

PART 657—PROVISIONS GOVERNING GRANTS TO STATE AGENCIES FOR EMPLOYMENT SERVICES ACTIVITIES [RESERVED]

PART 658—ADMINISTRATIVE PROVISIONS GOVERNING THE WAGNER-PEYSER ACT EMPLOYMENT SERVICE

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Subpart A–D [Reserved]

Subpart E—Employment Service and Employment-Related Law Complaint System (Complaint System)

§ 658.400 Purpose and scope of subpart.

(a) This subpart sets forth the regulations governing the Complaint System for the Wagner-Peyser Act Employment Service (ES) at the State and Federal levels. Specifically, the Complaint System handles complaints against an employer about the specific job to which the applicant was referred through the ES and complaints involving the failure to comply with the ES regulations under parts 651, 652, 653, and 654 of this chapter and this part. As noted in § 658.411(d)(6), this subpart only covers ES-related complaints made within 2 years of the alleged violation.

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(b) Any complaints alleging violations under the Unemployment Insurance program, under Workforce Innovation and Opportunity Act (WIOA) title I programs, or complaints by veterans alleging employer violations of the mandatory listing requirements under 38 U.S.C. 4212 are not covered by this subpart and must be referred to the appropriate administering agency which would follow the procedures set forth in the respective regulations.

(c) The Complaint System also accepts, refers, and, under certain circumstances, tracks complaints involving employment-related laws as defined in § 651.10 of this chapter.

(d) A complainant may designate an individual to act as his/her representative.

COMPLAINTS FILED AT THE LOCAL AND STATE LEVEL

§ 658.410 Establishment of local and State complaint systems.

(a) Each State Workforce Agency (SWA) must establish and maintain a Complaint System pursuant to this subpart.

(b) The State Administrator must have overall responsibility for the operation of the Complaint System; this includes responsibility for the informal resolution of complaints. In the ES office, the ES Office Manager is responsible for the operation of the Complaint System.

(c) SWAs must ensure centralized control procedures are established for the processing of complaints. The ES Office Manager and the SWA Administrator must ensure a central complaint log is maintained, listing all complaints taken by the ES office or the SWA, and specifying for each complaint:

- (1) The name of the complainant;
- (2) The name of the respondent (employer or State agency);
- (3) The date the complaint is filed;
- (4) Whether the complaint is by or on behalf of a migrant and seasonal farmworker (MSFW);
- (5) Whether the complaint concerns an employment-related law or the ES regulations; and
- (6) The action taken, and whether the complaint has been resolved, including informally. The complaint log also

must include action taken on apparent violations.

(d) State agencies must ensure information pertaining to the use of the Complaint System is publicized, which must include, but is not limited to, the prominent display of an Employment and Training Administration (ETA)-approved Complaint System poster in each one-stop center.

(e) Each one-stop center must ensure there is appropriate staff available during regular office hours to take complaints.

(f) Complaints may be accepted in any one-stop center, or by a SWA, or elsewhere by outreach staff.

(g) All complaints filed through the local ES office must be handled by a trained Complaint System Representative.

(h) All complaints received by a SWA must be assigned to a trained Complaint System Representative designated by the State Administrator, provided that the Complaint System Representative designated to handle MSFW complaints must be the State Monitor Advocate (SMA).

(i) State agencies must ensure any action taken by the Complaint System Representative, including referral on a complaint from an MSFW, is fully documented and contains all relevant information, including a notation of the type of each complaint pursuant to Department guidance, a copy of the original complaint form, a copy of any ES-related reports, any relevant correspondence, a list of actions taken, a record of pertinent telephone calls, and all correspondence relating thereto.

(j) Within 1 month after the end of the calendar quarter, the ES office manager must transmit an electronic copy of the quarterly Complaint System log described in paragraph (c) of this section to the SMA. These logs must be made available to the Department upon request.

(k) The appropriate ES staff handling a complaint must offer to assist the complainant through the provision of appropriate services.

(l) The State Administrator must establish a referral system for cases where a complaint is filed alleging a violation that occurred in the same State but through a different ES office.