jobs listing shall include local agricultural jobs
 - Translation assistance of documents as needed for LEP customers

- OSCC Staff shall provide adequate staff assistance to each MSFW to use the Resource Room / Area and for the use job order information and services effectively



MSFW Identification / Enrollment Process

- Local office staff is required to determine whether an applicant is a MSFW at the time of the first interview, as defined by 20 CFR 651.10 (see MSFW Desk Aid).
- Applicant completes application/registration (membership)
Job specialist reviews information with the applicant for completeness/accuracy
- Asks pertinent questions regarding demographics, employment history, education, skills and employment goals
- Completes registration process onto MOSES



MSFW Identification / Enrollment Process

(Job Specialist's Role)

- MSFW status is based on information obtained from the customer for the previous 12 months at the time that services provided or during registration.
- MSFW status is subject to change over time, and must be re-determined on an on-going basis when customers return to the Career Center for services.

Note: U.S. DOL standards require random sampling of selected MSFW and non-MSFW registrations to verify if applicants are being properly coded.

It is also required that local offices document any actions they had taken to resolve discrepancies identified through the random sampling.

Job Seeker Search Screen

Job Seeker Search

Type of Search

Search By: Job Seeker ID Last Name Social Security Number

To enter a new Job Seeker click the Add button. Search for an existing Job Seeker by selecting a search method, entering the search criteria, and then clicking the Search button.

Search Criteria: Search

Search Results

SSN#	First Name	Last Name	Date of Birth	Job Seeker ID	Address
###-##-1843	Fred	Practice	09/05/1971	22211331	19 Staniford St, Boston
###-##-2843	Test	Smmith	01/01/1970	44433221	19 Staniford St, Boston
###-##-3833	James	Test	07/06/1961	11155221	19 Staniford St, Boston
###-##-7715	Dolly	Sample	04/19/1976	12345678	19 Staniford St, Greenfie
###-##-1843	Fred	Practice	09/05/1971	33344222	19 Staniford St, Boston
###-##-1843	Test	Cates	01/01/1970	33322111	19 Staniford St, Boston
###-##-1843	Jack	Practice	09/05/1971	22211331	19 Staniford St, Boston
###-##-1843	Samual	Smmith	01/01/1970	44433222	19 Staniford St, Boston
###-##-3833	James	Test	07/06/1961	11155221	19 Staniford St, Boston

Row 4 of 50

Job Specialist's Role:

- Assist customer with registration (if needed)
- If customer is already in MOSES - Log-on to MOSES; search applicant by:
 - Job Seeker ID;
 - Name or
 - Soc. Sec. Number.
- Highlight the Tab with the applicants name and <Enter>

Basic Screen (Job Specialist's Role cont.)

<Click> on "Basic" Tab - Main Menu MOSES.

- Complete / update the following fields.
- Name: First and last
- Address ; Date of Birth
- Home Phone number
- Gender
- e-mail and web address
- Military – Very Important
- Race/Ethnicity
- Program Name
- Identify whether worked in Agriculture – Very Important

Client: Sally, SSN: XXX-XX-7715 ID: 12345678

Basic | Full | Education | Work Experience | Events | Alerts | Case Plan | Services | Special Programs

General Information

First Name: Dolly Middle Initial:
Last Name: Sample Gender: Male Female
Date of Birth: 04/19/1976 Military: Yes No
Release Information?: Yes No Other Eligible: Yes No

Race / Ethnicity

White Black or African American
 Hispanic or Latino American Indian or Alaskan Native
 Asian Hawaiian Native or Other Pacific Islander
 Other Information Not Available

Programs – Last Reportable Service Date: 12/23/2010

Program Name	Apply Program Status	History
Job Match	<input checked="" type="checkbox"/> Info. Incomplete	[Icon]
Program Eligibility	<input type="checkbox"/>	[Icon]
Case Management	<input type="checkbox"/>	[Icon]

Worked in agriculture or food processing in the last 12 months? Yes No Career Center

Residence Address | Mailing Address

Address

Address: 19 Staniford St.
Country: United States of America
Zip: 01301-9515 City: GREENFIELD
State: Massachusetts
 Enterprise Empowerment Renewal

Address Not Available Mailing Address different

Confidential: Yes No HITG Confidential: Yes No

Contact

Home Phone: (617)111-1111 Email: Dollytest@yahoo.com
Other Phone: [] - []
Web Address: [] Prefers Emails

Special Accommodations

Trade | Eligibility | Match_Criteria | Run_Match | Eligibility Criteria | OK | Cancel

Full Screen (Job Specialist's Role)

Complete General information on this screen.

