



**Division of Workforce Services  
One Stop and Program Support**

**Employment Service  
Complaint-Resolution System  
Handbook**

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## **AUTHORITY**

[20 CFR 651.10](#)

[20 CFR 658.400 through 658.418](#)

[20 CFR 658.500 through 658.504](#)

[20 CFR 653.113](#)

[29 CFR 501.1 and 501.2](#)

## **CHAPTER 1 - INTRODUCTION**

As part of the establishment of the employment service system operated by the national network of career centers, the Florida Department of Economic Opportunity (DEO) is required to establish and maintain an Employment Service Complaint System. DEO must also ensure that centralized control procedures are established for handling complaints and related files. This Handbook was developed for Florida's regional workforce boards (RWBs) and career centers, and it outlines federal guidelines for handling employment service-related complaints. It also:

- clarifies roles and responsibilities of DEO and RWBs,
- outlines expectations for processing complaints, and
- encourages prompt resolution of complaints and concerns.

An important link in the employment service complaint resolution system is the career center where a trained complaint specialist must be available during regular operating hours to accept jobseeker complaints. The career center manager is responsible for the management of the complaint system, but may appoint other staff to accept and process complaints.

### **WHAT IS A COMPLAINT?**

A complaint is an allegation or a representation made or referred to a state or local career center of a violation of the Employment Service regulations and/or other federal, state, or local employment related law.

### **CONFIDENTIALITY**

The identity of the complainant(s) and any person(s) who furnish information relating to, or assisting in, an investigation of a complaint shall be kept confidential to the maximum extent possible, consistent with applicable law and a fair determination of the complaint.

### **THE THREE TYPES OF COMPLAINTS**

#### **1. Employment Service-Related Complaints**

- (a) Employer-related complaints<sup>1</sup> – complaints against an employer that are about the specific job to which the applicant was referred by the Employment Service System and which involve violations of the terms and conditions of the job order or employment-related law.

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<sup>1</sup> This includes self-referrals to internal job orders.

- (b) Agency-related complaints – complaints about career center actions or omissions under Wagner-Peyser (WP) regulations.

Employment Service-Related Complaints fall into the following six categories:

- Category 1 Involves the violation of WP administrative regulations by staff of the career center.
- Category 2 Involves a violation of the terms and conditions of a job order by an employer for a job the jobseeker was referred to the Employment Service.
- Category 3 Allegations of discrimination by an employer.
- Category 4 Involves the violation of an employment-related law by an employer for a job the jobseeker was referred to by the Employment Service.
- Category 5 Involves an employer in another state or another state agency.
- Category 6 Involves another career center or more than one center statewide.

## **2. Non-Employment Service-Related Complaints**

Complaints alleging violations of employment-related federal, state, or local laws, other than Wagner-Peyser regulations, by employers, their agents, or U. S. Department of Labor (USDOL) sub-agencies other than Employment Services. Non-Employment Service-Related Complaints fall into the following two categories:

- Category 1 Involves MSFWs and a violation of employment related laws enforced by the Wage and Hour Division (WHD) or the Occupational Safety and Health Administration (OSHA). These complaints can also involve violations of employment related laws enforced by other federal or state enforcement agencies.
- Category 2 All other Non-Employment Service-Related Complaints.

## **3. Not Applicable to the Employment Service Complaint System**

Complaints alleging other non-employment violations, against, for example, Reemployment Assistance, Workforce Investment Act programs, Welfare Transition or Supplemental Nutritional Assistance Program, or against Federal Contractors for violations of mandatory job listing requirements. This Handbook does not address this type of complaints, which will be handled as grievances. See Final [Guidance 00-004](#).

## **COMPLAINTS ALLEGING UNLAWFUL DISCRIMINATION**

The procedures for handling allegations of discrimination received by career center staff are set forth in 20 CFR 658.411(b)(1) and 29 CFR 37.76. The Equal Opportunity (EO) Officer for the RWB and the Department of Economic Opportunity (DEO) Office for Civil Rights (OCR) have authority to process complaints alleging discrimination on the basis of race, color, sex, national origin, religion, age, disability, marital status, citizenship, status as a WIA participant, and political affiliation.

**COMPLAINT TYPE CHART**

TYPE OF COMPLAINT:	IF THE COMPLAINT INVOLVES:	AND:
1. Employment Service-Related Complaint	An alleged violation occurring within the last 12 months.	a. The complaint is about the specific job to which the complainant was referred by the Employment Service system, and, <ul style="list-style-type: none"> <li>i. Involves a violation of the terms and conditions of a job order by an employer, or</li> <li>ii. Involves a violation of employment-related laws by an employer, or</li> <li>iii. Alleges discrimination by an employer, or</li> </ul> b. Involves a violation of Wagner-Peyser administrative regulations by career center staff through action or omission, or                     c. Involves an employer in another state or another state agency, or                     d. Involves another career center or more than one center statewide.
2. Non-Employment Service-Related Complaint	Alleged violations of employment-related federal, state, or local laws other than Wagner-Peyser regulations. For example, Wage & Hour or Occupational Safety and Health Administration.	
3. Not applicable to the Employment Service Complaint-Resolution System	Examples: Reemployment Assistance, WIA, WT, SNAP, Federal Contractor job listing, or complaints from career center staff.	

## **RECEIVING COMPLAINTS**

Complaints may be received in person, by signed letter, or via e-mail. In-person complaints may be made in the career center or in the field to the MSFW Outreach Specialist. When a complaint is received in the career center, staff should determine the type of complaint received in order to appropriately process it.

### **When a jobseeker expresses the desire to file a complaint in person:**

1. A trained Complaint Specialist must explain the operation of the Employment Service Complaint System, including the specialized process for handling discrimination allegations, and be available to assist with completion of any necessary forms.

### **When a complaint is received by letter:**

1. Determine whether allegations of discrimination have been reported. If so, the complaint should be forwarded to the EO Officer for the RWB or forwarded to the DEO Office for Civil Rights.
2. Determine whether it is signed and provides sufficient information to initiate an investigation (i.e. complainant's name, respondent's name, addresses, description of the complaint, information to determine the type of complaint and other processing information). If yes, the complaint should be treated like a properly completed [ETA Form 8429](#). The complainant should be mailed a letter notifying him/her of the receipt of the complaint and the initiation of an investigation.
3. If it does not contain sufficient information to investigate the complaint quickly, additional information should be requested from the complainant in writing. The Complaint Specialist should allow 40 working days for MSFWs and 20 working days for non-MSFWs to respond to the request for additional information.
4. If it is signed by an attorney representing the complainant, the complaint should be treated like a properly completed complaint form, provided it contains all of the required elements necessary to conduct an investigation, and as noted on the ETA Form 8429. All correspondence and communication should be directed to the representing attorney.

### **When a complaint is received by e-mail:**

1. An [ETA Form 8429](#) should be sent to the e-mail address with a request to complete Part I of the form and return it by fax, mail, e-mail, or hand deliver it to any career center.
2. If the email correspondence includes allegations of discrimination, the email should also be forwarded to the EO Officer for the RWB or the DEO Office for Civil Rights for processing.

## **CHAPTER 2 – PROCESSING EMPLOYMENT SERVICE-RELATED COMPLAINTS**

After a complaint has been received, the career center Complaint Specialist must determine the type of complaint received and process it through resolution. For an Employment Service-Related Complaint, the Complaint Specialist should:

1. make every effort to obtain the information necessary to investigate the complaint;
2. request that the complainant list all addresses where he/she may be contacted during an investigation;
3. advise the complainant to maintain contact with the office during the investigation; and
4. advise the complainant to contact the office before leaving the area if possible.

The following steps must be followed when processing complaints. A [quick reference guide](#) is also available in the Resource and Forms section of this Handbook.

### **For all Employment Service-related complaints, follow steps 1-4.**

1. Complete [ETA Form 8429](#). To complete this step, determine what type of complaint is being filed based on the descriptions below and follow the additional appropriate steps. If the complaint includes allegations of discrimination, explain to the aggrieved individual(s) that the complaint will be forwarded to the EO Officer for the RWB and/or the DEO Office for Civil Rights for processing.
2. Log the complaint.
3. Give the complainant a copy of the completed complaint form.
4. Offer appropriate career center services to the complainant if the complainant is in the career center.

