**Agriculture Operations, Migrant and Seasonal Farmworker Complaint Policy**

**REFERENCES**

WIA Policy 4061 – Migrant and Seasonal Farmworker Complaint Policy

**PURPOSE**

The Department of Labor Code of Federal Regulations 658.410 requires each State Workforce Agency to establish and maintain a uniform system for accepting, investigating, resolving, and referring complaints and apparent violations through Wagner-Peyser services. These procedures are in accordance with Federal Regulations 20 CFR Subpart E 658.400 - 418 Job Service Complaint System; 20 CFR Subpart B 653.107 (k) (m) Outreach; 653.113 Apparent violations, and 653.503 Field Checks.

**PERSONS AFFECTED**

ESD WorkSource Staff and Management

**DEFINITIONS**

**Employment Services Regulations** means Federal Regulations found in the Federal Register 20 CFR Parts 601 - 604, 620, 621, and 651 - 658 and 29 CFR Parts 8, 26, and 75.

**A complaint** is a written and signed document alleging violation of Wagner-Peyser regulations and/or Federal, State or local employment related laws.

**An apparent violation** is a representation made or referred to a state or local Employment Security Department 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 Services regulations.

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

**Respondent** means the employer or state agency (including a state agency official) that is alleged to have committed the violation described in the complaint.

**MSFW** means a migrant farmworker, seasonal farmworker or migrant food processing worker.

**H-2A Program** means the Federal program that allows agricultural employers who anticipate a labor shortage to apply for permission to hire foreign workers temporarily.

**Employment Services Related Complaint** is either:

* + 1. An **agency related complaint**, where a complainant alleges that the Employment Security Department or WorkSource office personnel, through actions or omissions, violated employment services regulations; or
		2. An **employer related complaint**, where a complainant, referred by the WorkSource office on a specific job order in the past 12 months, either:
			1. Alleges that the employer violated the terms and conditions of the job order; or
			2. Alleges that the employer violated an employment related law such as wages, working conditions, child labor laws, sanitation, or housing standards, etc., which are enforced by the Federal Employment Standards Administration (ESA), Occupational Safety and Health Standards Administration (OSHA), the Washington State Department of Labor and Industries (L&I), or the Department of Health (DOH).

**Non-Employment Service Related Complaint** is a representation made or referred to ESD or local WorkSource official that an employer or an agency violated Federal or State employment related laws other than Wagner-Peyser laws. This only occurs if the complainant was not referred to the employer on a job order.

**POLICY**

It is the policy of the Employment Security Department (ESD) to process all alleged MSFW complaints and apparent violations of employment related laws and regulations related to the provision of services to MSFWs including the H-2A program. This policy ensures that centralized control procedures are established for the handling of all MSFW complaints.

**SUPERSEDES**

None. This communications is new.

**CONTACT**

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