- Special attention must be paid on Disability, Immigrant Status and Migrant Status fields.

Sample Family SSN: XXX-XX-7715 ID: 12345678 JQ [Stop] [Dollar] [Notes]

Basic Full Education Work Experience Events Alerts Case Plan Services Special Programs

General Information Military Information Barriers

Additional Information

Employed: Yes No Immigrant: Yes No

Disability: Yes No

Dislocated Worker Received Notice of Layoff/Military Separation

Primary Language: Spanish

Language Details: [Text Box]

Summer Youth

Permanently Separated (HITG): Last Modified: 11/27/2010

Economically Disadvantaged

Family Size: [Text Box] 1

Is your family income for the last six months below \$4,865.00? Yes No

Career Objective

Viewable to Employers on the Internet (JobQuest) Yes No

[Text Box]

Education

In School: Yes Yes - In Alternative School No

Highest Degree: Less Than High School

Highest Education Grade: 7

Work Search Verification

Date Verified: [Text Box]

Verified By: [Text Box]

Migrant Status

Seasonal Farm Worker, Non Migrant

Migrant Farm Worker

Migrant Food Processor

[Trade] [Eligibility] [Match Criteria] [Run Match] [Eligibility Criteria] [OK] [Cancel]

Work Experience Screen (Job Specialist's Role cont.)

Complete / update work history;
ask the applicant if he/she had
worked at a farm or agricultural
related occupation.

- Complete all applicable fields

Sample, Dolly SSN: XXX-XX-7715 ID: 12345678 JQ [Red X] [Green \$] Notes

Basic | Full | Education | **Work Experience** | Events | Alerts | Case Plan | Services | Special Programs

Employment History

Company Name	Job Title	Salary	Salary Unit	Start Date	End Date	
FAIRVIEW FARMS INC	Farmworkers and Laborers, Crop	.00		07/14/2010	11/05/2010	Add
FULL BLOOM MARKET GARDEN	farmworker	9.16	Hour	05/01/2006	10/26/2006	Edit

Post Service Employment

Employer Name	Job Title	Salary	Salary Unit	Start Date	End Date	
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Trade Eligibility Match Criteria Run Match Eligibility Criteria OK Cancel

General Services Screen (Job Specialist's Role cont.)

Sample, Dolly SSN: XXX-XX-715 ID: 12345678 JQ

Basic | Full | Education | Work Experience | Events | Alerts | Case Plan | **Services** | Special Programs

General | Employment | Administrative | Testing | Course/Activity | Youth Goals

Service Date	Staff ID	Category	Service Detail	Career Center	Hours	
12/23/2010	MOSESBATCH	Program Exit	WIA ARRA Wagner-Peyser	Franklin/Hampshire Career Ce		
12/23/2010	DRADW	Program Enrollment	RES - Reemployment Service	Franklin/Hampshire Career Ce		
12/23/2010	DRADW	Program Enrollment	WIA ARRA Wagner-Peyser	Franklin/Hampshire Career Ce		
12/23/2010	MOSESBATCH	Program Exit	RES - Reemployment Service	Franklin/Hampshire Career Ce		
12/23/2010	DRADW	Orientation	Notified Of EEO Rights/	Franklin/Hampshire Career Ce	0.2	E
12/23/2010	MOSESBATCH	Outcomes / Enhancemen	Other, Services Complet	Franklin/Hampshire Career Ce		
12/23/2010	DRADW	Job Search	Job Search Planning	Franklin/Hampshire Career Ce	0.5	E
12/23/2010	DRADW	Profiling - CCS/EUC Orien	Attended CCS/Orientati	Franklin/Hampshire Career Ce		E
12/23/2010	DRADW	Orientation	Career Center Services/	Franklin/Hampshire Career Ce	0.8	E
11/27/2010	MOSESINT	Profiling - CCS/EUC Orien	Notified of CCS/REO	Franklin/Hampshire Career Ce		
09/17/2009	DFERR	Job Search	Employer Interview(s)	Franklin/Hampshire Career Ce	0.5	E
09/17/2009	DFERR	Job Search	Job Fair	Franklin/Hampshire Career Ce	0.5	E
05/06/2008	PLAFO	Job Search	Automated Labor Exchai	Franklin/Hampshire Career Ce	1.0	

Row 1 of 18 More

Trade Eligibility Match_Criteria Run_Match Eligibility Criteria OK Cancel

Record all services provided to the customer.

