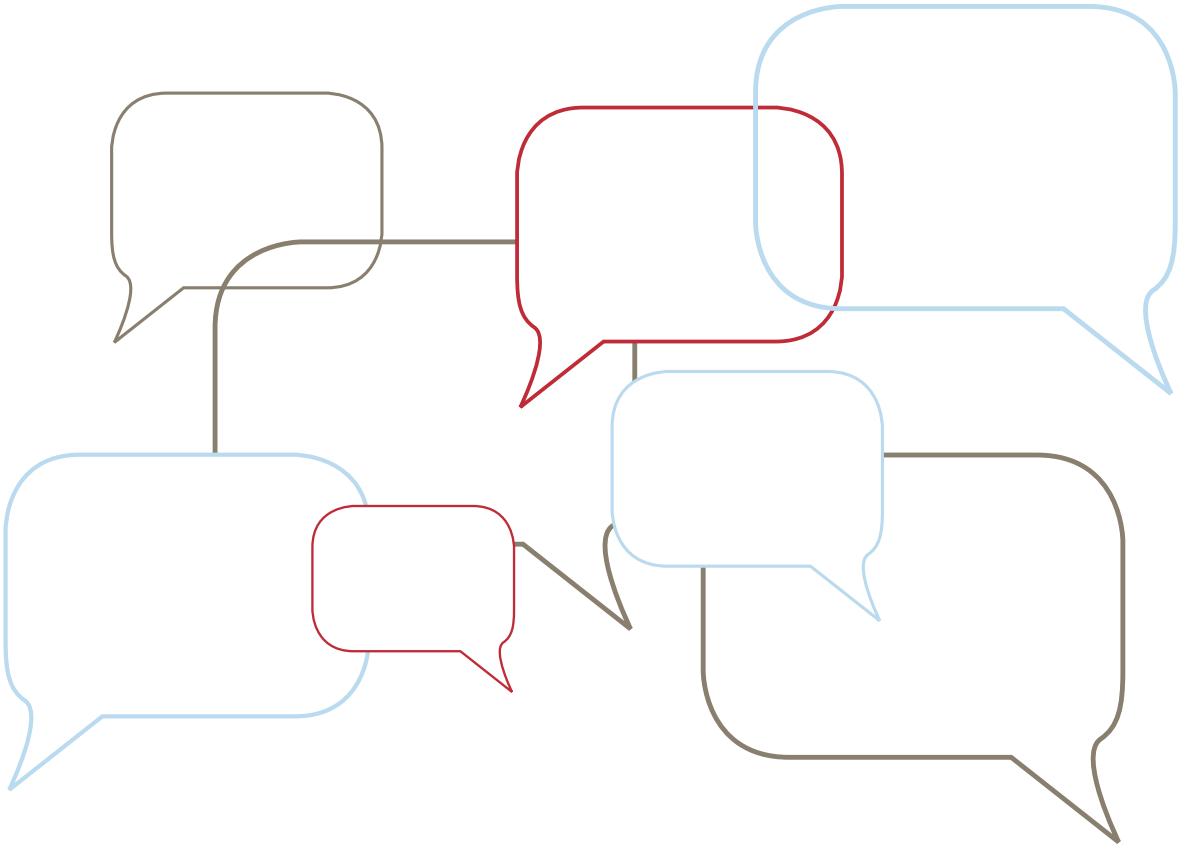

Customer Complaint Resolution Manual

January 2011

MAINE DEPARTMENT OF LABOR

The Maine Department of Labor provides equal opportunity in employment and programs. Auxiliary aids and services are available to individuals with disabilities upon request.

CareerCenter
The Maine Employment Resource

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Maine CareerCenter Customer Complaint Resolution Manual

The Maine CareerCenter system strives to assure that every customer's needs are met and that customers are satisfied with the services they receive. From time to time, customers of the employment services system may have complaints about processes, violations of employment laws, employer practices, discrimination, unsafe working conditions, and the like. This manual is designed to help CareerCenter staff respond to these complaints in a timely and efficient manner. Under Federal law, it is our duty to do so within certain time constraints.

The processes described in this manual are intended for use for all customer complaints regarding programs and services offered by CareerCenters. This includes offices of Service Providers who administer the Workforce Investment Act programs, as well as CareerCenter Service Points.

Except in cases where complaints need to be referred to a different or higher entity immediately, complaints should be resolved at the local CareerCenter level, and guidance is given here about how complaints are expected to be handled. Details are also included in this manual about how complaints not resolved at the local level should be referred to the appropriate agency or person.

This manual applies to, and is made available to, all CareerCenter and Service Provider management and staff.

Customer Complaint Resolution Policy

Policy Objectives

- Respond to and attempt to resolve customer complaints at the local level as quickly as possible, whenever appropriate.
- Ensure complaints are resolved to the customers' satisfaction whenever possible.
- Provide CareerCenter managers and staff with an understanding of the formal complaint process for all programs operating within the CareerCenter.
- Define joint supervisor/managerial responsibilities for processing and resolving customer complaints.

Responsibility of CareerCenter Managers

It will be the joint responsibility of the CareerCenter Managers and Service Provider Managers to work collaboratively to ensure the complaint resolution process is carried out in a uniform, timely, and consistent manner. The BES CareerCenter Managers are responsible for forwarding all complaint resolution documentation to the State Complaint Resolution Administrator for their related Service Provider locations.

Guidelines

When possible, complaints and grievances will be resolved locally without invoking the more formal processes. The overall objective of the CareerCenter Complaint Resolution Process is to resolve complaints quickly to the satisfaction of the complainant whenever possible. The process for handling and responding to customer complaints is detailed in this manual.

Confidentiality

The identity of the complainant(s) and any persons 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.

Local Office Responsibilities

1. All complaints being referred to an enforcement agency or to the State Complaint Resolution Administrator should be submitted immediately with a copy of completed ETA Form 8429 and all supporting documentation. In some cases, there is a very short time allowed for resolving the complaint.