**If the Employment Service-Related Complaint involves the violation of Wagner-Peyser regulations by the career center, but does not involve regulations which prohibit discrimination, the following additional steps must be taken:**

*Example: Jim wants to file a complaint because he said he asked to see an Employment Counselor and was not allowed to see one.*

1. Investigate the complaint.
2. If there is insufficient information, request additional information in writing.
  - a. Allow 40 working days for receipt of additional information from MSFWs.
  - b. Allow 20 working days for receipt of the information from non-MSFWs.
3. Attempt resolution after receipt of the complaint or additional information within five working days for MSFWs and 15 working days for non-MSFWs.
4. Should the career center successfully resolve the complaint, note the date of resolution on the Fact Sheet and Complaint Log and notify the complainant and the respondent of the results, in writing.



5. If resolution is not achieved, refer the complaint to DEO's Senior Monitor Advocate and send a copy of the complaint file. Inform the complainant and the respondent of the referral, in writing.
6. Until resolution is achieved, follow up with the complainant by telephone or other written communication, monthly for MSFWs and quarterly for non-MSFWs.
7. All actions, contacts, and attempted contacts concerning the complaint should be documented on the Fact Sheet.

**If the Employment Service-Related Complaint involves the violation of the terms and conditions of a job order by an employer, but does not involve regulations which prohibit discrimination, the following additional steps must be taken:**

*Complaint Example: Joan wants to file a complaint because her employer paid her \$10.00 per hour instead of \$12.00 per hour as was stated on the job order.*

1. Investigate the complaint.
2. If information is insufficient, request additional information in writing.
  - a. Allow 40 working days for receipt of additional information from MSFWs.
  - b. Allow 20 working days for receipt of the information from non-MSFWs.
3. Attempt resolution after receipt of complaint or additional information within five working days for MSFWs and 15 working days for non-MSFWs.
4. Should the career center successfully resolve the complaint, note the date of resolution on the Fact Sheet and Complaint Log and notify the complainant of the results.
5. If resolution is not achieved, refer the complaint to DEO's Senior Monitor Advocate and send a copy of the complaint file. Inform the complainant and the respondent of the referral, in writing. The Complaint Specialist may initiate the process for the discontinuation of services to the employer and notify the complainant of this action.
6. Until resolution is achieved, follow up with the complainant by telephone or other written communication, monthly for MSFWs and quarterly for non-MSFWs.
7. All actions, contacts and attempted contacts concerning the complaint should be documented on the Fact Sheet.

**If the Employment Service-related complaint alleges discrimination by an employer, the following additional steps must be taken:**

*Example: Jane returned to your office after you referred her to Jack's Auto Repair Shop for an auto body repair job. She wants to file a complaint because the employer wanted to hire a man for the job.*

Forward the complaint to the EO Officer for the RWB and/or the DEO Office for Civil Rights for processing.

**If the Employment Service-Related Complaint involves the violation of an employment related law other than discrimination by an employer, the following additional steps must be taken:**

*Example 1: Janice wants to file a complaint because she worked 10 hours overtime and the employer would not pay her for the overtime. The career center referred her to the job one year ago, but the violation occurred last week.*

*Example 2: The career center referred Bob to an employer last month and the employer has not paid him for his work.*

1. Prepare a referral letter to forward to the [appropriate enforcement agency\(ies\)](#) and copy the complainant. Keep a copy of the letter in the complaint file.
2. Send referral letter and copy of complaint with supporting documents to the appropriate enforcement agency(ies).
3. Conduct follow-up with the enforcement agency(ies) monthly for MSFWs and quarterly for non-MSFWs until resolution is achieved.
4. Until resolution is achieved, contact the complainant by telephone or written communication to provide a status report after each follow-up with the referral agency(ies).
5. Note the date of resolution on the Fact Sheet and Complaint Log and notify the complainant of the results.
6. If a final determination is made that the employer violated an employment related law, the Complaint Specialist may initiate the process for the discontinuation of services to the employer and notify the complainant of this action.
7. If the final determination is in favor of the employer, the career center should notify the complainant.
8. All actions, contacts or attempted contacts concerning the complaint should be documented on the Fact Sheet.

**If the Employment Service-Related Complaint involves an employer in another state or another state agency, the following additional steps must be taken:**

*Example: A career center office in another state referred Joe to an employer in that state. Joe comes into your office and wants to file a complaint against that employer.*

1. Prepare a referral memorandum to forward to DEO's [Senior Monitor Advocate](#).
2. Send the memo, a copy of the [ETA Form 8429](#) and copies of any relevant documents to DEO's Senior Monitor Advocate. The Senior Monitor Advocate will forward documents to the appropriate state or state agency.
3. Provide the complainant a copy of the referral memorandum that was forwarded to DEO.

**If the Employment Service-Related Complaint involves another career center or is related to a specific job order posted by another career center, the following additional steps must be taken:**

*Example: A career center office in another region referred Nicole to an employer in the other region. Angela is not satisfied and she comes into your office to file a complaint against that employer.*

1. Prepare a referral memorandum to forward to the appropriate career center.
2. Send the memo, a copy of the [ETA Form 8429](#) and copies of any relevant documents to the career center that is the focus of the complaint.
3. Send a copy of all documents to DEO's Senior Monitor Advocate.
4. Provide the complainant a copy of the referral memorandum that was forwarded to the other career center.

**If the Employment Service-Related Complaint involves multiple career centers statewide, the following additional steps must be taken:**

*Example: John, a migrant farmworker, comes into your office. He wants to file a complaint against the state agency because Interviewers in five different career centers would not refer him to a non-agricultural job.*

1. Prepare a referral memorandum to forward to DEO's Senior Monitor Advocate.
2. Send the memo, a copy of the [ETA Form 8429](#) and copies of any relevant documents to DEO's Senior Monitor Advocate for investigation and resolution.
3. Provide the complainant a copy of the referral memorandum that was sent to DEO.
4. If the complaint is for multiple offices within the same region, refer it to the Regional Workforce Board and copy DEO's Senior Monitor Advocate.

## **H-2A COMPLAINTS**

This subsection concerns all complaints made against H-2A employers. Such concerns may include:

- Complaints filed by individuals who are employed by an H-2A employer, whether or not the individual was referred to the job through the career center.
- Complaints filed by individuals who applied for an H-2A job or made clear their intent to apply for an H-2A job.
- Complaints filed by other individuals whether or not the individual was employed by the H-2A employer. Examples include: employer discouraged an eligible U.S. worker from applying, failed to hire, discharged, or otherwise discriminated against an eligible U.S. worker.
- Complaints filed by individuals against an employer who applied for, but was not granted, H-2A labor certification, irrespective of whether an employer/employee relationship exists.

In these situations, workers that were not referred by the career center can file an Employment Service-Related Complaint. This is an exception to the definition of Employment Service-Related Complaints and Non-Employment Service-Related Complaints. The following actions must be taken:

1. Complete the Employment Service Complaint Form/[ETA Form 8429](#).
2. Log the complaint.
3. Give the complainant a copy of the complaint form.
4. Offer appropriate career center services
5. Prepare a referral memorandum to forward to DEO.
6. Send a copy of the [ETA Form 8429](#) and copies of any relevant documents to DEO's Senior Monitor Advocate for resolution.
7. Provide the complainant a copy of the referral memorandum that was sent to DEO.

All complaints made against H-2A employers must be forwarded to DEO's Senior Monitor Advocate for processing. The Wage and Hour Division (WHD) is responsible for handling complaints regarding the work contract by individuals who are employed by an H-2A employer. Complaints alleging that an H-2A employer discouraged an eligible U.S. worker from applying, failed to hire, discharged, or otherwise discriminated against an eligible U.S. worker are handled by the U.S. Department of Justice, Civil Rights Division, Office of Special Counsel for Unfair Immigration Related Employment Practices (OSC), in addition to any activity, investigation, and/or action taken by DEO.

## HUMAN TRAFFICKING

Human trafficking is a form of modern day slavery which is criminalized under both federal and Florida law. It is defined as the transporting, soliciting, recruiting, harboring, providing, or obtaining of another person for transport for the purposes of forced labor, domestic servitude or sexual exploitation using force, fraud and/or coercion. Florida is the third most popular destination for human traffickers in the United States. As an agricultural state, human trafficking to work in our fields has been identified as an issue for many years. Additionally, as a tourism-based economy, Florida is also ripe for trafficking in labor to work at restaurants, country clubs and hotels.