- <Click> onto the "Services" Tab.
- Add a service and save

Employment Services Screen - (Job Specialist's Role cont.)

Job order referral information must be recorded.

- <Click> on " Employment" tab; complete information on the screen and click "save"

Sample ID: SSN: XXX-XX-7715 ID: 12345678 IQ [Stop] [Dollar]

Basic | Full | Education | Work Experience | Events | Alerts | Case Plan | Services | Special Programs

General | Employment | Administrative | Testing | Course/Activity | Youth Goals

Services

Service Date	Staff ID	Service Type	Service Result	Employer Name	Job Start Date	Job Order Number	Phone	
09/17/2009	DFERR	Job Referral - Staff	Not Hired	Reliable Temps Inc.			(413) 527-0700	Add
05/06/2008	PLAFO	Job Referral - Staff	Information Not	David Jackson dba			(413) 665-8608	Edit
05/06/2008	PLAFO	Job Referral - Staff	Information Not	Patterson Farm/Williams F			(413) 665-5100	Delete
05/06/2008	PLAFO	Job Referral - Staff	Information Not	Atlas Farm			(413) 695-2728	Follow Up
05/06/2008	PLAFO	Job Referral - Staff	Information Not	Savage Farms			(413) 774-4935	Upgrade
05/04/2007	PLAFO	Job Referral - Staff	Information Not	Full Bloom Market Garden			(413) 549-7327	Verify

Row 1 of 6 More Job Order

Trade Eligibility Match Criteria Run Match Eligibility Criteria OK Cancel



Agricultural / FLC Services Unit

- Provides services to both agricultural employers and MSFWs
- Connects agricultural employers with skilled labor
- Through Field Visits/Checks / Outreach activities provides meaningful (Value added)* access / information about all services and protections available to agricultural workers
- Provide farmworkers' rights information to MSFWs
- Respond to farmworker / employer complaints
- Conducts housing inspections of farm labor camps
- Coordinates Prevailing Wage and Practice Surveys.



Services to Agricultural Employers

All business services should be extended to agricultural employers

- Agricultural employers can benefit from WOTC, trade, veterans, bonding programs, job order / recruitment services, etc.
- Agriculture Outreach / BSRs staffs should act as a “portable OSCC” for employers as well as for workers*
- Provide assistance / information to agricultural employers about labor laws and regulations affecting them.

* While visiting a work place or otherwise, if a State agency employee observes, has reason to believe, or is in receipt of information regarding a suspected violation of employment related laws or JS regulations by an employer, the employee shall document the suspected violation and refer this information to the local office manager.



Local, ARS or H-2A related Job Orders

Local job order

- Job order that is taken and processed by the America's Job Centers (AJC) for the recruitment of workers from the local service delivery area. The Fair Labor Standards Act applies.

Agricultural Recruitment System (ARS) Job Orders (Intra/ Interstate Clearance)

- Governed by the Wagner-Peyser Act at 20 CFR 653 Subpart F
- Recruit U.S. workers for temporary or seasonal agricultural employment

H-2A Related Temporary Agricultural Order

- Foreign Labor Certification program under 20 CFR 655 Regulations
- Must comply with ARS requirements first (recruitment of U.S. workers.)
- Agricultural employers hire non-immigrant foreign workers



Local Agricultural Job Orders

- Must be generated and posted by OSCC
- Referrals to such jobs should be made following office protocols.
 - Follow up with customers and employers (5 calendar days)
 - Note results in MOSES

IMPORTANT: “Informal referrals” must not be made by OSCCS

- Applicants who are referred to farm jobs must be registered in MOSES
- Applicants must be referred to only jobs for which they qualify and that are posted in MOSES

Agricultural jobs – LEP Applicants

When servicing LEP MSFWs; job order information must be translated in Spanish and or other language as needed

Agricultural Job Orders should include the following:

1. Job Orders with NAICS farm work industries codes must include specific working hours i.e. Start and end time, rate of pay, etc.
2. If payment is made in piece rate, the job summary should include:
 - a.) The amount to be paid;
 - b.) The unit of measurement
3. If the employer is a farm labor contractor (FLC) or farm labor contractor employee (FLCE), the job order must include the federal and / or state registration number.



