

**FLORIDA AGENCY FOR
WORKFORCE INNOVATION**

*Wagner-Peyser
Complaint-Resolution
System Handbook*



WAGNER-PEYSER COMPLAINT-RESOLUTION SYSTEM HANDBOOK

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ABBREVIATIONS

AWI	Agency for Workforce Innovation
DBPR	Department of Business and Professional Regulation
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
ESA	Employment Standards Administration
ETA	Employment and Training Administration
FSET	Food Stamp Employment and Training
MSFW	Migrant and Seasonal Farmworkers
MSPA	Migrant and Seasonal Agricultural Worker Protection Act
OSHA	Occupational Safety and Health Administration
RA	Regional Administrator for USDOL
SWA	State Workforce Agency
UC	Unemployment Compensation
UI	Unemployment Insurance
USDOL	United States Department of Labor
WIA	Workforce Investment Act
WT	Welfare Transition

PURPOSE

To provide a copy of a revised Wagner-Peyser (WP) Complaint-Resolution System guide for Florida one-stop centers. This guide pertains to complaints received from customers relating to both non-agricultural and agricultural activities and includes instructions for the processing of apparent violations for migrant and seasonal farmworkers (MSFWs).

POLICY

Regulations found at 20 CFR 658.400-401 and 410-418 provide the guidelines for each one-stop center to establish and maintain a WP Complaint Resolution System that will receive and process complaints filed through their centers. Regulations found at 20 CFR 653.113 provide the guidelines for the processing of apparent violations by state agency/one-stop center employees. Employees who observe, have reason to believe or are in receipt of information regarding a suspected violation of employment-related laws, except as provided at 20 CFR Part 658 (complaints), shall document the suspected violation and refer this information to management. The [Wagner-Peyser \(W-P\) Migrant Seasonal Farmworker Registration and Agricultural Employer Services Procedures](#) guidance specifies the one-stop center staff's responsibility for reporting suspected violations.

AUTHORITY

20 CFR 658.400 through 658.418 and 658.500 through 658.504, 20 CFR 653.113 and 29 CFR 501.1 and 501.2.

FEDERAL DEFINITION OF A COMPLAINT

“Complaint shall mean a representation made or referred to a state or local one-stop center of a violation of Wagner-Peyser administrative regulations and/or other federal, state, or local employment related law.”

THE THREE TYPES OF COMPLAINTS

Wagner-Peyser related complaints are as follows: (a) complaints against an employer about the specific job to which the applicant was referred by the one-stop center involving violations of the terms and conditions of the job order or employment-related law (employer-related complaint) or (b) complaints about one-stop center actions or omissions under Wagner-Peyser regulations (agency-related complaints).

Non-Wagner-Peyser related complaints are complaints alleging violations of employment-related federal, State, or local laws other than Wagner-Peyser regulations by employers, their agents, or DOL sub-agencies.

Not applicable to the Wagner-Peyser complaint system such as complaints against Unemployment Compensation, Workforce Investment Act, Welfare Transition or Food Stamp Employment and Training Programs, or complaints by veterans alleging violations of Federal Contractor mandatory job listings.

MANAGEMENT

At the local one-stop center level, the local office manager shall be responsible for the management of the WP complaint system.

Complaint Type Chart

TYPE OF COMPLAINT:	IF THE COMPLAINT INVOLVES:	AND:	AND:
I. WP-related complaint.	An alleged violation occurring within the last 12 months.	It involves a violation of WP administrative regulations by one-stop center staff through action or omission.	
WP-related complaint.	An alleged violation occurring within the last 12 months.	It involves a violation of the terms and conditions of a job order by an employer.	The one-stop center referred complainant to the employer, and the complaint is about the specific job to which the complainant was referred.
WP-related complaint.	An alleged violation occurring within the last 12 months.	It involves a violation of employment-related laws by an employer.	The one-stop center referred complainant to the employer, and the complaint is about the specific job to which the complainant was referred.
II. Non-WP-related complaint.	Alleged violations of employment-related Federal, State, or local laws other than Wagner-Peyser regulations.		
III. Not applicable to the WP Complaint-Resolution System.	UI, WIA, WT, FSET, Federal Contractor job listing or complaints from one-stop staff. (Handle those complaints according to their respective complaint regulations.)		