2. At each local office where the Service Provider is co-located, the BES Manager shall be responsible for the management of the complaint system.

   If the complaint concerns an employee of the service provider or a program service provided by service provider staff, the BES manager will collaborate with the service provider manager on resolving or referring the complaint.

   All complaints, regardless of the staff employer, should be recorded on the Log Sheet and have an ETA Form 8429 completed.

3. In a stand-alone WIA office, the provider manager will be responsible for carrying out the complaint system.

4. Information pertaining to the use of the CareerCenter complaint system is publicized. This shall include the prominent display of a complaint system poster ("If You Have a Complaint…") in each local office, satellite or district office.

5. CareerCenter-related complaints may be filed in any CareerCenter office or with the BES administrative office.

   All CareerCenter-related and non-CareerCenter related complaints, other than those involving discrimination and WIA-related matters, shall first be handled by the local CareerCenter Managers or assigned by the CareerCenter Manager to a local office employee trained in the process.

   The local WIA service provider manager will attempt to resolve WIA Title I related complaints. Any WIA Title I related complaints unresolved by the local WIA service provider management must be referred to the Local Workforce Investment Board (LWIB) Executive Director for final local level resolution. If the complaint remains unresolved, the complaint will be referred by the Executive Director to the State Complaint Resolution Administrator.

6. There shall be an appropriate official available during regular office hours to take complaints in each local office.

7. If a CareerCenter official receives a complaint in any form which is signed by the complainant and includes sufficient information to initiate an investigation (Does it answer all the ETA 8429 complainant questions?), the document shall be treated as if it were a properly completed Complaint/Referral Form (ETA 8429) filed in person by the complainant.

   a. The local office official shall send a confirming letter to this effect to the complainant (See sample in Appendix C – Notification of Complaint Referral).

b. If the complainant has not provided sufficient information to investigate the matter expeditiously, the local office official shall request additional information from the complainant.

8. Within five days of the end of each quarter, the local office Manager will submit the Log Sheet for the previous quarter to the State Complaint Resolution Administrator at the BES administrative office, for submission to the U.S. DOL Regional office.

9. Reporting Schedule

First Quarter	July – September	Report due October 5
Second Quarter	October – December	Report due January 5
Third Quarter	January – March	Report due April 5
Fourth Quarter	April – June	Report due by July 5

10. Record retention

Records regarding complaints and actions taken on the complaints must be maintained for a period of not less than three years from the date of resolution of the complaint.
Source: 29 CFR 37.39

11. Equal Opportunity

During each presentation to orient new participants, new employees, and/or the general public to its WIA Title I – financially assisted programs or activity, the CareerCenter or WIA service provider must include a discussion of rights under the nondiscrimination and equal opportunity provisions of WIA and the right to file a complaint of discrimination with the Equal Opportunity Officer. (See list of EO Officials in the Master Personnel List in Appendix A)
Source: 29 CFR 37.36

Complaint File Requirements

Local CareerCenters must:

1. Create a file folder for each complaint.
2. Keep file folders by program year, then by quarter (July to September, October to December, January to March, April to June).
3. At a minimum, the file folder should contain:
   - The completed ETA 8429
   - All hand-written notes of conversations or phone calls about the complaint.

   If the complaint was referred to the State level or to another agency:
   - Documentation of where the complaint was referred.
   - Program information. For instance, if a TAA or WIA request was denied, include a copy of that decision document.
   - Any other information or documentation relevant to the complaint.
4. Files are to be kept for three years from the date of last activity.
5. These are confidential records and should be kept secured.

NOTE: For each complaint listed on the Log Sheet, there should be corresponding documentation of the complaint and its resolution/referral.

A copy of the contents of the folder should be included with the quarterly Log Sheet sent to the State Complaint Resolution Administrator.

Quarterly Complaint Log Sheet

[Sample form only. Find usable form in Appendix B]

Maine Department of Labor

Customer Complaint Resolution System Quarterly Log

Local Office:

Program Year:

Quarter:

Complaint #	Complainant Name: person making complaint	Respondent Name: who/what complaint is against	Date Filed	CareerCenter-Related					Non-CareerCenter-Related									Referred To:									Resolved Locally	Staff Person Taking Complaint
				MSFW	H-2A Worker	Against Employer	Against CareerCenter	Program Decision	Workplace Safety	H-2A Regulations/Law	Wages/Hours/UI/TANF/etc.	Disability	Discrimination	MSFW Regulations/Laws	Other	State Complaint Administrator	UI/TANF/OSHA	Wage & Hour, USDOL (H-2A)	Bureau of Labor Standards	DBVI/DVR	EO State Office (discrimination)	State Monitor Advocate (MSFW)	Other		
1																											
2																											
3																											
4																											
5																											
6																											
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Completion of the Quarterly Log Sheet

The Quarterly Log represents the aggregate history of complaints filed during the reporting period. Each individual complaint documented on an ETS Form 8429 must be recorded on the log sheet (including those resolved locally).

The log sheet has mandatory data fields that must be completed. All text entries must be printed in a completely legible manner. An example copy of a correctly completed Quarterly Log is available for reference on page 11 of this manual. It is recommended that immediately upon completion of the ETA Form 8429, the complaint information be entered on the quarterly log sheet.

Note: Some unresolved complaints may carry over to the next quarter and need to be accounted for in the next report period. This is particularly true for complaints received near the end of the reporting period. Individual unresolved cases should be carried over to the new report period.

Each log sheet must include the following entries:

Local Office

Program Year
Always July 1, 20XX to June 30, 20XX, written as PY 20XX.

Quarter
- Q1 = July 1 – September 30
- Q2 = October 1 – December 31
- Q3 = January 1 – March 31
- Q4 = April 1 – June 30

(see page 6, #9 *Local Office Responsibilities* for further information on quarters and reporting schedule.)

Complaint Number
Each complaint is assigned a complaint number. Each log sheet has data fields for up to 20 individual complaints. Your first complaint should be entered on line #1, second complaint on line #2 and so on.