ARS Job Orders (continuation)

4. Use job titles that match the O*NET Codes; if possible.

5. If 1-150 days of duration are indicated, a specific estimated number of days or months must be shown.

Example: February-June depending on weather, crop, etc.

6. A wage rate must be specific; “depending on experience (DOE)” is not acceptable. Employers covered by FLSA must adhere to minimum wage laws.



H-2A Related Job Orders

Important: All ARS and H-2A related Job orders are processed at the Central office by the FLC Unit

- The H-2A Program allows agricultural employers to hire foreign nationals on a temporary agricultural work visa
- The agricultural employer must demonstrate that:
 - There are not sufficient U.S. workers to fill the jobs; and
 - The employment of foreign H-2A workers will not adversely affect the terms and conditions of similarly employed US workers

NOTE: It is the role of OSCC and DCS to help place qualified U.S. workers on these jobs.



H-2A Referrals: Agricultural Employer Requirements

- H-2A Job Orders remain open up until the expiration of 50% of contractual period.
- Agricultural employers per H-2A regulations should accept qualified domestic (U.S.) workers until the 50% of the H-2A contract is completed.
 - ✓ One-Stop Career Centers can “actively” refer workers during the active recruitment period (active recruitment ends 3 days prior to the anticipated date of need)
 - ✓ However, if an applicant requests to be referred to an open job order after the active recruitment period ends, the OSCC must refer the applicant under the 50% rule.
 - ✓ Agricultural employers are required to offer the same terms and conditions of employment to U.S. H-2A workers and must not exercise preferential treatment for the foreign worker.

NOTE: Rejections of any U.S. workers referred by the OSCCs or of those who applied for the job must only be for lawful, job-related reasons (documented in MOSES), and those not rejected on this basis have been or will be hired. Local office management must attempt to informally resolve any such rejection issues first. If resolution not achieved, document and contact the State Monitor Advocate for assistance.



OSCC Role in Processing H-2A Referrals

- **OSCC Job Specialists must determine the eligibility of a qualified applicant by determining whether the applicant:**
 - Meets the experience requirements
 - Is able to perform the work required
 - Is willing to perform the work required
 - Is available to perform the work required

NOTE: OSCCs must disclose the terms and conditions of employment prior to the Job Referral by obtaining the employer's application (ETA-790) from the FLC Unit at 617- 626-5078.



OSCC Role with H-2A Referrals

- OSCC will continue to refer all eligible U.S. workers who apply (or on whose behalf an Application for Employment is made) for the job opportunity up until the end of the 50% period.
- If a customer has knowledge (internet portal) of the position, they can self-refer up to the 50% period of the job order.

Note: Once the 50% period ends, the employer is no longer obligated to accept new applicants



H-2A Referrals: Contact / Follow-up

- Remind customer(s) to contact OSCC with results of interview or to update the Job Specialist with regards to any problems confronted.
- OSCCs must follow-up (within 5 calendar days) on all agricultural related referrals made
- Job Specialist must contact the employer if an applicant is rejected

NOTE: Employer can only reject applicants for job related reasons.



Language Access to Services and Protections

The federal government and those receiving financial assistance (WIA/W/P dollars) from the federal government must take steps to ensure that Limited English Proficiency (LEP) customers have access to the programs, services, and information that those entities provide.

* Meaningful: means that LEP customers can effectively participate in or benefit from federally assisted programs.



FARM LABOR CONTRACTOR / CREW LEADERS

When servicing Farm Labor Contractors (FLCs) and / or Temp Agencies :

- Make sure that OSCC staff checks the Certificate of Registration.
- It is a Federal / State requirement for farm labor contractors and crew leaders / Temp Agencies to carry and exhibit the Certificate of Registration at all times.

By Regulations:

“Each registered farm labor contractor and registered farm labor contractor employee shall carry at all times while engaging in farm labor contracting activities, a Certificate of Registration or a Farm Labor Contractor Employee Certificate as appropriate and, upon request, shall exhibit that certificate to representatives of the U.S. Department of Labor and State Employment Service Agencies (DCS / SWA) and to all persons with whom he intends to deal as a farm labor contractor or farm labor contractor employee.”

FARM LABOR CONTRACTOR / CREW LEADERS

If the Farm labor contractor fails to produce the Certificate of Registration then:

“The facilities and the services authorized by the Wagner-Peyser Act *shall* be denied to any farm labor contractor upon refusal or failure to produce, when asked, a Certificate of Registration. Services shall be resumed upon presentation of a valid Certificate of Registration.