WAGNER-PEYSER RELATED COMPLAINTS (TYPE I)

WP-related complaints fall into six categories:

<p>Category 1</p> <ul style="list-style-type: none"> Alleges discrimination by an employer. 	<p>Category 4</p> <ul style="list-style-type: none"> Involves the violation of WP administrative regulations by staff of the one-stop center.
<p>Category 2</p> <ul style="list-style-type: none"> Involves an employer in another state or another state agency. 	<p>Category 5</p> <ul style="list-style-type: none"> Involves the violation of an employment-related law by an employer. One-stop center staff referred the complainant to the specific employer.
<p>Category 3</p> <ul style="list-style-type: none"> Involves another one-stop center or more than one center statewide. 	<p>Category 6</p> <ul style="list-style-type: none"> Involves a violation of the terms and conditions of a job order by an employer. One-stop center staff referred the complainant to the specific employer.

NON-WAGNER-PEYSER RELATED COMPLAINTS (TYPE II)

A non-Wagner-Peyser related complaint is a complaint against an employer that is unrelated to any services provided through the one-stop center.

(Must meet the federal definition of a complaint)

"A complaint shall mean a representation made or referred to a state or local one-stop center of a violation of Wagner-Peyser (WP) administrative regulations and/or other federal, state, or local employment related law."

A non-WP related complaint will fall into one of two categories:

1. Involves MSFWs and a violation of a law enforced by the Employment Standards Administration (ESA) or the Occupational Safety and Health Administration (OSHA).	2. All other non-WP related complaints.
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RECEIVING COMPLAINTS

Complaints may be received in person, by signed letter or via e-mail.

When a complaint is received in the one-stop center, a decision should be made to determine if the complaint is WP-related, non-WP-related or not applicable to the WP Complaint System. Additionally, if the complaint is WP-related and concerns the violation of an employment-related law by an employer, the complaint must be referred to the appropriate enforcement agency and the complainant notified by mail of the referral. All WP-related complaints filed with a one-stop center and alleging unlawful discrimination based on race, color, religion, national origin, sex, age, disability, political affiliation or belief, or citizenship shall be assigned to the local equal opportunity representative. Complaints alleging unlawful discrimination by one-stop center staff shall be referred to the Office for Civil Rights in the Agency for Workforce Innovation.

For any other WP-related complaint, the one-stop center complaint specialist shall investigate and attempt to resolve the complaint immediately upon receipt. If resolution has not been achieved to the satisfaction of the complainant within 15 working days after receipt of the complaint or five working days with respect to complaints filed by or on behalf of MSFWs, the one-stop center complaint specialist shall send the complaint file to the State Senior Monitor Advocate.

A complaint should be handled according to the procedures outlined in this guide.

If a complaint is received by letter, is signed and provides sufficient information to initiate an investigation, the complaint should be treated like a properly completed complaint form.

If a complaint is received by e-mail, an ETA Form 8429 should be sent to the e-mail address and ask that the form be filled out and either faxed, sent by mail or brought into any one-stop center for processing.

If a complaint is received by letter and it does not give 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.

If the letter is signed by an attorney representing the complainant, the complaint should be treated like a properly completed complaint form.

If the complainant appears in person, the type of complaint should be determined, and information appropriate to the type of complaint should be provided. If required, the ETA Form 8429 should be completed, and the complaint should be logged. If an investigation is required, the Fact Sheet should be used to describe actions that are taken.