If staff observes any possible indicators of human trafficking, they should immediately refer the complaint or apparent violation to the local [Human Trafficking Coalition or Task Force](#) and copy DEO's Senior Monitor Advocate.

Examples of such indicators include:

- The individual is being held by force, fraud or psychological coercion.
- The individual's documents are being withheld by the trafficker.
- Victims may lack personal items or forms of identification and knowledge about how to get around in the community.
- Signs of physical control or abuse.
- Traffickers may limit the victim's contact with the public or with jobseekers.
- Locks on the outside of doors or migrant labor camps; security intended to keep people confined instead of keeping intruders out.
- Workers only allowed to shop at "company store"
- Workers live in the location where they work.

For more information on the issue of human trafficking, please refer to the [DEO Communiqué on Florida's Anti-Human Trafficking Initiatives](#) dated August 7, 2013.

## **COMPLAINT RESOLUTION**

An Employment Service-Related Complaint is considered resolved when any of the following occurs:

1. The complainant:
  - a. indicates satisfaction with the outcome;
  - b. chooses not to elevate the complaint to the next level of review;
  - c. fails to respond to a written request within:
    - i. twenty working days for non-MSFWs
    - ii. forty working days for MSFWs; or
  - d. exhausts the final level of review.
2. The appropriate enforcement agency makes a final determination on a referred complaint.

## **CHAPTER 3 – PROCESSING NON-EMPLOYMENT SERVICE-RELATED COMPLAINTS**

### **PROCESSING MSFW COMPLAINTS**

Non-Employment Service-Related Complaints involving MSFWs and a violation of employment related laws (including laws which prohibit discrimination) should be elevated to the U. S. Department of Labor’s Wage and Hour Division (WHD), the Occupational Safety and Health Administration (OSHA), or other appropriate enforcement agency.

*Example: Sue, a seasonal farmworker, wants to file a complaint against her employer because hazardous chemicals are always left open. Career center staff did not refer Sue to the job.*

1. Complete Employment Service Complaint/[ETA Form 8429](#).
2. Log the complaint.
3. Give the complainant a copy of the complaint form.
4. Offer appropriate career center services.
5. Prepare a referral letter to forward to the appropriate enforcement agency(ies) and copy the complainant. Keep a copy of the letter in the complaint file.
6. Send referral letter and copy of complaint with supporting documents to the appropriate enforcement agency(ies). Follow-up on this referral is not required.

### **PROCESSING ALL OTHER NON-EMPLOYMENT SERVICE-RELATED COMPLAINTS**

*Example: Sara wants to file a complaint against her employer because he is not paying minimum wage. The career center did not refer her to the job*

1. Log the complaint.
2. Direct the complainant to the appropriate enforcement agency, another public agency, a Legal Aid attorney, a consumer advocate, or other appropriate agency.
3. Offer appropriate career center services.
4. Follow-up on this referral is not required.

## **CHAPTER 4 – RECORDKEEPING AND REPORTING**

### **LOG MAINTENANCE AND REPORTING REQUIREMENTS**

Complaint logs (see page 32 of this handbook) are to be submitted to DEO’s Senior Monitor Advocate by the 5<sup>th</sup> working day after the end of the quarter in which an Employment Service-Related or Non-Employment Service-Related Complaint was taken.

A **negative report**<sup>2</sup> should be noted in the log. It is not necessary to send a report if there were no complaints taken during the quarter.

**Record retention** - five years from the date of the last action.

<b>Report Schedule</b>		
First Quarter	July - September	Report due by <b>5th business day of October</b>
Second Quarter	October – December	Report due by <b>5th business day of January</b>
Third Quarter	January - March	Report due by <b>5th business day of April</b>
Fourth Quarter	April - June	Report due by <b>5th business day of July</b>

Complaint logs can be submitted electronically to DEO’s Senior Monitor Advocate or mailed to:

**Department of Economic Opportunity**

**Senior Monitor Advocate**

107 East Madison Street  
G-229 Caldwell Building  
Tallahassee, FL 32399-4134

For additional forms and information

<http://www.floridajobs.org>

## **THE FILE SYSTEM**

### **Career Center Responsibilities**

1. The career center shall maintain a separate folder for all complaints that are Employment Service-Related or a Non-Employment Service-Related Complaint filed by an MSFW. There is no requirement to maintain a folder for a Non-Employment Service-Related Complaint from a Non-MSFW.
2. Each folder shall include:
  - a. Left-hand side - Complaint fact sheet with follow-up notes, correspondence including originals and copies of correspondence received or sent. If the complaint was referred to the

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<sup>2</sup> A negative report is one where no complaints was filed during a particular quarter.



State level or to another agency, include a copy of the documentation of where the complaint was referred and the date of the referral.

- b. Right-hand side - Original *career center (OSCC) Complaint/Referral Record* – [ETA Form 8429](#), original notes taken at the time of complaint, subsequent telephone conversations, and miscellaneous items such as news articles, check stubs, work assignments, etc.
3. Identify each file with:
    - a. Complainant's name
    - b. Last four digits of the complainant's social security number
    - c. Month and year complaint was taken
    - d. Complaint number assigned, including the quarter the complaint was filed and the consecutive number beginning on July 1st, i.e., 1/001-first quarter, first complaint. Another example is 2/014 (2<sup>nd</sup> quarter, 14<sup>th</sup> complaint this year). Quarter numbers will change, but sequential numbers continue. The quarter numbers are as follows:
      - i. July - September (1st Quarter)
      - ii. October - December (2nd Quarter)
      - iii. January - March (3rd Quarter)
      - iv. April - June (4th Quarter)
  4. File folders alphabetically by fiscal year (July 1- June 30)
  5. Ensure that files are kept secure, since they are confidential.
  6. Ensure that complaint files contain only factual information.
  7. Keep complaints, complaint logs, MSFW apparent violations, and all material related to the complaint or MSFW apparent violation on file for five years ***from date of last action*** and then destroy.

## **CHAPTER 5 - MIGRANT AND SEASONAL FARMWORKER (MSFW)**

### **APPARENT VIOLATIONS**

An apparent violation arises when an employee observes or is in receipt of information regarding a suspected violation of employment-related law or Employment Service regulations by an employer that involves an MSFW, or has reason to believe that such a violation has occurred.

Career center staff must document suspected violations of administrative regulations, such as noncompliance of job order assurances or work-related laws enforced by other agencies. The employee shall document the suspected violation in writing and refer this information to the local center manager.

### **TAKING A COMPLAINT VERSUS PROCESSING APPARENT VIOLATIONS**

The Complaint System, as described in the preceding chapters of this Handbook, applies if a non-agency employee desires to file a written complaint. If the affected individual elects not to file a complaint, or an informal complaint is received on behalf of MSFWs from an individual or agency and is not handled under the Complaint System, or if an employee observes or has reason to believe a violation exists, the employee will report the matter, in writing, to management. The suspected violation should be documented and should be logged, separately, on the Log of Apparent Violations-MSFW. Each violation of Employment Service regulations and employment related laws are to be shown on a separate line on the Log of Apparent Violations.

If a written complaint is filed by an MSFW, it should only be processed under the Complaint System, not the apparent violations system. There should be no duplicate entries on logs.

Employers who are contacted as a result of reported apparent violations should not be given the employee's name who initially reported the apparent violation to management.

### **PROCESSING MSFW APPARENT VIOLATIONS**

The career center manager or designated associate must initially determine the following facts:

1. Does the apparent violation involve Employment Service regulations or employment related law(s)?
2. Has the employer filed a job order within the past 12 months?

If a job order has been filed within the past 12 months and the alleged violation involves Employment Service regulations, such as terms and conditions of the job order, and/or employment related law, follow the steps listed below:

1. The manager or designated associate must contact the employer and attempt to achieve informal resolution within five working days. The name of the person who reported the violation should be kept confidential. Document the outcome and report to management.
2. If resolved, the career center manager will document the resolution in the file and on the career center Log of Apparent Violations.
3. If unresolved, procedures for discontinuation of services shall be initiated and, if a violation of Employment Service regulations is involved, a copy of the violation will be sent to DEO's Senior

Monitor Advocate. If a violation of an employment related law is involved, the violation shall be referred in writing to the appropriate enforcement agency(ies)p. The referral should include a request that the enforcement agency provide a notification of the final determination back to the career center. A career center copy of the referral to the enforcement agency will be kept on file.