Note: This also apply to Temp Agencies engaged in agriculture recruitment activities.





Complaint System - Key Terms

- *Complaint*: means a representation made or referred to a State or local JS office of a violation of the JS regulations and/or other Federal, State or Local employment related law.
- *Complainant*: means the individual, employer, organization, association, or other entity filing a complaint.
- *Respondent*: means the employer or State agency (including a State agency official) who is alleged to have committed the violation described in a complaint. (Not the name of the staff person responding to the complainant on behalf of the office)
- *Apparent Violation*: If a State agency employee observes, has reason to believe, or is in receipt of information regarding a suspected violation of employment related laws or JS regulations by an employer, except as provided at §653.503 (field checks) or §658.400 of this chapter (complaints), the employee shall document the suspected violation and refer this information to the local office manager.

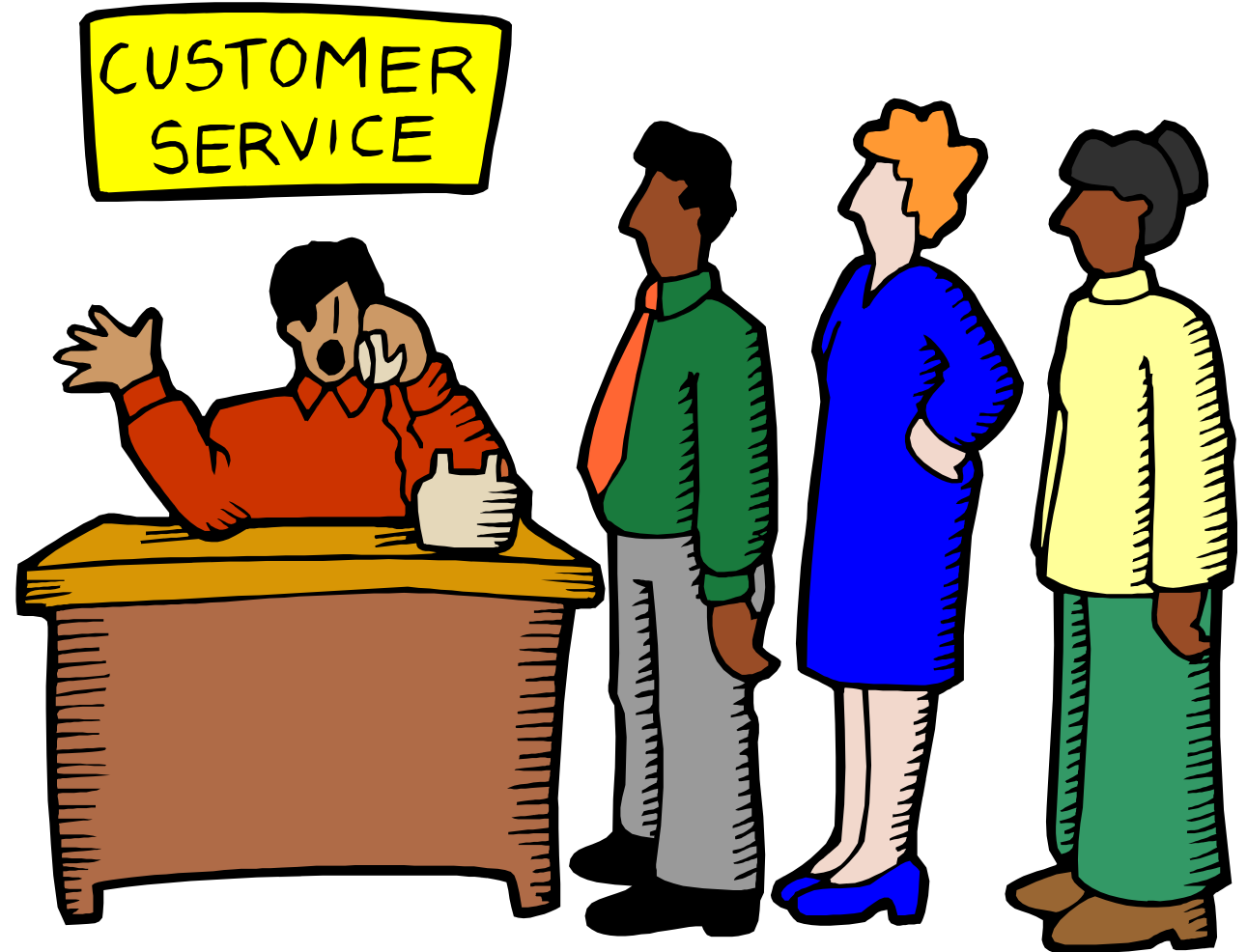
Who may file complaints?