Complainant Name
Enter the name of the person filing the complaint. The name should match Part I, #1 on the ETS 8429.

Respondent Name
Identify the who or what this complaint is filed against (see complaint type/conditions page 12 for entry options and refer to the sample of the completed log sheet on page 11).

Date Filed
This is the date the complaint was received and is same as the date entered on form ETS Form 8429, top of the page under "Date Received."

Type of Complaint
Place an "x" in the box(es) for the appropriate type of complaint (CareerCenter-Related and/or Non-CareerCenter-Related.)

Referred To
Place a check mark in the box(es) to identify who the complaint was referred to (if applicable).

Resolved Locally
Place an "x" in the box if/when the case was resolved locally.

Staff Person Taking Complaint
Enter the name of the person taking the complaint on behalf of the complainant.

Documentation of local complaint resolution
Provide documentation in the individual case file (notes, letter to complainant) of the resolution reached, date resolved, and date complainant was notified.

Maine Department of Labor

Customer Complaint Resolution System Quarterly Log

Local Office: Skowhegan Career Center

Program Year: FY2010

Quarter: Q2 - October 1 – December 31, 2010

Complaint #	Complainant Name: person making complaint	Respondent Name: who/what complaint is against	Date Filed	CareerCenter-Related					Non-CareerCenter-Related							Referred To:									Resolved Locally	Staff Person Taking Complaint
				MSFW	H-2A Worker	Against Employer	Against CareerCenter	Program Decision	Workplace Safety	H-2A Regulations/Law	Wages/Hours/UI/TANF/etc.	Disability	Discrimination	MSFW Regulations/Laws	Other	State Complaint Administrator	UI/TANF/OSHA	Wage & Hour, USDOL (H-2A)	Bureau of Labor Standards	DBVI/DVR	EO State Office (discrimination)	State Monitor Advocate (MSFW)	Other		
1	John Doe	WIA Program	10-4					X																X	Anita Dunham
2	Chip Sawyer	Wood Products, Inc	10-7						X								X								Anita Dunham
3	Joe Doe	Potato Farms, Inc	10-21											X								X			Anita Dunham
4	Julie Doe	See Foods Inc	10-25										X								X				Anita Dunham
5	Jim Doe	Career Center	10-28				X																	X	Anita Dunham
6	Jan Doe	Quick Foods, Inc	12-12												X								X		Anita Dunham
7																									
8																									
9																									
10																									
11																									
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20																									

rev. 12/10

Types of Complaints

Complaint Type	Conditions
CareerCenter-Related	
MSFW or H-2A Worker	• Complaints by MSFW or H-2A workers regarding CareerCenter services • Alleged incident occurred less than one year ago
Employer	• By applicant who was referred to the job by MDOL • Alleged incident occurred less than one year ago • Involving alleged violations of the terms and conditions of the job order or alleged violations of employment-related law
CareerCenter	• About CareerCenter staff actions or omissions under program regulations • Complaints by veterans involving Priority of Service • Alleged incident occurred less than one year ago
Program Decision	• Involving Wagner-Peyser, employment services, or CareerCenter program decisions. • Alleged incident occurred less than one year ago
Non-CareerCenter-related	
MSFW or H-2A Regulations/Law	• Complaints by MSFW about regulations or employer. • Complaints by H-2A worker about regulations or employer.

All Others	• Complaint filed more than 12 months after the alleged incident.
	• Complaint against an employer where complainant was not referred to the job by MDOL.
	• About alleged violations of the regulations/laws governing programs themselves.
	• Complaints involving Unemployment Insurance, OSHA, TANF, or other agencies.
	• Complaints of discrimination.
	• Complaints involving wages, hours, Family Leave Law, whistle blower violation, etc.
	• Complaints about disability services.
	• Complaints handled directly by the State Complaint Resolution Administrator.
	  • Complaints about multiple CareerCenters or the entire system.
	  • Complaints from another agency.
	  • Complaints from other states.
	  • Complaints received directly by the State office.

Type of Complaint	Steps to Handling Complaints Locally											
	Attempt a local resolution							When not resolved or handled locally				
	Manager or Designee	Explain Process	Offer CC Services	Fill out ETA Form 8429	Fill out DL 1-2014a	Record on Log Sheet	Time to resolve (in working days) [*denotes calendar days]	Refer to	Submit 8429 to State Complaint Resolution Administrator	Submit DL 1-2014a to State EO Coordinator	Record referral on Log Sheet	Notify complainant of referral
CareerCenter-Related												
Against an employer (when job referral was by MDOL)	x	x	x	x		x	15		x		x	x
Action or omission by local staff	x	x	x	x		x	15		x		x	x
Program decisions	x	x	x	x		x	15		x		x	x
TAA	x	x	x	x		x	15	TAA Coordinator	x			
CSSP	x	x				x	15	CSSP Program Manager				
Veterans Services	x	x	x	x		x	15		x		x	x
MSFW	x	x	x	x		x	5	State Monitor Advocate	x		x	x
H-2A	x	x	x	x		x	5	Foreign Labor Certification	x		x	x
WIA (Title I)	x	x	x	x		x	60*	Including LWIB final resolution attempts	x		x	x
Non-CareerCenter-Related												
Laws or regulations	x	x	x	x		x			x		x	x
Complaint more than 12 months old	x	x	x	x		x			x		x	x
Against an employer (when job referral was NOT by MDOL)	x	x	x	x		x			x		x	x
From another state or agency				x		x			x		x	x
Against more than one CareerCenter location				x		x			x		x	x
Discrimination					x			Local EO Officer		x		