If no job order has been filed and the alleged violation involves employment related law, the manager or designated associate must refer the violation to the appropriate enforcement agency(ies) in writing. ***No informal resolution should be attempted if there has been no job order within the preceding 12 months.***

Logs are to be submitted to DEO's Senior Monitor Advocate by the 5<sup>th</sup> working day after the end of the month in which an apparent violation is logged. Logs of Apparent Violations can be submitted electronically to DEO's Senior Monitor Advocate or mailed to:

**Department of Economic Opportunity**  
**Senior Monitor Advocate**  
107 East Madison Street  
G-229 Caldwell Building  
Tallahassee, FL 32399-4134

For additional forms and information  
<http://www.floridajobs.org>

Records related to apparent violations must be retained at least five years from the date of last action.

## **CHAPTER 6 - INVESTIGATION AND DETERMINATION**

### **ELEMENTS OF AN INVESTIGATION**

To investigate is to follow up on a complaint using a step by step methodology through inquiry or observation, to examine and inquire with care and accuracy, and to find out by careful questioning.

All complaints, Employment Service-Related, Non-Employment Service-Related, and Apparent Violations, have an element of investigation that must occur when the complaint or violation is reported and filed. Below are the elements of an investigation that should be followed upon receiving and processing complaints and apparent violations:

1. Facts should be obtained from the complainant and respondent(s) in accordance with time limits for each type of complaint.
  - a. The individuals should be interviewed alone and in a place where you can get their full attention.
  - b. Questions should be written down in advance and should be designed to ensure they will get the information you need. Open-ended questions should be asked to get the complainant's overall version. It is important to listen carefully to answers provided and ask follow-up questions to clarify information or as new issues may be uncovered. Questions should be designed to produce factual answers, not opinions. Only specifics of the complaint should be included in the investigation. The names, phone numbers, addresses of other persons who have information relative to the complaint, dates, etc. should be documented.
2. Relevant documents (i.e., wage statements, job orders, etc.) should be obtained.
3. Statements from witnesses should be obtained.
4. Both the complainant and respondent should be asked to provide any supporting documents.

### **ELEMENTS OF A DETERMINATION**

The determination should find in favor of the party that has a preponderance of factual information (evidence) that supports one side over the other (complainant vs. respondent). Note that opinions, speculations and assumptions are not evidence.

## **CHAPTER 7 – DISCONTINUATION OF SERVICE**

### **DISCONTINUATION OF SERVICES TO EMPLOYERS**

Whenever a determination is made either by the career center, DEO, or an enforcement agency that a violation of WP administrative regulations or employment-related law did occur, the career center must initiate proceedings to discontinue services to the employer. Following are specific actions that must be taken by the career center, DEO or the respective enforcement agency when services are discontinued.

1. Career center management must notify DEO's Senior Monitor Advocate in writing if its final determination indicates an employer violated an employment-related law or WP administrative regulation. This notification is necessary for compliance with regulations that prohibit serving employers who violated employment-related laws or WP administrative regulations until such violation has been corrected.
2. If the enforcement agency indicates the employer (respondent) is appealing its final determination, then discontinuation of services will not be initiated until the final appeal has been exhausted.
3. The regulations authorize the immediate discontinuation of services if it is believed that exhaustion of normal procedures would cause substantial harm to a significant number of workers or job seekers.
4. Career center management should note that services to an employer have been discontinued on the appropriate complaint log or apparent violations log.

### **BASIS FOR DISCONTINUATION OF SERVICES**

The following conditions constitute the basis for discontinuation of services to employers:

1. Employer submits and refuses to alter or withdraw job orders containing specifications which are contrary to employment-related laws and/or Terms and Conditions of Use in the State Management Information System.
2. Employer submits job orders and refuses to provide assurances that the jobs offered are in compliance with employment-related laws.
3. Employer is found, through field checks or otherwise, to have misrepresented the terms or conditions of employment specified on job orders or to have failed to comply fully with assurances made on job orders.
4. Employer, following investigation of complaint, is found to have violated Employment Service regulations.
5. Employer refuses to accept qualified workers referred through the clearance system.
6. Employer refuses to cooperate in the conduct of field checks.
7. Employer repeatedly causes discontinuation of services proceedings to be initiated.
8. The career center is notified by an enforcement agency that employer has violated an employment-related law.

## NOTIFICATION TO EMPLOYERS

The career center shall notify the employer in writing that it intends to discontinue the provision of WP services:

1. **Where the decision is based on submittal of and refusal to alter or to withdraw job orders containing specifications contrary to employment-related laws**, the career center shall specify the date the order was submitted, the job order involved, the specifications contrary to employment-related laws, and the laws involved. The employer shall be notified in writing that all Employment Services will be terminated in 20 working days unless the employer within that time:
  - a. provides adequate evidence that the specifications are not contrary to employment-related laws; or
  - b. withdraws the specifications and resubmits the job order in compliance with all employment-related laws; or
  - c. if the job is no longer available, makes assurances that all future job orders submitted will be in compliance with all employment-related laws; or
  - d. requests a hearing from DEO.
2. **Where the decision is based on the employer's submittal of an order and refusal to provide assurances that the job is in compliance with employment-related laws or to withdraw the order**, the career center shall specify the date the order was submitted, the job order involved, and the assurances involved. The employer shall be notified that all Employment Services will be terminated within 20 working days unless the employer within that time:
  - a. resubmits the order with the appropriate assurances; or
  - b. if the job is no longer available, makes assurances that all future job orders submitted will contain all necessary assurances that the job offered is in compliance with employment-related laws; or
  - c. requests a hearing from DEO.
3. **Where the decision is based on a finding that the employer has misrepresented the terms or conditions of employment specified on job orders or failed to comply fully with assurances made on job orders**, the career center shall specify the basis for that determination. The employer shall be notified that all WP employment services will be terminated in 20 working days unless the employer within that time:
  - a. provides adequate evidence that terms and conditions of employment were not misrepresented; or
  - b. provides adequate evidence that there was full compliance with the assurances made on the job orders; or
  - c. provides resolution of a complaint which is satisfactory to a complainant referred by the career center; and
  - d. provides adequate assurance that specifications on future orders will accurately represent the terms and conditions of employment and that there will be full compliance with all job order assurances; or
  - e. requests a hearing from DEO.

4. **Where the decision is based on a final determination by an enforcement agency that an employment-related law was violated**, the career center shall specify the basis for the determination. The employer shall be notified that all Employment Services will be terminated in 20 working days unless the employer within that time:
  - a. provides adequate evidence that the enforcement agency has reversed its ruling and that the employer did not violate employment-related laws; or
  - b. provides adequate evidence that the appropriate fines have been paid and/or appropriate restitution has been made, and
  - c. provides assurances that any policies, procedures, or conditions responsible for the violation have been corrected and the same or similar violations are not likely to reoccur.
5. **Where the decision is based on a finding of a violation of Employment Service regulations**, the career center shall specify the finding. The employer shall be notified that all Employment Services will be terminated in 20 working days unless the employer within that time:
  - a. provides adequate evidence that the employer did not violate Employment Service regulations; or
  - b. provides adequate evidence that appropriate restitution has been made or remedial action taken, and
  - c. provides assurances that any policies, procedures, or conditions responsible for the violation have been corrected and the same or similar violations are not likely to occur in the future; or
  - d. requests a hearing from DEO.
6. **Where the decision is based on an employer's failure to accept qualified workers referred through the clearance system**, the career center shall specify the workers referred and not accepted. The employer shall be notified that all Employment Services will be terminated in 20 working days unless the employer within that time:
  - a. provides adequate evidence that the workers were accepted; or
  - b. provides adequate evidence that the workers were not available to accept the job; or
  - c. provides adequate evidence that the workers were not qualified; and
  - d. provides adequate assurances that qualified workers referred in the future will be accepted; or
  - e. requests a hearing from DEO.
7. **Where the decision is based on lack of cooperation in the conduct of field checks**, DEO shall specify the lack of cooperation. The employer shall be notified that all Employment Services will be terminated in 20 working days unless the employer within that time:
  - a. provides adequate evidence that it did cooperate; or
  - b. cooperates immediately in the conduct of field checks, and
  - c. provides assurances that it will cooperate in future field checks; or
  - d. requests a hearing from DEO.
8. **Where the decision is based on repeated initiation of procedures for discontinuation of services**, the career center shall outline the previous violations that caused an initiation of discontinuation of services. Repeated initiation of discontinuation of services is defined by the State of Florida as the employer having been notified more than twice in the immediately preceding 12 months that actions are being taken to discontinue services. The employer will be

notified that all Employment Services will be terminated within 20 working days unless the employer within that time:

- a. Provides adequate evidence of the reasons for the repeated violations that resulted in an initiation of discontinuation of services;
- b. Provides both documented evidence and assurances that any policies, procedures, or conditions responsible for previous violations have been corrected and the same or similar violations are not likely to occur in the future.
- c. Develops and present a plan to mitigate future initiation of discontinuation of services.
- d. Requests a hearing from DEO. The request should include an explanation as to why services should not be discontinued. The statement should include an explanation as to why earlier violations occurred.