- Individuals
- Businesses
- Organizations
- Interested Parties



Types of Complaints

- OSCC related
- Non-OSCC related
 - Not related to the Unified Complaint System
- Discrimination





Examples of Employment Related Issues:

- Wages / Hours
- Health and safety
- Housing
- Discrimination / Sexual assault
- Field sanitation / Pesticides
- Worker's Compensation / Disability
- Child Labor
- Transportation

Any of items listed on this page can be handled as OSCC or Non-OSCC related complaints. They are provided to illustrate possible customer concerns only. Complaint / EO Officer must determine jurisdiction before attempting resolution.



Apparent Violations

An apparent violation arises when an employee observes, or has reason to believe, or is in receipt of information regarding suspected violation of employment-related law or employment-service regulations.

- ✓ Apparent violations must be logged on the Complaint Log.
- ✓ Each apparent violation should be logged separately
- ✓ Record retention - five years from the date of last action.
- ✓ The recording and reporting of Apparent Violations is limited to MSFWs

One Stop Career Center Complaint Referral Record

The ETA 8429 can be accessed by going to the Massachusetts Workforce Investment website at www.massworkforce.org. Click on Issuances then click on 2014 Issuances under the Policy Issuances heading. Look for WIA Communication 14-36 “Unified Career Center Complaint Process”. Attachment E contains the One-Stop Career Center Complaint Referral Record (ETA 8429 Form).

One Stop Career Center (OSCC) Complaint/ Referral Record		U.S. Department of Labor Employment and Training Administration	
OMB Approval No. 1205-0039 Expiration Date: 11/30/2008		For OSCC Use Only	
		Complaint No. _____ Date Received _____	
Part I. Complainant's Information		Respondent's Information	
1. Name of Complainant (Last, First, Middle Initial)		4. Name of Person Complaint Made Against	
2a. Permanent Address (No., St., City, State, ZIP Code)		5. Name of Employer/OSCC Office	
b. Temporary Address (if Appropriate)		6. Address of Employer/OSCC Office	
3a. Permanent Telephone () - () - ()	b. Temporary Telephone () - () - ()	7. Telephone Number of Employer/OSCC Office () - () - ()	
8. Description of Complaint (If additional space is needed, use separate sheet(s) of paper and attach to this form)			
I CERTIFY that the information furnished is true and accurately stated to the best of my knowledge. I AUTHORIZE the disclosure of this information to other enforcement agencies for the proper investigation of my complaint. I UNDERSTAND that my identity will be kept confidential to the maximum extent possible, consistent with applicable law and a fair determination of my complaint.			
9. Signature of Complainant _____		10. Date Signed _____ / _____ / _____	
Part II. For OSCC Use Only			
1. Migrant or Seasonal Farmworker? <input type="checkbox"/> Yes <input type="checkbox"/> No		3. If non-WIA-related, does Complaint concern laws enforced by U.S. Employment Standards Administration (Wage and Hour) or OSHA? <input type="checkbox"/> Yes <input type="checkbox"/> No	
2. Type of Complaint ("X" Appropriate Box(es)) <input type="checkbox"/> WIA Related Job Order No. _____ <input type="checkbox"/> Against Job Service <input type="checkbox"/> Against Employer <input type="checkbox"/> Alleged Violation of WIA Regulations <input type="checkbox"/> Alleged Violation of Employment Law(s) <input type="checkbox"/> Non-WIA Related		4. Kind of complaint ("X" Appropriate Box(es)) <input type="checkbox"/> Wage Related <input type="checkbox"/> Child Labor <input type="checkbox"/> Working Conditions <input type="checkbox"/> Migrant and Season Agricultural Worker Protection Act (MSPA) <input type="checkbox"/> Other (Specify) _____	
		5. H-2a/Criteria Employer <input type="checkbox"/> U.S./Domestic Worker <input type="checkbox"/> H-2a Worker <input type="checkbox"/> Wages <input type="checkbox"/> Transportation <input type="checkbox"/> Meals <input type="checkbox"/> Housing <input type="checkbox"/> Other _____	
6. *For DISCRIMINATION COMPLAINTS ONLY. Persons wishing to file complaints of discrimination may file either with the SWA, or with the Directorate of Civil Rights (DCR), U. S. Department of Labor, 200 Constitution Avenue, NW, Room N-4123, Washington, D.C. 20210.			
7a. Referrals To Other Agencies ("X" one) <input type="checkbox"/> Wage & Hour ESA/U.S. DOL. <input type="checkbox"/> OSHA <input type="checkbox"/> Other _____		8. Address of Referral Agency (No., St., City, State, ZIP Code and Telephone No.) () - () - ()	
b. Follow-Up ("X" one) <input type="checkbox"/> Monthly <input type="checkbox"/> Quarterly <input type="checkbox"/> Yes <input type="checkbox"/> No		c. Follow-up Date _____ / _____ / _____	
9. Comments (If additional space is needed, use separate sheet of paper) Provide OSCC Services? <input type="checkbox"/> Yes <input type="checkbox"/> No If "No", explain.			
10a. Name and Title of Person Receiving Complaint		11. Office Address (No., St., City, State, ZIP Code)	
b. Phone No. () - () - ()	12a. Signature _____	b. Date _____ / _____ / _____	
Persons are not required to respond to this collection of information unless it displays a currently valid OMC Control Number. Respondents obligation to reply to these requirements is voluntary. Public reporting burden for this collection of information is estimated to average 8 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, U.S. Employment Service, Room C-4614, Washington, DC 20210 (Paperwork Reduction Project 1205-0039).			