HANDLING COMPLAINTS (WHAT TO DO)

→ WAGNER-PEYSER RELATED COMPLAINTS (TYPE I) ←							
WP REL CAT 1	WP REL CAT 2	WP REL CAT 3	WP REL CAT 4	WP REL CAT 5	WP REL CAT 6	NON WP RELATED COMPLAINT	WHAT TO DO
X	X	X	X	X	X	X MSFW	COMPLETE FORM ETA 8429 COMPLAINT/REFERRAL FORM
X	X	X	X	X	X	X	LOG THE COMPLAINT
X	X	X	X	X	X	X	OFFER APPROPRIATE ONE-STOP SERVICES
X	X	X	X	X	X	X	GIVE COMPLAINANT A COPY OF COMPLAINT FORM
X				X		X	REFER TO APPROPRIATE ENFORCEMENT AGENCY (SEE INSTRUCTIONS)
			X		X		INVESTIGATE COMPLAINT-ATTEMPT RESOLUTION (<i>TIME LIMITS APPLY – five working days for MSFWs and 15 working days for non-MFSWs</i>). <i>Unresolved? Copy file to Senior Monitor Advocate.</i>
	IF MSFW	IF MSFW					COPY FILE TO SENIOR MONITOR ADVOCATE, IG'S OFFICE and COPY COVER MEMO TO COMPLAINANT
	NON-MSFW	NON-MSFW					COPY FILE TO STATE AWI OFFICE - COPY COVER MEMO TO COMPLAINANT
		X					AGAINST ANOTHER ONE-STOP CENTER? TAKE COMPLAINT. SEND IT TO OFFICE COMPLAINT IS AGAINST
		X					AGAINST MORE THAN ONE (1) ONE-STOP CENTER? SEND COMPLAINT TO STATE AWI OFFICE
IF MSFW							NECESSARY TO FOLLOW UP MONTHLY UNTIL RESOLUTION
NON-MSFW							NECESSARY TO FOLLOW UP QUARTERLY UNTIL RESOLUTION
				X		X MSFW	SEND LETTER TO REFERRAL AGENCY AND COPY COMPLAINANT
X			X	X	X		ADDITIONAL WRITTEN/TELEPHONE FOLLOW-UP NECESSARY UNTIL RESOLUTION

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

**U.S. Department of Labor
Employment and Training Administration**

For OSCC Use Only

OMB Approval No. 1205-0039
Expiration Date: 02/29/2012

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)		

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

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	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 _____
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"/> 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"/> Other (Specify) _____	

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"/> 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? Yes 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.

FACT SHEET FOR COMPLAINT FILES

COMPLAINANT _____

RESPONDENT _____

DATE	ACTION TAKEN AND/OR PHONE CALLS MADE/RECEIVED

QUICK GUIDE

Log Maintenance and Reporting Requirements

Complaint logs are to be mailed to the Senior Monitor Advocate by the 5th working day after the end of the quarter in which a WP-related or non-related employment service complaint was taken.

- A **negative report** 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.

Report Schedule		
First Quarter	July - September	Report due by October 5th
Second Quarter	October - December	Report due by January 5th
Third Quarter	January - March	Report due by April 5th
Forth Quarter	April - June	Report due by July 5th

Agency for Workforce Innovation

Senior Monitor Advocate

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

THE FILE SYSTEM

The Local One-Stop:

- A. Maintains a separate folder for each WP-related complaint and each non-WP-related complaint from MSFWs.

- B. Includes in each folder:
 - a. Left-hand side - Complaint fact sheet, correspondence including originals and copies of correspondence received or sent. All telephone calls regarding a complaint should be noted on the fact sheet and should include the name of the other party, the telephone number and the results of the call.

 - b. Right-hand side - Original of the *One-Stop Career Center (OSCC) Complaint/Referral Record* – Form ETA 8429, original notes taken at the time of complaint, subsequent telephone conversations, follow-up notes and miscellaneous items such as news articles, check stubs, work assignments, etc.

- C. Identifies each file with:
 - 1. Complainant's name

 - 2. Complainant's social security number (last four digits)

 - 3. Month and year complaint was taken

 - 4. Number assigned, including the quarter complaint was filed and the consecutive number beginning on July 1st, i.e., 1/001-first quarter, first complaint. Another example is 2/014 (2nd quarter, 14th complaint this year). Quarter numbers will change, but sequential numbers continue. The quarter numbers are as follows:

- a. July - September (1st Quarter)
 - b. October - December (2nd Quarter)
 - c. January - March (3rd Quarter)
 - d. April - June (4th Quarter)
- D. Files folders alphabetically by fiscal year (July 1- June 30).
- E. Ensures that files are kept secure, since they are confidential.
- F. Ensures that complaint files contain only factual information.
- G. Keeps 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 destroys.