If the employer chooses to respond pursuant to this section by providing documentary evidence or assurances, it must, at the same time, request a hearing if such hearing is desired in the event that DEO does not accept the documentary evidence or assurances as adequate.

Where the decision is based on repeated initiation of procedures for discontinuation of services, the employer shall be notified that services have been terminated.

If the employer makes a timely request for a hearing, in accordance with this section, DEO shall follow appropriate procedures and notify the complainant whenever the discontinuation of services is done. DEO will notify regional directors after a formal hearing if services to an employer are discontinued or reinstated.

### **DEO Hearing**

**Employers may request a hearing in writing from:  
Department of Economic Opportunity  
Office of General Counsel  
107 East Madison Street, MSC 110,  
Tallahassee, Florida 32399-4128**

### **REINSTATEMENT OF SERVICES**

1. Services to an employer may be reinstated after discontinuation, if:
  - a. the state is ordered to do so by a Federal Administrative Law Judge or USDOL Regional Administrator; or
  - b. the employer provides to DEO/RWB adequate evidence that:
    - i. any policies, procedures or conditions responsible for the previous discontinuation of services have been corrected and that the same or similar difficulties are not likely to reoccur; and
    - ii. the employer provides adequate evidence that the employer has responded adequately to any findings of an enforcement agency, state agency, or USDOL, including



restitution to the complainant and the payment of any fines, which were the basis of the discontinuation of services

2. The career center shall notify, within 20 working days, the employer requesting reinstatement whether his request has been granted. If the career center denies the request for reinstatement, the basis for the denial shall be specified and the employer shall be notified that it may request a hearing from DEO within 20 working days.
3. If the employer makes a timely<sup>3</sup> request for a hearing, DEO shall follow the appropriate procedures.

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<sup>3</sup> Twenty working days from the date of their notification.

## **CHAPTER 8 – FORMS AND RESOURCES**

This section contains detailed charts for processing Employment Service Complaints, Non-Employment Service Complaints and Apparent Violations. Additionally, other resources include forms, instructions for completing these forms, enforcement agency contact information and the required poster for career centers.

### **FOR FORMS OR COMPLAINT SYSTEM QUESTIONS:**

Department of Economic Opportunity

<http://www.floridajobs.org/>

Senior Monitor Advocate (850) 921-3207

Wagner-Peyser Team (850) 245-7498 or (850) 245-7492

### **FOR FORMS OR INFORMATION RELATED TO THE PROCESSING OF DISCRIMINATION COMPLAINTS:**

**Department of Economic Opportunity**

**Office for Civil Rights**

Equal Opportunity Officer

107 East Madison Street, MSC 150

Tallahassee, FL 32399-4134

Phone: (850) 921-3205

Email: [civil.rights@deo.myflorida.com](mailto:civil.rights@deo.myflorida.com)

## PROCESSING COMPLAINTS

↔ Employment Service related complaints ↔

Violation of WP administrative regulations	Violation of terms and conditions of a job order	Alleged discrimination by employer	Violation of employment related law by an employer	Employer in another state or another state agency	Another or multiples statewide	Non-Employment-Service related	WHAT TO DO
X	X	X	X	X	X	If MSFW	Complete <a href="#">ETA Form 8429</a>
X	X	X	X	X	X	X	Log the complaint
X	X	X	X	X	X	X	Offer career center services to complainant
X	X	X	X	X	X	If MSFW	Provide complainant a copy of the complaint form
		X	X			X	Refer to appropriate <a href="#">enforcement agency</a>
		X	X			If MSFW	Send letter to referral agency and copy complainant
X	X						Investigate complaint and attempt resolution ( <i>TIME LIMITS APPLY – five working days for MSFWs and 15 working days for non-MFSWs</i> ). Unresolved? Copy file to DEO's Senior Monitor Advocate.
				X	X		Copy file to DEO's Senior Monitor Advocate and copy cover memo to complainant
					X		Against another career center? Take complaint and send it to office complaint is against
					X		Against more than one career center? Send complaint to DEO's Senior Monitor Advocate
		MSFW	MSFW				Necessary to follow up with enforcement agency monthly until resolution
		Non-MSFW	Non-MSFW				Necessary to follow up with enforcement agency quarterly until resolution
X	X	X	X				Additional written/telephone follow-up necessary until resolution with complainant; inform complainant of status periodically

# ONE-STOP CAREER CENTER COMPLAINT/REFERRAL RECORD



U.S. Department of Labor  
Employment and Training Administration

OMB Approval No. 1205-0039  
Expiration Date: April 30, 2015

## One Stop Career Center (OSCC) Complaint/Referral Record

For OSCC Use Only

Complaint No.		Date Received	
<b>Part I. Complainant's Information</b>		<b>Respondent's Information</b>	
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)			

**Certification** 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 / /
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**Part II. For OSCC Use Only**

ETA 8429  
Revised 04/16/2012  
Expiration Date: 04/30/2015

1. Migrant or Seasonal Farmworker? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	3. If non-Job Service-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	5. H-2a/Criteria Employer <input type="checkbox"/> U.S./Domestic Worker  <input type="checkbox"/> H-2a Worker
2. Type of Complaint ("X" Appropriate Box(es))  <input type="checkbox"/> Job Service 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-Job Service Related	4. Kind of complaint ("X" Appropriate Box(es)) <input type="checkbox"/> Wage Related <input type="checkbox"/> Housing <input type="checkbox"/> Child Labor <input type="checkbox"/> Pesticides <input type="checkbox"/> Working Conditions <input type="checkbox"/> Health/Safety <input type="checkbox"/> Migrant and Season Agricultural Worker Protection Act (MSPA) <input type="checkbox"/> Disability Discrimination <input type="checkbox"/> Discrimination*  <input type="checkbox"/> Other (Specify) _____	<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 State Workforce Agency, 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"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Quarterly	c. Follow-up Date ____ / ____ / ____

9. Comments (If additional space is needed, use separate sheet of paper) Provide OSCC Services?  Yes    No If "No", explain.

<b>Complaint resolved?</b> <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 ____ / ____ / ____

**Public Burden Statement**

Persons are not required to respond to this collection of information unless it displays a currently valid OMB Control Number. Obligation to reply is required to obtain or retain benefits (44 USC 5301). Public reporting burden for this collection is estimated to average 8 minutes per response, including the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information. Send comments regarding this burden estimate or any other aspect of this collection, including suggestions for reducing this burden, to the U.S. Department of Labor, Migrant and Seasonal Farmworker Program, Room S4209, 200 Constitution Avenue, NW, Washington, DC 20210.

ETA 8429  
 Revised 04/16/2012  
 Expiration Date: 04/30/2015

## INSTRUCTIONS FOR COMPLETING ETA FORM 8429

1. **Part I** - This part is to be completed by the complainant. Career center staff should assist the complainant in preparing this portion of the form if assistance is requested.

*Item 1. Name of Complainant:* Print the last name, first name, and middle initial of the individual(s) filing the complaint.

*Item 2a. Permanent Address:* Print the complainant's complete mailing and physical address which he/she considers to be a permanent address.

*Item 2b. Temporary Address:* If applicable, print the complainant's complete mailing and physical address he/she considers temporary, including name of grower or directions to reach if complainant is an MSFW.

*Item 3a. Permanent Telephone:* Enter the area code and seven digit number of a permanent telephone number.

*Item 3b. Temporary Telephone:* If applicable, enter the area code and seven digit number. This is the number the complainant considers temporary, for example, a telephone at a housing facility provided to an MSFW where he/she could be reached. If a complainant does not have a telephone, request a telephone number of family, a friend or a neighbor where he/she can be reached or a message can be left.

*Item 4. Name of Person Complaint Made Against:* Print the full name of the person(s) whom the complaint is against. (Include any nickname possibly used in quotes.)