The ETA 8429 form

- Make a copy of the completed complaint form and give it to the complainant ;
 - Inform (follow-up in writing) complainant of what actions you are going to take on the complaint; and
 - Inform the complainant that he / she will receive status updates as you investigate;
 - LOG the complaint on your quarterly complaint log; and
 - Issue determination notice (within applicable timeframes)
- NOTE: E-mail, mail or fax copies of all MSFW complaints to the State Monitor Advocate.

Complaint Log

Complaint Number		Date Filed	Complainant Name	Respondent Name	Type	MSFW	Status of Complaint	Comments (add pages as needed)	Resolved
					1 2 3 4	YES	1 2 3 4		1 2 3 4
					5 6 7 8	NO	5 6 7 8		5 6 7 8
					1 2 3 4	YES	1 2 3 4		1 2 3 4
					5 6 7 8	NO	5 6 7 8		5 6 7 8
					1 2 3 4	YES	1 2 3 4		1 2 3 4
					5 6 7 8	NO	5 6 7 8		5 6 7 8
					1 2 3 4	YES	1 2 3 4		1 2 3 4
					5 6 7 8	NO	5 6 7 8		5 6 7 8
					1 2 3 4	YES	1 2 3 4		1 2 3 4
					5 6 7 8	NO	5 6 7 8		5 6 7 8
					1 2 3 4	YES	1 2 3 4		1 2 3 4
					5 6 7 8	NO	5 6 7 8		5 6 7 8
					1 2 3 4	YES	1 2 3 4		1 2 3 4
					5 6 7 8	NO	5 6 7 8		5 6 7 8
					1 2 3 4	YES	1 2 3 4		1 2 3 4
					5 6 7 8	NO	5 6 7 8		5 6 7 8
					1 2 3 4	YES	1 2 3 4		1 2 3 4
					5 6 7 8	NO	5 6 7 8		5 6 7 8
					1 2 3 4	YES	1 2 3 4		1 2 3 4
					5 6 7 8	NO	5 6 7 8		5 6 7 8

CAREER CENTER COMPLAINT LOG INSTRUCTIONS:

The appropriate status identifier should be circled on a timely basis as the complaint reaches each new status level.

Complaint Number: Last two digits of Program Year + consecutive 3 digit ID number. (Example, first complaint of PY 2010 will be: 10-001, the next 10-002)

Type: Highlight the numeric identifier to indicate type of complaint: 1 Career Center Service; 2 Non-Career; 3 Employer; 4 Training; 5 Crime: Fraud, Waste; 6 Discrimination; 7 Apparent Violation

MSFW: If complaint is filed by a Migrant/Seasonal Farm Worker highlight YES, if not, highlight NO (response must be entered, do not leave blank)

Status of Complaint: Highlight the numeric identifier to indicate: 1 In process, local; 2 Into Request, local; 3 In-process, State; 4 Into Request, State; 5 Hearing; 6 Enforcement Agency; 7 Appeal to USDOL Regional Administrator; 8, Reopened to local level

Resolved: Highlight the numeric identifier to indicate: 1 Local Level; 2 State Level; 3 Hearing Level; 4 Enforcement Agency; 5 Did Not Appeal; 6 Fail to Respond; 7 USDOL Regional Administrator

COPY MUST BE SUBMITTED TO THE STATE MONITOR ADVOCATE WITHIN 15 DAYS AFTER THE END OF THE QUARTER.