WHEN IS A COMPLAINT RESOLVED?

A WP-related complaint is 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 (20) working days for non-MSFWs
 - ii. forty (40) working days for MSFWs; or
 - d) exhausts the final level or review.

2. The enforcement agency makes a final determination on a referred complaint.

PROCESSING MIGRANT AND SEASONAL FARMWORKER (MSFW) APPARENT VIOLATIONS

Federal Regulation, § 653.113, requires one-stop centers to document suspected violations of Wagner-Peyser administrative regulations, such as noncompliance of job order assurances or work-related laws enforced by other agencies. These regulations, in part, state: "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 [Wagner-Peyser administrative] regulations by an employer, . . . the employee shall document the suspected violation in writing and refer this information to the local office manager." (Quoted from federal law: Wagner-Peyser § 653.113)

- Taking a Complaint versus Processing Apparent Violations.
 - A. The complaint system, as described in the preceding pages of this handbook, shall be followed if a non-agency employee desires to file a written complaint. If the applicant elects not to file a complaint, or if a one-stop employee observes or has reason to believe a violation exists, the employee will report the matter, in writing, to management. The suspected violation documentation should consist of a memorandum describing the suspected violation.
 - B. 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.
 - C. All violations of the Child Labor Law should be referred to the Florida Department of Business and Professional Regulations (DBPR) at

[Department of Business and Professional Regulation](#)

[Division of Regulation](#)

[Bureau of Child Labor](#)

Phone: 850-488-3131

Toll-Free: 800-226-2536

HANDLING APPARENT VIOLATIONS (WHAT TO DO)

NO JOB ORDER RECEIVED IN LAST 12 MOS.	JOB ORDER RECEIVED IN LAST 12 MOS. – NO STATE VIOLATION	JOB ORDER RECEIVED IN LAST 12 MOS. & APPARENT STATE VIOLATION OF WP REGULATION OR EMPLOYMENT-RELATED LAW	VIOLATION OF CHILD LABOR LAW	WHAT TO DO ABOUT THE SUSPECTED VIOLATION
X	X	X	X	Document in writing on memorandum and refer to management. Copy Child labor law violation to DBPR.
		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	X	Do not give to employer the name of employee reporting the apparent violation.
X	X	X	X	Five-year retention period.
X		If unresolved		Refer to the appropriate agency.
		If unresolved		Request in writing that appropriate agency notify the one-stop of its final determination.
			X	Report on log as “Referred to Other” as DBPR
	If unresolved	If unresolved		Send to AWI Senior Monitor Advocate.

QUICK GUIDE

Apparent Violations

"An apparent violation occurs 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 should be logged on the Log of Apparent Violations-MSFW. Logs are mailed to the Senior Monitor Advocate by the 5th working day after the end of the month in which an apparent violation is logged.

- Each apparent violation should be logged separately

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

Mail apparent violation log to:

**Agency for Workforce Innovation
Senior Monitor Advocate
Pedro.Narezo@flaawi.com**

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

For additional forms and information

<http://www.floridajobs.org>

ELEMENTS OF AN INVESTIGATION

Definition of investigation: To investigate is to follow up step by step by inquiry or observation, to examine and inquire with care and accuracy, and to find out by careful questioning.

Elements of an investigation:

- a) Obtain facts from complainant and respondent(s) in accordance with time limits for each type of complaint.
 - Interview these individuals alone and in a place where you can get their full attention.
 - Write down questions in advance - list questions that will get you what you want to know. Ask open-ended questions to get complainant's overall version. Ask questions that produce factual answers, not opinions; deal with specifics of the complaint. Write down names, phone numbers, addresses of other persons who have information, dates, etc.
- b) Obtain documents; i.e., wage statements, job orders, etc.
- c) Gather statements from witnesses.
- d) Ask both complainant and respondent if they have any supporting documents.