Type of Complaint	Steps to Handling Complaints Locally												
	Attempt a local resolution							When not resolved or handled locally					
	Manager or Designee	Explain Process	Offer CC Services	Fill out ETA Form 8429	Fill out DL 1-2014a	Record on Log Sheet	Time to resolve (in working days) [*denotes calendar days]	Refer to	Submit 8429 to State Complaint Resolution Administrator	Submit DL 1-2014a to State EO Coordinator	Record referral on Log Sheet	Notify complainant of referral
Discrimination by staff					x		15	State EO Coordinator and MDOL Office of the Commissioner		x		
Disability Services	x	x		x		x		MDOL Disablity Coordinator (Office of the Commissioner) or Maine Human Rights Commission			x	x
Workplace Safety				x		x		Nearest OSHA Office			x	x
Unemployment Compensation				x		x		Bureau of Unemployment Compensation			x	x
TANF				x		x		DHHS			x	x
MSFW law				x		x		State Monitor Advocate			x	x
H-2A law				x		x		Foreign Labor Certification			x	x
DVR				x		x		Division of Vocational Rehabiliation			x	x
Housing	x			x		x		Bureau of Labor Standards			x	x
Family Leave Law	x			x		x		Bureau of Labor Standards			x	x
Minimum wage or overtime	x			x		x		Bureau of Labor Standards			x	x
Child Labor Law violations	x			x		x		Bureau of Labor Standards			x	x
Whistle blower issues	x			x		x		Bureau of Labor Standards			x	x

Type of Complaint	Steps to Handling Complaints at State Level											
	Person who handles						When not resolved or handled at State					
	State Complaint Resolution Administrator	State EO Coordinator	State Monitor Advocate	Foreign Labor Certification	Investigate complaint as needed	Time to resolve (in working days) [*denotes calendar days]	Offer hearing	Refer to	Give choice of Alternative Dispute Resolution/Mediation	Administrator initiates procedure for discontinuation of services	Record referral on Log Sheet	Notify complainant and Local Office of result/referral
CareerCenter-Related												
Non-MSFW	x				x	30	x		x		x	x
MSFW			x		x	20					x	x
WIA-related	x				x	60	x		x		x	x
Non-CareerCenter-Related												
Non-MSFW	x				x	30		U.S. DOL Region 1 ETA			x	x
MSFW			x		x	20		OSHA or U.S. DOL			x	x
H-2A				x	x			U.S. DOL Wage & Hour			x	x
Veteran or Eligible Spouse (includes USERRA)								U.S. DOL Regional Director Veterans' Employment Training Service			x	x
Discrimination		x				90*		Complainant may file with Civil Rights Center U.S. DOL	x**		x	
Employer found to have violated employment law (referred to enforcement agency)	x						x			x	x	x
Employer found to have violated employment law (NOT referred to enforcement agency)	x				x	20	x			x	x	x
Against MDOL	x				x	20	x	Administrative Hearings			x	

**Complainant my appeal State decision to CRC.

ETA Form 8429

[Sample form only. Find usable form in Appendix B]

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 / /	

Part II. For OSCC Use Only

1. Migrant or Seasonal Farmworker?
☐ Yes ☐ No

2. Type of Complaint ("X" Appropriate Box(es))

☐ WIA Related Job Order No. _____
- ☐ Against Job Service
- ☐ Against Employer
- ☐ Alleged Violation of WIA Regulations
- ☐ Alleged Violation of Employment Law(s)

☐ Non-WIA Related

3. If non-WIA-related, does Complaint concern laws enforced by U.S. Employment Standards Administration (Wage and Hour) or OSHA? ☐ Yes ☐ No

4. Kind of complaint ("X" Appropriate Box(es))
- ☐ Wage Related
- ☐ Child Labor
- ☐ Working Conditions
- ☐ Migrant and Season Agricultural Worker Protection Act (MSPA)
- ☐ Housing
- ☐ Pesticides
- ☐ Health/Safety
- ☐ Disability Discrimination
- ☐ Discrimination*
- ☐ Other (Specify) _____

5. H-2a/Criteria Employer
- ☐ U.S./Domestic Worker
- ☐ H-2a Worker
- ☐ Wages
- ☐ Transportation
- ☐ Meals
- ☐ Housing
- ☐ 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)
☐ Wage & Hour ESA/U.S. DOL. ☐ OSHA
☐ Other _____

b. Follow-Up ("X" one) ☐ Monthly ☐ Yes ☐ No ☐ Quarterly

c. Follow-up Date / /

8. Address of Referral Agency (No., St., City, State, ZIP Code and Telephone No.)

_____

_____

(_____) _____ - _____

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.

ETA 8429
Revised 11/25/2008
Expiration Date: 02/29/2012

Completion of ETA Form 8429

"For OSCC Use Only" section (at top of form)

The CareerCenter Manager, or their designee, is required to complete this section. This information should correspond to the information entered on the Quarterly Log.

Part I (Complainant's Information)

1. **Lines 1 – 7**
   This section should be filled out either by the complainant or the staff person receiving the complaint.

2. **Line 8 (Description of Complaint)**
   The Complainant must describe the complaint, indicating the expected results. If the complainant is unable to fill out this section and assistance is given, the statement should be written in the first person.

   An additional sheet of paper should be provided if extra space is necessary. Additional sheets are to be identified with the name and signature of the complainant. To ensure that no further comments are added to the original statement, a diagonal line should be drawn from the last word of the statement to the end of the page.

3. **Line 9 (Signature of Complainant)**
   For local resolution, the complainant does not have to sign. However, the form must be signed by at least one complainant for the complaint to be referred to a higher level. If the complainant refuses to do so, a statement by the CareerCenter official taking the complaint will be written to this effect. The complainant will be further advised, in writing by the CareerCenter Manager, that since he/she refuses to sign the complaint, no further action can be taken on the complaint (see sample letter in Appendix C – Request for Complainant's Signature). The complainant's signature should be on each additional sheet used for line 8 (Description of Complaint).

Part II (For OSCC Use Only)

1. **The CareerCenter Manager, or their designee, is required to complete lines 1 through 5. This information should correspond to the information entered on the Quarterly Log.**

2. **Lines 7 through 9 should be completely if the complaint cannot be handled locally.**

3. **The person taking the complaint must sign and complete lines 10 through 12 of this form.**

4. **Make four copies of completed and signed form:**

   - Original and one copy shall be kept in the local CareerCenter complaint file.
   - One copy shall be given to the complainant.
   - One copy shall be sent to the State Complaint Resolution Administrator or other referred agency with copies of all other documents related to that claim.
     - Forms for locally resolved complaints will be forwarded to the State Complaint Resolution Administrator at the time of Quarterly Log submission.
     - Forms for complaints not resolved at the local level must be forwarded to the State Complaint Resolution Administrator immediately upon determination.