Remember, even if your local area has not received any formal complaints during a particular calendar quarter, a blank Complaint Log identifying the Career Center, the Program Year, the local Complaint Officer and the specific Calendar Quarter must be e-mailed to the State Monitor Advocate not later than 15 calendar days after the close of each calendar quarter.



Role / Responsibilities of the OSCC Management

- To be knowledgeable about the MSFW Program requirements and to ensure that their offices are in compliance with relevant regulations, policies and procedures
- To ensure that all employees in their offices serve farmworkers equitably and in a non-discriminatory manner.
- To make certain that their staff are properly coding MSFWs in MOSES in order to document that MSFWs are receiving appropriate services .
- Ensure that their staff receive training about Services to MSFWs.
- Responsible for the management of the local office Complaint System, including record retention and reporting.

20 CFR 653.100

20 CFR 653.103

20 CFR 653.109

20 CFR 658.410



MSFW Program Goals

1. Increase the number of MSFW in all workforce development activities.
2. Encourage the transition of MSFW to higher paying jobs in non-agricultural occupations
3. Integration of MSFW service providers within the One-Stop Career Center system.
4. Develop linkages and collaborative efforts with other non-traditional service providers to enhance MSFWs opportunities for training and education.



Goals...

5. Encourage the use of the Agricultural Recruitment System (ARS) for the recruitment of agricultural workers from across the U.S.
6. Increase the number of agricultural employers that use the services available at the OSCCs.
7. Encourage full integration of MSFWs and agencies that serve them into American Job Centers (also known as One-Stop Career Centers).



Measuring and Improving services to MSFW Indicators of Compliance - What do we count?

Equity Indicators

- ❖ Complete registrations
- ❖ Referred to Jobs
- ❖ Received staff assisted services
- ❖ Career Guidance, and
- ❖ Job development

Minimum service level provided:

- ❖ Placed in Jobs
- ❖ Placed at or above the Min. Wage
- ❖ Placed in long term jobs
- ❖ Reviews of significant offices (DCS)
- ❖ Field checks conducted (DCS)
- ❖ Outreach contacts, and (DCS)
- ❖ Timely process of Job Service-related complaints



What else do we need to remember...

1. When servicing customers check if they meet the definitions
2. Code them and make sure the full work history is entered onto MOSES
3. Assist LEP customer access appropriate services / protections
4. If customers are referred to jobs, conduct follow-ups (5 cal. days)
5. If they have a complaint, assist them completing the forms or direct them to the appropriate enforcement agency.
6. Refer them to supportive services (WIA 167 Grantee / Mass Migrant Education / Migrant Health / Legal Aid / etc.

State Monitor Advocate

The Monitor Advocate Program was established in 1974 by federal regulations to assure that the delivery of services and protections offered by the Federal and State Workforce Agencies (SWAs) to Migrant and Seasonal Farm Workers (MSFWs) were provided on a basis which is qualitatively equivalent and quantitatively proportionate to services provided non-farm workers.





What does the SMA do?

❖ Advocacy

Acts as an advocate on behalf of farm workers within the SWA / OSCC and coordinates with other state and federal agencies supporting issues, promoting policy and making recommendation that favorable affect services to farm workers.

❖ Outreach

Works closely with state / local outreach worker(s) and promotes outreach efforts among the farm worker community and ensures that farm workers are informed of available jobs, training and educational opportunities, worker rights and protections under federal and state laws. Meets and coordinates activities with community based organizations, WIA 167 Grantee, employers, and MSFWs to explain services available at the OSCCs.



What else does the SMA do?

❖ Monitoring

Conducts State Workforce Agency (SWA) and One-Stop Career Center (OSCC) office reviews to monitor for compliance with applicable federal and state laws and regulations. Conducts field visits to MSFW working and living locations to ensure compliance with applicable State or Federal standards.

❖ Complaints

Monitors the SWA complaint system for compliance and ensures that all OSCCs maintain a Complaint Officer and that proper complaint procedures are in place at the SWA and each OSCC location to address complaints from the general public and MSFWs



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