*Item 5. Name of Employer/O SCC:* Print full name of the employer if complaint is against an employer. Print name and number of the career center if complaint is against the Employment Service.

*Item 6. Address of Employer/O SCC:* Print the street number, city, state, and zip code. If complaint is against an agricultural employer, include directions to the worksite. If complaint is against the Employment Service, use the career center address.

*Item 7. Telephone Number of Employer/O SCC:* Enter area code and seven digit number of the employer or career center listed in Item 5.

*Item 8. Description of Complaint:* Print a full description of the events/discussions causing/leading to the filing of the complaint. Note: If the complainant requires assistance in completing this section, print the statement for the complainant using the first person ("I"). The complaint description should include:

1. The specific charge of wrong doing.
2. The complainant's proposed corrective action (or the results expected).
3. Exact amount of money due, if applicable.
4. Number of hours worked/bins, buckets, boxes picked, if applicable.
5. Name of immediate supervisor if different than respondent.
6. Type of work performed.
7. Exact dates and time worked.

Note: Do not write on the back of the Complaint/Referral Record. Use additional sheets of paper if extra space is needed. Include the complainant's name and complaint number on additional sheets. Ask the complainant to sign and date the additional pages. Draw a diagonal line from the last word of the statement to the end of the page to ensure that other comments are not added to the original statement.

*Item 9. Signature of Complainant:* Review the complaint with the complainant and request his/her signature. This block must be signed by the complainant or complainant's representative.

1. In the case of several complainants, the complaint must be signed by at least one of the complainants.
2. The complainant's signature should be on each additional sheet, if additional sheets are needed.
3. If a non-MSFW refuses to sign the [ETA Form 8429](#), a statement by the Complaint Specialist should be written to this effect. The complainant should be further advised in writing that since he/she refuses to sign the complaint, no further action can be taken on the complaint.
4. If an MSFW refuses to sign the [ETA Form 8429](#), then the complaint may be considered as an Apparent Violation(s).

IF the Complainant:	AND:	THEN:
Reads English		Have them read the certification statement on the <a href="#">ETA Form 8429</a> .
Reads Spanish (only)		Have them read the certification statement below in Spanish.
Reads Haitian/Creole (only)		Have them read the certification statement below in Haitian/Creole.
Cannot read English	Understands English	Read the certification statement to them in English
Cannot read Spanish	Understands Spanish	Read the certification statement below to them in Spanish.
Cannot read Haitian/Creole	Understands Haitian/Creole	Read the certification statement below to them in Haitian/Creole.

**SPANISH CERTIFICATION STATEMENT:** "YO CERTIFICO QUE LA INFORMACION QUE HE DADO ES CIERTA Y CORRECTA. YO AUTORIZO QUE LE DEN ESTA INFORMACION A OTRAS AGENCIAS PARA LA INVESTIGACION DE MI QUEJA. YO ENTIENDO QUE MI IDENTIFICACION SERA MANTENIDA CONFIDENCIALMENTE AL MAXIMO POSIBLE, CONSISTENTE DE LA LEY APLICABLE Y UNA DETERMINACION JUSTA A MI QUEJA."

**HAITIAN CREOLE CERTIFICATION STATEMENT:** "MOIN SETIFIE KE IFOMASION KE-M BAY YO SE VERITE E KOREK DAPRE SA MOUIN KONNIN. MOIN OTORIZE POU YO BAY TOUT LOT AJANS KI KONSENE INFORMATION SAYG POU YO KA FE YOUN BON INVESTIGASION AOU PLINT-LA. MOUIN KONNIN KE YAP FE TOUT EFO YO POU YO KINBE IDANTITE MOUIN EN SEKRE EPI TOU YAP APLIKE LOI YO BIEN POU YO KA FE DENIE DESIZION SOU PLINT MOUIN-AN."

*Item 10. Date Signed:* Enter the month/day/year that the complainant signed the [ETA Form 8429](#).

2. **Part II - For OSCC Use Only.** This section is to be used by career center associates who are responsible for processing the complaint and recording all actions taken.

*Item 1. Migrant and Seasonal Farmworker?:* Enter a check mark indicating whether the complainant meets the definition of a migrant or seasonal farmworker (MSFW).

*Item 2. Type of Complaint:*

1. If the complaint is Employment Service-related, enter an "X" in the box marked "Job Service Related Job Order No."
  - a. If a job order is involved, enter the complete job order number in the space indicated. Leave blank if no job order is involved.
  - b. Enter an "X" in one or more of the appropriate 4 boxes below the ES related box.
2. If the complaint is non-Employment Service-related, enter an "X" in the box marked "Non-Job Service Related."

*Item 3. If non-Job Service-related, does Complaint concern laws enforced by Wage and Hour or OSHA?:* If applicable, enter an "X" in the appropriate box.

EXAMPLES OF LAWS ENFORCED BY:

1. Wage and Hour Division (WHD)
  - a. Minimum wage
  - b. Overtime
  - c. Child labor
  - d. Farm labor contractors
  - e. Wage garnishment
  - f. Safety and health in temporary labor camps
  - g. Field sanitation
2. Occupational Safety and Health Administration (OSHA)
  - a. Safety and health at a work site
  - b. Field sanitation in plant nurseries

*Item 4. Kind of Complaint.* Enter an "X" in one or more of the 10 boxes to properly identify the kind(s) of complaint.

1. Use the "Disability Discrimination" box to record complaints alleging discrimination on the basis of disability. For disability discrimination complaints against the career center, these complaints shall be filed at the career center using the [ETA Form 8429](#) and forwarded to the EO Officer for the RWB and/or OCR and shall be processed according to the state's processing procedures established for discrimination complaints.
2. Check "Discrimination" for complaints filed under Title VI of the Civil Rights Act, the Age Discrimination Act, Title IX of the Education Amendments, and Section 188 of the Workforce Investment Act. See Item 6 below for a description of discriminatory basis covered, and for filing procedures.

*Item 5. H-2a/Criteria Employer:* Complete this section only if the complaint is against an H-2A employer. Enter an "X" to identify whether the complainant(s) is a U.S./Domestic Worker or H-2A worker. In addition, mark an "X" next to the subject that best represents the basis of the complaint.

*Item 6. For Discrimination Complaints Only:* Complaints alleging discrimination (on the basis of race, color, national origin, sex, religion, age, political affiliation or belief, disability or citizenship)



against federally-assisted Employment Programs including the Florida career centers, may be filed with the Equal Opportunity Officer for the Workforce Board, with DEO's Office for Civil Rights, or directly with the USDOL Civil Rights Center, 200 Constitution Avenue, NW, Room N-4123, Washington, D.C., 20210. The [DLI-2014A form](#) "Complaint Information Form" must accompany the complaint. Discrimination complaints against private, state, or municipal employers should be filed with the EEOC and FCHR.

*Item 7a. Referrals to Other Agencies:* Enter an "X" in the appropriate box with the name of the agency to which the complaint is being referred. If the same complaint is referred to more than one enforcement agency, mark separate copies appropriately.

*Item 7b. Follow-up:* Where follow-up is required, enter whether monthly or quarterly procedures are mandated. Enter an "X" in the block marked monthly if the complainant is an MSFW.

*Item 7c. Follow-up Date:* Enter the date of the first scheduled follow-up.

*Item 8. Address of Referral Agency:* Print complete name, address and telephone number of agency (enforcement agency) to which the complaint is being referred.

*Item 9. Comments:* Enter a brief summary of the initial action taken and whether the complaint was or was not resolved. This includes career center services offered to the complainant.

*Item 10a-b. Name and Title of Person Receiving Complaint:* Enter the name of the career center representative accepting the complaint and his or her title. Under item 10b, enter his/her telephone number.

*Item 11. Office Address:* Enter the complete address of the career center where the complaint was filed.

*Item 12a-b. Signature and Date:* This section is to be signed and dated by the career center representative or designated Complaint Specialist accepting the complaint.

3. Every applicable item must be completed legibly.
4. Make copies of completed and signed form as necessary:
  - a. File the original in the complaint folder.
  - b. Give one copy to the complainant.
  - c. Send one copy to the enforcement agency(ies), as necessary.
  - d. Send one copy to DEO if the complaint is elevated.
5. Complaints must be logged and recorded in accordance with established procedures as given on page 30.