Complaint Resolution

A CareerCenter-related complaint is considered resolved when any of the following occurs:

- The complainant indicates satisfaction with the outcome.
- The complainant or the complainant's authorized representative fails to respond within 20 working days [or in cases where the complainant is a MSFW, 40 working days] of a written request for information by the appropriate local or State office.
- The complaint exhausts the final level of review.
- A final determination has been made by the enforcement agency to which the complaint was referred.

Specific CareerCenter-Related Programs and Services

Certain CareerCenter-related programs and services have complaint processes that differ from the standard CareerCenter customer complaint resolution process. This section contains background information and supportive documents for the following programs and services:

- Priority of Service for Veterans and Eligible Spouses
- Migrant and Seasonal Farmworkers (MSFW)
- H-2A Programs
- Trade Adjustment Assistance (TAA)
- Competitive Skills Scholarship Program (CSSP)

Priority of Service for Veterans and Eligible Spouses

Veterans and eligible spouses are given "priority of service" for the receipt of employment, training, and placement services provided under all U.S. Department of Labor-funded programs. Veterans and eligible spouses are entitled to preference for such services. This means that a veteran or eligible spouse either receives access to a service earlier than others or, if resources are limited, the veteran or eligible spouse receives access to the service instead of others.

A veteran or eligible spouse should identify himself/herself as such when inquiring about any Department of Labor program. By doing so, they will be able to take full advantage of this priority.

A Veteran is defined as:
A person who served at least 180 days in the active military, and who was discharged or released under conditions other than dishonorable, as specified in 38 U.S.C. 101(2). Active service includes full-time Federal service in the National Guard or a Reserve Component. The definition of "active service" does not include full-time duty performed strictly for training purposes (i.e., that which is referred to as "weekend" or "annual" training), nor does it include full-time active duty performed by National Guard personnel who are mobilized by State rather than Federal authorities.

An Eligible Spouse is defined as:
As defined in 38 U.S.C. 4215(a), means the spouse of any of the following:

1. Any Veteran who died of a service-connected disability
2. Any member of the Armed Forces serving on active duty who, at the time of application for the priority, is listed in one or more of the following categories and has been so listed for a total of more than 90 days:
    - Missing in action
    - Captured in the line of duty by a hostile force
    - Forcibly detained or interned in the line of duty by a foreign government or power
3. Any Veteran who has a total disability resulting from a service-connected, as evaluated by the Department of Veterans Affairs.

Complaints by a veteran or eligible spouse alleging violations of the priority of service provisions should be filed with their local CareerCenter representative.

Uniformed Services Employment and Reemployment Rights Act (USERRA)

USERRA covers virtually every individual in the country who serves in or has served in the uniformed services and applies to all employers in the public and private sectors, including Federal employers. The law seeks to ensure that those who serve their country can retain their civilian employment and benefits, and can seek employment free from discrimination because of their service. USERRA provides protection for disabled veterans, requiring employers to make reasonable efforts to accommodate the disability.

USERRA is administered by the United States Department of Labor, through the Veterans' Employment and Training Service (VETS). VETS provides assistance to those persons experiencing service connected problems with their civilian employment and provides information about the Act to employers.

Contact information for VETS can be found in the Federal Agencies section of Appendix A.

Immigration and Nationality Act

The Immigration and Nationality Act (INA) was created in 1952. Before the INA, a variety of statutes governed immigration law but were not organized in one location. The McCarran-Walter bill of 1952, Public Law No. 82-414, collected and codified many existing provisions and reorganized the structure of immigration law. The Act has been amended many times over the years, but is still the basic body of immigration law.

The INA is divided into titles, chapters, and sections. Although it stands alone as a body of law, the Act is also contained in the United States Code (U.S.C.). The code is a collection of all the laws of the United States. It is arranged in fifty subject titles by general alphabetic order. Title 8 of the U.S. Code is but one of the fifty titles and deals with "Aliens and Nationality." When browsing the INA or other statutes you will often see referenced to the U.S. Code citation. For example, Section 208 of the INA deals with asylum, and is also contained in 8 U.S.C. 1158. Although it is correct to refer to a specific section by either its INA citation or its U.S. code, the INA citation is more commonly used.

Who is Covered

The work to be performed must be "of a temporary (or seasonal) nature," meaning employment that is performed during certain seasons of the year, usually in relation to the production and/or harvesting of a crop or for a limited time period of less than one year when an employer can show that the need for the foreign workers is truly temporary.

Note: Foreign workers employed under the H-2A Programs are not covered under the Migrant and Seasonal Agricultural Worker Protection Act.

Basic Provisions/Requirements

- The H-2A temporary agricultural program establishes a means for agricultural employers who anticipate a shortage of domestic workers to bring nonimmigrant foreign workers to the U. S. to perform agricultural labor or services of a temporary or seasonal nature.
- Before the U.S. Citizenship and Immigration Services can approve an employer's petition for such workers, the employer must file an application with the department stating that there are not sufficient workers who are able, willing, qualified, and available, and that the employment of aliens will not adversely affect the wages and working conditions of similarly employed U.S. workers.
- The statute and U.S. Department of Labor regulations provide for numerous worker protections and employer requirements with respect to wages and working conditions that do not apply to nonagricultural programs. The department's Wage and Hour Division has responsibility for enforcing provisions of worker contracts.
- The Department of Labor's regulations governing the H-2A Program also apply to the employment of U. S. workers by an employer of H-2A workers in any work included in the ETA-approved job order or in any agricultural work performed by the H-2A workers during the period of the job order.
- Employers must offer U.S. workers terms and working conditions which are not less favorable than those offered to H-2A workers.