ELEMENTS OF A DETERMINATION

Find in favor of the individual who has a preponderance of factual information (evidence) that supports one side over the other (complainant vs. respondent).

- Opinions, speculations and assumptions are not evidence.
- A sworn statement is higher quality evidence than an off-the-record statement.

BASIS FOR DISCONTINUATION OF SERVICES

Definition of "Services" - the services pertinent to this section are those provided or available under 20 CFR 653.

The following conditions are identified in 20 CFR 658.501(a) as 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 on the Employ Florida Marketplace.
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. One-stop center is notified by enforcement agency that employer has violated an employment-related law.
5. Employer, following investigation of complaint, is found to have violated WP administrative regulations.
6. Employer refuses to accept qualified workers referred through the clearance system.
7. Employer refuses to cooperate in the conduct of field checks.
8. Employer repeatedly causes discontinuation proceedings to be initiated.

DISCONTINUATION OF SERVICES TO EMPLOYERS

Discontinuation of Services - The Complaint System and the Apparent Violations sections are linked to the Discontinuation of Services section regarding both WP regulations and employment-related laws. Whenever a determination is made either by the one-stop center, AWI, or an enforcement agency that a violation of WP administrative regulations or employment-related law did occur, the one-stop center must initiate the proceedings to discontinue services.

1. One-stop center management is to notify, in writing, the Senior Monitor Advocate if an agency's final disposition indicates an employer violated an employment-related law or WP administrative regulation according to 20 CFR 658.501(a)(3-5).
2. This notification is necessary in order that AWI may comply with regulations that prohibit us serving employers who violated employment-related laws or WP administrative regulations until such violation has been corrected according to 20 CFR 658.501 (a-c). If the enforcement agency indicates the employer (respondent) is appealing his/her 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.
4. Regional directors will be notified by AWI after a formal hearing if services are discontinued or reinstated to an employer.

5. When one-stop center management is notified that services are to be discontinued or reinstated to an employer, documentation of the action should be noted on the appropriate complaint log.

Notification to Employers

The one-stop center shall notify the employer in writing that it intends to discontinue the provision of WP services pursuant to 20 CFR Part 653 and the reason(s) therefore:

1. **Where the decision is based on submittal and refusal to alter or to withdraw job orders containing specifications contrary to employment-related laws**, the one-stop 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 WP 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 AWI pursuant to § 658.417.

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 one-stop center shall specify the date the order was submitted, the job order involved and the assurances involved. The employer shall be notified that all WP employment services will be terminated within 20 working days unless the employer within that time:

- a) resubmits the order with the appropriate assurances, or if the job is no longer available, make assurances that all future job orders submitted will contain all necessary assurances that the job offered is in compliance with employment-related laws; or
 - b) requests a hearing from the AWI pursuant to § 658.417.
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 one-stop 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 one-stop 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 AWI pursuant to § 658.417.
4. **Where the decision is based on a final determination by an enforcement agency that an employment-related law was violated,** the one-stop center shall specify the basis for the 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 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 WP regulations under § 658.416(d)(4)**, the one-stop center shall specify the finding. The employer shall be notified that all WP services will be terminated in 20 working days unless the employer within that time:
- a) provides adequate evidence that the employer did not violate WP 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 AWI pursuant to § 658.417.
6. **Where the decision is based on an employer's failure to accept qualified workers referred through the clearance system**, the one-stop center shall specify the workers referred and not accepted. The employer shall be notified that all WP 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 AWI pursuant to § 658.417.

7. **Where the decision is based on lack of cooperation in the conduct of field checks**, the AWI shall specify the lack of cooperation. 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 he/she did cooperate; or
- b) cooperates immediately in the conduct of field checks, and
- c) provides assurances that he/she will cooperate in future field checks; or
- d) requests a hearing from AWI pursuant to § 658.417.
 - i. If the employer chooses to respond pursuant to this section by providing documentary evidence or assurances, he/she must, at the same time, request a hearing if such hearing is desired in the event that AWI does not accept the documentary evidence or assurances as adequate.
 - ii. Where the decision is based on repeated initiation of procedures for discontinuation of services, the employer shall be notified that services have been terminated.
 - iii. If the employer makes a timely request for a hearing, in accordance with this section, the AWI shall follow the procedures set forth at § 658.417 and notify the complainant whenever the discontinuation of services is based on a complaint pursuant to § 658.501(a)(5).