## EMPLOYMENT SERVICE COMPLAINT-SYSTEM LOG

*\*PLEASE PRINT LEGIBLY OR TYPE.*

### EMPLOYMENT SERVICE COMPLAINT-SYSTEM LOG

Career Center:

Quarter Ending:

#	COMPLAINANT	RESPONDENT	Date Filed	MSFW	Employment Service Related	Non-Employment Service Related	WP RELATED				REFERRED		DATE PENDING				DATE RESOLVED				ACTION TAKEN					
							Against Career Center	Against Employer	WP Adm. Regs./ Terms of Job Order	Employment Law	H- 2A	Wage & Hour Division	OSHA	Other	In Process Local	Information Request Local	In Process State	Information Request State	Hearing	Enforcement Agency Decision		Local Level	State Level	Hearing Level	Enforcement Agency	Failed to Elevate

Form DEO 1250 (01/15)

An equal opportunity employer/program. Auxiliary aids and services available upon request to individuals with disabilities

## INSTRUCTIONS FOR COMPLETING THE EMPLOYMENT SERVICE COMPLAINT-SYSTEM LOG

The quarterly log represents the aggregate history of complaints filed during the reporting period. Each individual complaint documented on an [ETA Form 8429](#) must be recorded on the log sheet (including those resolved locally), as well as each Non-Employment Service-Related Complaint from non-MSFWs. The log sheet has mandatory data fields that must be completed. All text entries must be printed in a legible manner.

Use the following instructions to complete the log.

Career Center: Enter the name of the local career center.

Quarter Ending: Enter the last date of the quarter (*For example, September 30, 2013*)

#: Write in the sequential number of the complaint being recorded, per instructions listed in the File System section.

Complainant: Write the name of the person making the complaint.

Respondent: Write the name of the person/company/career center for which the complaint is being made against.

Date Filed: Write the date the complaint was filed by the complainant.

MSFW: Check this box if the complainant meets the definition of an MSFW.

Employment Service Related: Check this box if the complaint is Employment Service-related.

Non-Employment Service Related: Check this box if the complaint is non-Employment Service-related.

WP Related: Check any of the five subtitles that apply to the complaint.

Referred: Enter the date the complaint is referred to the enforcement agency(ies) in the appropriate column(s). If agency is not listed, use "Other" and enter the agency name in the "Action Taken" section.

Date Pending: Enter the date under the appropriate column as each phase of the complaint is handled.

Date Resolved: Enter the date under the appropriate column when the complaint is resolved.

Appeal to USDOL RA: If the complaint decision is appealed to the USDOL RA by the complainant, enter the date the appeal was forwarded to the USDOL RA.

Action Taken: Enter the action take for each phase of the complaint. Upon resolution, enter the action that resolved the complaint.

**FACT SHEET FOR COMPLAINT FILES**

Complainant's Name: \_\_\_\_\_

Respondent's Name: \_\_\_\_\_

DATE	ACTION TAKEN AND/OR PHONE CALLS MADE/RECEIVED

## HANDLING APPARENT VIOLATIONS

HANDLING APPARENT VIOLATIONS			
NO JOB ORDER RECEIVED IN LAST 12 MOS. & APPARENT VIOLATION OF EMPLOYMENT-RELATED LAW	JOB ORDER RECEIVED IN LAST 12 MOS. & APPARENT VIOLATION OF EMPLOYMENT- RELATED LAW	JOB ORDER RECEIVED IN LAST 12 MOS. & APPARENT VIOLATION OF WP REGULATION	WHAT TO DO ABOUT THE SUSPECTED VIOLATION
X	X	X	Document in writing on memorandum and refer to management.
X	X	X	Document Log of Apparent Violations.
	X	X	Contact the employer and attempt resolution within five working days. Document outcome and report to management.
X	X	X	Do not give to employer the name of employee reporting the apparent violation.
X	X	X	Five-year retention period.
X	If unresolved		Refer to the appropriate enforcement agency.
	If unresolved		Request in writing that appropriate agency notify the career center of its final determination.
		If unresolved	Send to DEO's Senior Monitor Advocate.

## LOG OF APPARENT VIOLATIONS – MSFW

\*PLEASE PRINT LEGIBLY OR TYPE.

### LOG OF APPARENT VIOLATIONS – MSFW

Career Center:

Month Ending:

NO.	Employer/Contractor/ Individual	Referral Date	Source			Type of Violation							Referred					Enforcement Agency Decision								
			ES Related	Non-ES Related	Field Check	Outreach	Other	Child Labor	Housing	Wages	MSPA	Pesticides	Worker Safety	H-2A	Other	Informal Resolution	OSHA	DBPR	DOH	DACS	Wage & Hour Division	Other	Violation	No Violation	Initiating Discontinuation of Services	

Form DEO 1300 (01/15)

An equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.

## **COMPLETING THE LOG OF APPARENT VIOLATIONS - MSFW**

No.: This is the sequential number of the violation as it appears on the log.

Employer/Contractor/Individual: This is the name of the employer, contractor, or individual who is suspected of violating the employment-related law or WP regulation.

Referral Date: This is the date the apparent violation is referred to an enforcement agency and not the date referred to the career center manager by staff.

ES Related/Non-ES Related: Place a check mark in the appropriate box.

Source: Place a check mark in the appropriate box for the source of the suspected violation. *Field check* will not normally be indicated as these are structured monitoring procedures involved with the agricultural clearance system. Only offices authorized to perform field checks may use this box.

Type of Violation: Requires the type of violation to be indicated with only one type of violation per line (i.e. one violation of one law). Staff should remember in the case of an H-2A type apparent violation alleging employment conditions that these types of violations shall be forwarded to DEO's Senior Monitor Advocate for processing. These violations will be referred to USDOL Wage and Hour Division since they are responsible for enforcing all contractual terms and conditions described in the H-2A job orders. It is important to remember that USDOL requires that the Regional Enforcement Coordinator for Agriculture with the Region III Office of the USDOL Employment and Training Administration be sent a copy of all H-2A type apparent violations, and situations relative to H-2A/Criteria employers not accepting or rejecting U. S. workers referred to them by career center staff.

Referred: Requires that one agency per line be indicated as with previous item, to eliminate inaccurate reporting of violations. Violations can only be informally resolved prior to referral to an enforcement agency. Once a referral is made, informal resolution cannot be accomplished.

Enforcement Agency Decision: Should be completed when an agency advises the career center manager of the findings.

*All questions regarding proper completion of the Log of Apparent Violations should be directed to DEO's Senior Monitor Advocate.*

## **REFERRAL AGENCIES AND SELECTED RESOURCES**

### **U.S. Department of Labor, Civil Rights Center**

<http://www.dol.gov/oasam/programs/crc/>

### **U.S. Department of Labor, Wage and Hour Division (WHD)**

<http://www.dol.gov/whd/>

- Federal Minimum Wage
- Overtime
- Wage Garnishment
- Recordkeeping
- Family and Medical Leave
- Child Labor
- Farm Labor Contractors
- Migrant and Seasonal Agricultural Worker Protection Act
- Field Sanitation in Agriculture
- H-2A and H-2B Contract Violations

### **Florida Department of Business and Professional Regulation (DBPR)**

<http://www.myfloridalicense.com/dbpr/reg/index.html>

- Farm Labor Contractors
- Child Labor

### **U.S. Department of Labor, Occupational Safety and Health Administration (OSHA)**

<https://www.osha.gov/>

- Workplace Safety and Health

### **U.S. Equal Employment Opportunity Commission (EEOC)**

<http://www.eeoc.gov/>

- Employment Discrimination
- Sexual Harassment in the Workplace

### **Florida Commission on Human Relations (FCHR)**

<http://fchr.state.fl.us/>

- Discrimination in Employment, Housing and Public Accommodations

### **Florida Department of Financial Services, Division of Workers' Compensation**

<http://www.myfloridacfo.com/WC/>

### **Florida Department of Health**

<http://www.doh.state.fl.us/>

- Migrant Farmworker Housing
- Pesticide Related Health Issues

### **Florida Department of Agriculture and Consumer Services**

<http://www.freshfromflorida.com/>

- Worker Protection Standard for Agricultural Pesticides
- Pesticide misuse or worker exposure

**TO REPORT CONCERNS ABOUT AGRICULTURAL WORKING CONDITIONS, SAFETY, PAY, LIVING CONDITIONS, AND DISCRIMINATORY EMPLOYMENT PRACTICES:**

**Florida's Toll Free Farmworker Helpline 1-800-633-3572**



## EQUAL EMPLOYMENT IS THE LAW POSTER

# Equal Employment Opportunity is **THE LAW**

### **Private Employers, State and Local Governments, Educational Institutions, Employment Agencies and Labor Organizations**

Applicants to and employees of most private employers, state and local governments, educational institutions, employment agencies and labor organizations are protected under Federal law from discrimination on the following bases:

#### **RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN**

Title VII of the Civil Rights Act of 1964, as amended, protects applicants and employees from discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex (including pregnancy), or national origin. Religious discrimination includes failing to reasonably accommodate an employee's religious practices where the accommodation does not impose undue hardship.