Employee Rights

An employer who files an application for temporary foreign labor certification pursuant to H-2A regulations must meet specific conditions, including those concerning recruitment, wages, housing, meals, transportation, workers' compensation insurance, tools and supplies, certification fees, labor disputes, and other conditions.

Workers who believe that their rights were violated under the H-2A regulations may file their complaints through the CareerCenter Complaint System.

H-2A workers and the U.S. workers hired under the job order system must file complaints about non-compliance with H-2A labor standards with the Foreign Labor Certification Specialist. A complaint that comes into the State office will be forwarded for appropriate action.

Poster

Posters listing H-2A worker rights can be found in Appendix D or printed off in English from **www.dol.gov/whd/posters/pdf/WHD1491Eng_H2A.pdf**.

The Spanish version can be printed off from **www.dol.gov/whd/posters/pdf/WHD1491Span_H2A.pdf**.

Important Notice

All program users and other interested parties should frequently consult the Office of Foreign Labor Certification website **www.foreignlaborcert.doleta.gov** where the Department of Labor will post updates concerning the H-2A temporary agricultural labor certification program.

Filing a Complaint

H-2A workers and U.S. workers hired under the job order may file complaints about non-compliance with H-2A labor standards with:

Foreign Labor Certification
Maine Dept. of Labor
55 State House Station
Augusta, ME 04333-0055
207-623-7981

If complaints are not resolved at the State level, they are referred to:

Manchester Area Office
U.S. Dept. of Labor
Wage & Hour Division
1750 Elm Street, Suite 111
Manchester, NH 03104-2907
603-666-7716 or 1-866-487-9243

Migrant and Seasonal Farmworkers (MSFWs) are defined as:

Seasonal Farm Worker	Works 25 or more days in farm work
	50% or more of annual earnings are from farm work
Migrant Farm Worker	Works 25 or more days in farm work
	50% or more of annual earnings are from farm work
	Has job-related travel
	Unable to return home the same day
Migrant Food Processing Worker	Works 25 or more days in food processing work
	50% or more of annual earnings from farm work
	Has job-related travel
	Unable to return home the same day

States are required to ensure that the services provided to Migrant and Seasonal Farmworkers are "qualitatively equivalent and quantitatively proportionate" to the services provided to other job seekers. This means that MSFWs should receive all workforce development services, benefits, and protections on an equitable and non-discriminatory basis (i.e., career guidance, testing, job development, training, and job referral).

Complaints from Migrant and Seasonal Farmworkers

Complaints alleging violations of employment-related laws are enforced by the **Wage and Hour Division, U.S. DOL or OSHA** and shall be taken in writing by the CareerCenter and referred to Wage and Hour Division or OSHA.
Source: 658.414 and 658.422

Wage and Hour Division-related violations are those dealing with wages, hours worked, Migrant and Seasonal Agricultural Worker Protection Act, and temporary foreign farm workers.	**OSHA violations are those related to on-the-job safety.**
U.S. Department of Labor Wage and Hour Division 66 Pearl Street, Room 324 Portland, ME 04101 207-780-3344	U.S. Department of Labor Occupational Safety and Health Administration JFK Federal Building, Room E340 Boston, MA 02203 617-565-9860, Fax: 617-565-9827

If the complaint is not resolved locally at the CareerCenter within five days, complainant should sign the ETA Form 8429. The form and any additional documentation should be forwarded to the State Monitor Advocate for resolution and recorded on the Log Sheet.

The State Monitor Advocate's responsibility is to ensure that all legal protections are afforded to farm workers and that their complaints are promptly resolved.

Apparent or Field Check Violation

Apparent Violation

An apparent violation is an allegation made by a department employee who observes, has reason to believe, or is in receipt of information regarding suspected violation of employment-related laws, or Employment Service (ES) regulations by an employer only involving a migrant and seasonal farm worker.

Field Check Violation

A field check violation is the observation, or receipt of information, or otherwise a reason to believe by a department employee that conditions are not as stated in the job order (may be H-2A related), or that an employer is violating an employment-related law arising from a field check at an agricultural work site.

Processing Violations

Source: *20 CFR 653.113*

1. 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 ES regulations by an employer, except as provided at 20 CFR 653.503 (field checks of H-2A orders) or 20 CFR 658.400 (complaints as referred to in this manual), the employee shall document the suspected violation and refer this information to the local office manager.

2. If the employer has filed a job order with Maine's Job Bank within the past 12 months, the local office shall attempt informal resolution. If the employer does not remedy the suspected violation within five working days, procedures at part 658. subpart F (Discontinuation of Services) shall be initiated by the State Complaint Resolution Administrator and, if a violation of an employment-related law is involved, the violation shall be referred to the appropriate enforcement agency in writing.

3. If the employer has not filed a job order with Maine's Job Bank during the past 12 months, the suspected violation of an employment-related law shall be referred to either the Complaint Resolution Administrator or the MSFW State Monitor Advocate who will forward it to the appropriate enforcement agency in writing.

Using the Apparent of Field Check Violation Form

Use of this form is primarily limited to Foreign Labor Certification or Migrant and Seasonal Farmworker State Monitor Advocate staff. Therefore, content on the use of this form is for informational purposes only. However, the Apparent Violation form need not be restricted to MSFW or H-2A programs. Apparent Violation can be from observations by MDOL staff in the CareerCenter, and employer services representative, or an outreach worker. Please contact the Complaint Resolution Administrator or the State Monitor Advocate with questions.

[Sample form only. Find usable form in Appendix B]

MAINE DEPARTMENT OF LABOR

APPARENT or FIELD CHECK VIOLATION FORM

Date Received: _____

Apparent violation is an allegation made by a department employee who observes, has reason to believe, or is in receipt of information regarding a suspected violation of employment related laws, or Employment Service (ES) regulations by an employer only involving a migrant seasonal farm worker.

Field check violation is the observation, or receipt of information, or otherwise a reason to believe by a department employee that conditions are not as stated in the job order, or that an employer is violating an employment related law arising from a field check at an agricultural work site.

