

§ 658.418

that such procedures are consistent with this section.

§ 658.418 Decision of the State hearing official.

- (a) The State hearing official may:
- (1) Rule that it lacks jurisdiction over the case;
 - (2) Rule that the complaint has been withdrawn properly in writing;
 - (3) Rule that reasonable cause exists to believe that the request has been abandoned; or
 - (4) Render such other rulings as are appropriate to resolve the issues in question.

However, the State hearing official does not have authority or jurisdiction to consider the validity or constitutionality of the ES regulations or of the Federal statutes under which they are promulgated.

(b) Based on the entire record, including the investigations and determinations of the ES offices and State agencies and any evidence provided at the hearing, the State hearing official must prepare a written decision. The State hearing official must send a copy of the decision stating the findings of fact and conclusions of law, and the reasons therefor to the complainant, the respondent, entities serving as amicus capacity (if any), the State agency, the Regional Administrator, and the Solicitor of Labor, Attn: Associate Solicitor for Employment and Training Legal Services, Department of Labor, Room N2101, 200 Constitution Avenue NW., Washington, DC 20210. The notification to the complainant and respondent must be sent by certified mail or by other legally viable means.

(c) All decisions of a State hearing official must be accompanied by a written notice informing the parties (not including the Regional Administrator, the Solicitor of Labor, or entities serving in an amicus capacity) that they may appeal the judge's decision within 20 working days of the certified date of receipt of the decision, and they may file an appeal in writing with the Regional Administrator. The notice must give the address of the Regional Administrator.

20 CFR Ch. V (4-1-23 Edition)

§ 658.419 Apparent violations.

(a) If a SWA, an ES office employee, or outreach staff observes, has reason to believe, or is in receipt of information regarding a suspected violation of employment-related laws or ES regulations by an employer, except as provided at § 653.503 of this chapter (field checks) or § 658.411 (complaints), the employee must document the suspected violation and refer this information to the ES Office Manager.

(b) If the employer has filed a job order with the ES office within the past 12 months, the ES office must attempt informal resolution provided at § 658.411.

(c) If the employer has not filed a job order with the ES office during the past 12 months, the suspected violation of an employment-related law must be referred to the appropriate enforcement agency in writing.

[81 FR 56352, Aug. 19, 2016, as amended at 85 FR 629, Jan. 6, 2020]

WHEN A COMPLAINT RISES TO THE FEDERAL LEVEL

§ 658.420 Responsibilities of the Employment and Training Administration regional office.

(a) Each Regional Administrator must establish and maintain a Complaint System within each ETA regional office.

(b) The Regional Administrator must designate Department of Labor officials to handle ES regulation-related complaints as follows:

(1) Any complaints received either at the local and State level or at the ETA regional office, that allege violations of civil rights laws and regulations such as those under Title VI of the Civil Rights Act or sec. 188 of WIOA, including for beneficiaries (as defined in 29 CFR 38.4) only, on the basis of citizenship status or participant status, as well as reprisal for protected activity, must immediately be logged and directed or forwarded to the recipient's Equal Opportunity Officer or the CRC.

(2) All complaints alleging discrimination on the basis of genetic information must be assigned to a Regional Director for Equal Opportunity and Special Review and, where appropriate, handled in accordance with procedures