#### **DISABILITY**

Title I and Title V of the Americans with Disabilities Act of 1990, as amended, protect qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship.

#### **AGE**

The Age Discrimination in Employment Act of 1967, as amended, protects applicants and employees 40 years of age or older from discrimination based on age in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment.

#### **SEX (WAGES)**

In addition to sex discrimination prohibited by Title VII of the Civil Rights Act, as amended, the Equal Pay Act of 1963, as amended, prohibits sex discrimination in the payment of wages to women and men performing substantially equal work, in jobs that require equal skill, effort, and responsibility, under similar working conditions, in the same establishment.

#### **GENETICS**

Title II of the Genetic Information Nondiscrimination Act of 2008 protects applicants and employees from discrimination based on genetic information in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. GINA also restricts employers' acquisition of genetic information and strictly limits disclosure of genetic information. Genetic information includes information about genetic tests of applicants, employees, or their family members; the manifestation of diseases or disorders in family members (family medical history); and requests for or receipt of genetic services by applicants, employees, or their family members.

#### **RETALIATION**

All of these Federal laws prohibit covered entities from retaliating against a person who files a charge of discrimination, participates in a discrimination proceeding, or otherwise opposes an unlawful employment practice.

#### **WHAT TO DO IF YOU BELIEVE DISCRIMINATION HAS OCCURRED**

There are strict time limits for filing charges of employment discrimination. To preserve the ability of EEOC to act on your behalf and to protect your right to file a private lawsuit, should you ultimately need to, you should contact EEOC promptly when discrimination is suspected:

The U.S. Equal Employment Opportunity Commission (EEOC), 1-800-669-4000 (toll-free) or 1-800-669-6820 (toll-free TTY number for individuals with hearing impairments). EEOC field office information is available at [www.eeoc.gov](http://www.eeoc.gov) or in most telephone directories in the U.S. Government or Federal Government section. Additional information about EEOC, including information about charge filing, is available at [www.eeoc.gov](http://www.eeoc.gov).

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## **Employers Holding Federal Contracts or Subcontracts**

Applicants to and employees of companies with a Federal government contract or subcontract are protected under Federal law from discrimination on the following bases:

### **RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN**

Executive Order 11246, as amended, prohibits job discrimination on the basis of race, color, religion, sex or national origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

### **INDIVIDUALS WITH DISABILITIES**

Section 503 of the Rehabilitation Act of 1973, as amended, protects qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship. Section 503 also requires that Federal contractors take affirmative action to employ and advance in employment qualified individuals with disabilities at all levels of employment, including the executive level.

### **DISABLED, RECENTLY SEPARATED, OTHER PROTECTED, AND ARMED FORCES SERVICE MEDAL VETERANS**

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212, prohibits job discrimination and requires affirmative action to employ and advance in employment disabled veterans, recently separated veterans (within

three years of discharge or release from active duty), other protected veterans (veterans who served during a war or in a campaign or expedition for which a campaign badge has been authorized), and Armed Forces service medal veterans (veterans who, while on active duty, participated in a U.S. military operation for which an Armed Forces service medal was awarded).

### **RETALIATION**

Retaliation is prohibited against a person who files a complaint of discrimination, participates in an OFCCP proceeding, or otherwise opposes discrimination under these Federal laws.

Any person who believes a contractor has violated its nondiscrimination or affirmative action obligations under the authorities above should contact immediately:

The Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 1-800-397-6251 (toll-free) or (202) 693-1337 (TTY). OFCCP may also be contacted by e-mail at [OFCCP-Public@dol.gov](mailto:OFCCP-Public@dol.gov), or by calling an OFCCP regional or district office, listed in most telephone directories under U.S. Government, Department of Labor.

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## **Programs or Activities Receiving Federal Financial Assistance**

### **RACE, COLOR, NATIONAL ORIGIN, SEX**

In addition to the protections of Title VII of the Civil Rights Act of 1964, as amended, Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination on the basis of race, color or national origin in programs or activities receiving Federal financial assistance. Employment discrimination is covered by Title VI if the primary objective of the financial assistance is provision of employment, or where employment discrimination causes or may cause discrimination in providing services under such programs. Title IX of the Education Amendments of 1972 prohibits employment discrimination on the basis of sex in educational programs or activities which receive Federal financial assistance.


### **INDIVIDUALS WITH DISABILITIES**

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits employment discrimination on the basis of disability in any program or activity which receives Federal financial assistance. Discrimination is prohibited in all aspects of employment against persons with disabilities who, with or without reasonable accommodation, can perform the essential functions of the job.

If you believe you have been discriminated against in a program of any institution which receives Federal financial assistance, you should immediately contact the Federal agency providing such assistance.

## COMPLAINT POSTER

The following notice must be prominently displayed for jobseeker's view in each career center (main and satellite offices).



**UNITED STATES DEPARTMENT OF LABOR**  
Employment & Training Administration

### ONE-STOP CAREER CENTER ~ CENTRO VOCACIONAL


<p><b>IF YOU HAVE A COMPLAINT ABOUT:</b></p> <ul style="list-style-type: none"><li>■ A One-Stop Career Center</li><li>■ A job you were referred to by a One-Stop Career Center</li></ul> <p>Contact your local One-Stop Career Center manager or write to:</p>	<p><b>SI USTED TIENE UNA QUEJA ACERCA DE:</b></p> <ul style="list-style-type: none"><li>■ Un Centro Vocacional</li><li>■ Un trabajo al que fue referido por un Centro Vocacional</li></ul> <p>Comuníquese con la gerencia de su Centro Vocacional mas cercano o escriba a:</p>
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**Job Service Complaint System ~ 20 CFR Part §658**

This space can be used to attach stickers with the following information:

Este espacio se puede utilizar para fijar etiquetas con la siguiente información:

- State Monitor Advocate
- Consejero(a) de Monitoria Estatal
- Name of Complaint Specialist
- Nombre del Especialista de Quejas
- Name of the State Agency/Department
- Nombre de la Agencia Estatal o Departamento
- Address / Dirección
- Office Telephone Number or Toll Free Number
- Número de Oficina o Número Gratis





<p>If you have a complaint about other employment-related issues, your local One-Stop Career Center will provide you with information on agencies that may be able to assist you.</p>	<p>Si usted tiene una queja acerca de otros asuntos laborales, su Centro Vocacional le proporcionará información sobre las agencias que pueden ofrecerle ayuda.</p>
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EMPLOYMENT AND TRAINING ADMINISTRATION  
UNITED STATES DEPARTMENT OF LABOR



## ABBREVIATIONS

<b>DEO</b>	<b>Department of Economic Opportunity</b>
<b>DBPR</b>	<b>Department of Business and Professional Regulation</b>
<b>EEOC</b>	<b>Employment Opportunity Commission</b>
<b>EOO</b>	<b>Equal Opportunity Officer</b>
<b>ETA</b>	<b>Employment and Training Administration</b>
<b>MSFW</b>	<b>Migrant and Seasonal Farmworker</b>
<b>MSPA</b>	<b>Migrant and Seasonal Agricultural Worker Protection Act</b>
<b>OCR</b>	<b>Office for Civil Rights</b>
<b>OSHA</b>	<b>Occupational Safety and Health Administration</b>
<b>RA</b>	<b>Reemployment Assistance</b>
<b>SNAP</b>	<b>Supplemental Nutritional Assistance Program</b>
<b>SWA</b>	<b>State Workforce Agency</b>
<b>UI</b>	<b>Unemployment Insurance</b>
<b>USDOL</b>	<b>United States Department of Labor</b>
<b>WHD</b>	<b>Wage and Hour Division</b>
<b>WIA</b>	<b>Workforce Investment Act</b>
<b>WP</b>	<b>Wagner-Peyser</b>
<b>WT</b>	<b>Welfare Transition</b>