In addition to the employer's name, address and phone number, to the extent possible, please include addresses and phone numbers of any persons involved in or able to corroborate the information alleged in the apparent violation.

A. Employer:

B. Employer's Address and Telephone Number (include e-mail address, if available):

C. Source of Information (customer, outreach, consultant observation, telephone call, field check, etc):

D. Indicate what happened &/or describe the situation:

E. Identify and attach all documentation and related materials:

VIOLATION

1. a. Does this employer have a current listing with Maine Department of Labor? N0 ☐ YES ☐
   b. Has this employer had a listing with Maine Department of Labor within the last 12 months? N0 ☐ YES ☐
   c. Does the current situation suggest violations of the job listing? N0 ☐ YES ☐
   d. Does the current situation suggest violations of Employment Service regulations? N0 ☐ YES ☐
   e. Does the current situation suggest violations of employment related laws? N0 ☐ YES ☐
2. If 1.a. is NO check the Non ES related box
   If 1.a. or, 1.b. and 1.c. are BOTH YES, check the ES- Related box — NO – Non ES-Related ☐ YES – ES-Related ☐
3. Does the violation involve a Migrant Seasonal Farm Worker (MSFW)? Non-MSFW ☐ MSFW ☐
4. Indicate all the issues involved and/or alleged:

   Wages-☐ Field Sanitation-☐ Health/Safety-☐ Child Labor-☐ Migrant Seasonal Protection Act-☐ State FLC license-☐ Other -☐:

5. Does the complaint involve Temporary Labor Certification, Agricultural (H2A) or other workers? Indicate which:

H2A Worker ☐ H2A Employer ☐ _____Other Worker ☐ _____Other Employer ☐

If H2A related, please indicate all of the issues involved and/or alleged:

Transportation-☐ Housing-☐ Wages-☐ H2A Job Listing Assurances-☐ Meals-☐ Working Conditions-☐ Other-☐

NOTE: Apparent or field check violations alleging unlawful discrimination are to be forwarded immediately to the State Equal Opportunity Officer (c/o Labor Complaint Specialist).

E. Was the apparent violation or field check violation resolved by the local office? N0 ☐ YES ☐

Indicate actions taken at local office- include a summary of actions taken, attempts to resolve the violation and comments or recommendations that may assist in the investigation and contribute to the agency determination of the apparent violation or field check violation:

Referral made to:

☐ State Wage and Hour	☐ State Monitor Advocate	☐ State EO Officer	☐ Federal Wage & Hour	☐ OSHA	☐ Federal ETA
Anne L. Harriman, Director Wage and Hour Division Maine Department of Labor 45 State House Station Augusta, Maine 04333 207-623-7926	Juan Perez-Febles Bureau of Employment Services Maine Department of Labor 55 State House Station Augusta, ME 04333-0055 207-623-7929 or 207-446-9081 Juan.A.Perez-Febles@Maine.gov	Michaela Loisel SESC 108 State House Station Augusta, ME 04333-0108 207-623-6735 TTI: 800-794-1110 Michaela.T.Loisel@Maine.gov	Urgent Note: If Migrant Seasonal Farmworkers are involved and the complaint involves laws enforced by Federal Wage & Hour, such as farm labor contractor, field sanitation, housing or transportation laws, immediately refer all documentation by fax or electronic copy with transmittal or e-mail cover to the Federal Wage & Hour office in: George Rioux Manchester Area Office US Dept. of Labor Wage & Hour Division 1750 Elm Street, Suite 111 Manchester, NH 03104-2907 603-666-7716 1-866-4-USWAGE (1-866-487-9243)	William J. Coffin Augusta Area Director Occupational Safety & Health Administration John F. Kennedy Federal Building, Room E340 Boston, MA 02203 617-565-9860	George Kincannon Regional Monitor Advocate JFK Federal Building Room E-350 Boston, MA 02203 Tel: 617-788-0135 Fax: 617-788-0125

Name and Title of Maine Department of Labor Employee:	Local Office and Phone Number:
Signature	Date Signed:

Trade Adjustment Assistance

The CareerCenter Case Manager shall notify the individual in writing of any decision as to entitlements for the Trade Adjustment Assistance (TAA) program, including, but not limited to, decisions with respect to eligibility for services, subsistence, transportation, re-employment services and allowances. Each decision shall inform the individual of the reason for the decision and of the right of appeal under the applicable Maine law. The individual shall have 15 days from the date of the decision to file a written appeal, using ETA Form 8429, with the BES CareerCenter Manager. If no appeal is filed, the decision shall become final agency action.

1. If the individual appeals a decision, the BES CareerCenter Manager shall forward the notice of appeal and all other documentation regarding the decision to the TAA Coordinator at BES. The TAA Coordinator shall review the documentation and investigate the findings contained in the decision. The TAA Coordinator shall have the authority to reverse, modify or take other appropriate action regarding the decision. If the TAA Coordinator determines, after investigation, to take no action, he/she shall immediately provide the notice of appeal, along with all appropriate documentation to a BES representative, who shall track the request for appeal and forward all documentation to the Division of Administrative Hearings.

2. The individual and all parties shall be notified in writing of the date and time of hearing, which may be conducted by telephone. A hearing shall be conducted before an Administrative Hearing Officer, who shall render a written decision.

3. If a party is dissatisfied with the decision of the Administrative Hearing Officer, he/she shall have the right to appeal in writing within 15 days to the Unemployment Insurance Commission. If a hearing is held, the parties shall be notified in writing of the date and time of such hearing, which may be conducted by telephone. The parties shall receive written notice of the Commission's decision.

4. If a party is dissatisfied with the decision of the Commission, he/she may request the Commission to reconsider its decision, but only if such request for reconsideration is filed in writing within 10 days of receipt of the original Commission decision. Unless an interested party appears at the hearing before the Division of Administrative Hearings or at the Commission hearing, if one was held, he or she may not request reconsideration of the Commission decision, unless such nonappearance was for good cause as determined by the Commission.