AWI Hearing

Employers may request a hearing, in writing, from:

Agency for Workforce Innovation

Office of General Counsel

107 East Madison Street, MSC 110,

Tallahassee, Florida 32399-4128

Reinstatement of Services

1. Services may be reinstated to an employer after discontinuation under § 658.503, if:
 - a) the State is ordered to do so by a federal administrative law judge or USDOL regional administrator; or
 - b) the employer provides 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 United States Department of Labor (USDOL), including restitution to the complainant and the payment of any fines, which were the basis of the discontinuation of services.
2. The one-stop center shall notify, within 20 working days, the employer requesting reinstatement whether his request has been granted. If the one-stop center denies the request for reinstatement, the basis for the denial shall be specified; and the employer shall be notified that he/she may request a hearing from AWI within 20 working days.
3. If the employer makes a timely request for a hearing, the AWI shall follow the procedures set forth at § 658.417.
4. The one-stop center shall reinstate services to an employer if ordered to do so by an AWI hearing officer, UDDOL regional administrator, or federal administrative law judge as a result of a hearing.

REFERRAL AGENCIES AND SELECTED RESOURCES

**Alien Labor Certification/
H2A/Clearance Orders** <http://www.floridajobs.org/alc/index.html>

**Civil Rights Center, U.S. Department of
Labor** <http://www.dol.gov/oasam/programs/crc/>

**Employment Standards Administration
(ESA) Wage and Hour Division** <http://www.dol.gov/esa/>

- Federal Minimum Wage
- Equal Pay
- Child Labor
- Overtime
- Farm Labor Contractors
- Wage Garnishment
- Safety and Health for Migrant Farmworker Housing with one or more occupants
- Recordkeeping
- H-2A Contract Violations

**ESA Office of Federal Contract
Compliance** <http://www.dol.gov/esa/ofccp/>

Florida Department of Health <http://www.doh.state.fl.us/>

Florida's e-Government <http://www.myflorida.com/directory/>

- State of Florida Agencies, Cabinet Agencies, and other Organizations.
- Federal Government House and Senate

Immigration & Naturalization Services <http://www.uscis.gov/portal/site/uscis>

Labor Relations Act <http://www.nlr.gov/nlr/legal/manuals/rules/act.pdf>

- Guarantees employee right to engage in or refrain from union activities

Occupational Safety and Health <http://www.osvha.go/comp-links.html>

Veteran's Reemployment Rights <http://www.floridavets.org/>

Worker's Compensation <http://www.fldfs.com/wc/>

FOR FORMS OR COMPLAINT-SYSTEM QUESTIONS:

Agency for Workforce Innovation <http://www.floridajobs.org/>
Senior Monitor Advocate (850) 921-3207
Wagner-Peyser Team (850) 245-7422, (850) 245-7412

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

Complaint Poster

**THE FOLLOWING
NOTICE
MUST BE
PROMINENTLY
DISPLAYED IN
EACH ONE-STOP
CENTER
(MAIN &
SATELLITE
OFFICES)**



ONE-STOP CAREER CENTER ~ CENTRO VOCACIONAL

IF YOU HAVE A COMPLAINT ABOUT:

- A One-Stop Career Center
- A job you were referred to by a One-Stop Career Center

Contact your local One-Stop Career Center manager or write to:

SI USTED TIENE UNA QUEJA ACERCA DE:

- Un Centro Vocacional
- Un trabajo al que fue referido por un Centro Vocacional

Comuníquese con la gerencia de su Centro Vocacional mas cercano o escriba a:

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



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.

Si usted tiene una queja acerca de otros asuntos laborales, su Centro Vocacional le proporcionará información sobre las agencias que pueden ofrecerle ayuda.