5. When the period during which an appeal may be filed under this Chapter ends on a Saturday, Sunday or holiday, the appeal period shall end on the next day which is not a Saturday, Sunday or holiday if the appeal is filed by delivery and is received in-hand by the agency. If the appeal if filed by mailing, however, the appeal period will not be extended, and the appeal must be postmarked within the statutory appeal period, unless the appeal period falls on a Sunday or a holiday, in which case the appeal period will be extended until the next day which is not a Sunday or holiday.

6. Any decision of the Commission becomes final 10 days after receipt of written notification and any person aggrieved by the decision may appeal by commencing an action pursuant to the Maine Administrative Procedure Act.

Appeal to CSSP Program Manager

An applicant or participant who is dissatisfied with a CareerCenter's decision related to the eligibility for or the provision of CSSP services has the right to file a written appeal with the CSSP Program Manager within 30 days of the decision. This written appeal may take any form, such as a signed letter, email or fax. If the customer files a written appeal within 10 days of a decision to terminate the participant from the program or terminate or reduce assistance provided for in a currently effective Individual Service Strategy, then the decision will not be implemented pending the outcome of the administrative appeal process. The CSSP Program Manager will issue a written decision within 15 days of the filing of the appeal. The decision may reflect an agreed resolution to the appeal or, if no agreed resolution was reached, it will reflect the CSSP Program Manager's decision.

Appeal of CSSP Program Manager's Decision

The customer may appeal the CSSP Program Manager's decision by filing a written request for a hearing by a hearing officer. The request must be filed with the Program Manager within 30 days of the date of issuance of the CSSP Program Manager's Decision. The 30-day appeal period may be extended up to 15 additional days if the individual can show good cause for failing to appeal within the initial 30-day period. Upon receiving a request for a hearing, the Program Manager shall forward it, together with a copy of the decision being appealed, to the hearing authority designated by the Department.

The Administrative Hearing Officer shall conduct a hearing in accordance the Maine Administrative Procedures Act 5 M.R.S.A. ch. 375, subchapter 2 and render a decision within 30 days of the hearing request. The Hearing Officer may affirm, set aside, modify or remand the CSSP Program Manager's decision. A hearing decision affirming, setting aside or modifying the CSSP Program Manager's decision pursuant to this section is final agency action and may be appealed to the Superior Court.

Notices

All decisions regarding eligibility for CSSP or regarding the benefits provided under CSSP, including the ISS, must be in writing and must provide notice to the participant of his or her right to appeal to the Program Manager, and if dissatisfied with that decision, to appeal by requesting a fair hearing. CareerCenter staff shall assist customers who express a desire to file an appeal or hearing request with the process.

Referred Complaints

Some complaints must be referred immediately to other agencies. This section contains background information and supportive documents concerning complaints involving the following topics:

- Department of Labor Personnel
- Discrimination
- Americans with Disabilities Act (ADA)
- Wage and Hour Division, Bureau of Labor Standards
- Division of Vocational Rehabilitation, Bureau of Rehabilitation Services
- Division of the Blind and Visually Impaired, Bureau of Rehabilitation Services

State of Maine, Department of Labor Policy No. 008

Source: PL 2003, Chapter 230

Purpose

A relationship of trust and confidence between employees of the Maine Department of Labor and the communities that they serve is essential to the effective operation of state government. Department employees must be free to exercise their best judgment in the performance of their duties. Department employees also have a special obligation to respect the rights of all persons. The Department of Labor acknowledges its responsibility to establish a complaint system and procedures that not only will subject Department of Labor employees to corrective action when improper conduct has occurred, but will also protect Department of Labor employees from unwarranted or spurious criticism when they discharge their duties properly. The purpose of these procedures is to provide prompt, just, and open disposition of complaints regarding the conduct of Department of Labor employees.

It is the policy of the Department of Labor to encourage the public to comment when the conduct of the employee is believed to be improper. The Department of Labor will make every effort to ensure that no adverse consequences occur to any person or witness as a result of having brought a complaint or for providing information concerning a complaint. Any Department of Labor employee who subjects a complainant or witness to such recrimination will be subject to appropriate disciplinary action.

Procedure

1. The Department of Labor encourages the public to bring forward legitimate complaints regarding misconduct by its employees. To this end, a copy of "How to File a Personnel Complaint" will be posted at Department work sites and on department websites and will be given to anyone requesting this information. A copy of this document can be found in Appendix D. Complaints, regardless of nature, can be lodged in person, by mail, or by telephone.

2. Any employee of the Department of Labor who receives a complaint about a Department employee shall, as soon as practicable, notify the Commissioner's Office, of the details of the complaint for evaluation and assignment.

3. Upon receipt of a complaint, the Commissioner's Office shall determine whether the complaint should be investigated and by whom. Complaints of criminal conduct should be forwarded to the Bureau of Employee Relations and/or the Attorney General's Office to ensure cooperation with appropriate law enforcement authorities.

4. Complainants shall be made aware that it may be impossible to keep their identity confidential.

5. Investigations of complaints shall be completed within 15 days.

6. In the event a report is warranted, all relevant information obtained by the investigator shall be included.

7. All investigations shall comply with the provisions of the applicable collective bargaining agreement.

Notification to the Complainant
Upon final disposition, the complainant will be notified of the outcome of the investigation to the extent permitted by civil service and agency confidentiality laws. The Commissioner's Office will consult with the Bureau of Employee Relations to determine what may be disclosed to the complainant.

Administrative Responsibilities
The Office of the Commissioner shall ensure that:

- Each complaint and corresponding investigation is documented.
- An annual summary report is prepared for each Bureau Director that includes statistical data that will aid in identifying the possible need for training, supervision, or other pertinent issues.

If a customer wishes to make a complaint about the actions of any employee/employees of the Department of Labor he/she should contact the Office of the Commissioner of the Maine Department of Labor by phone, mail or email.

The complainant must identify him/herself, provide contact information and contain specific details about the complaint. The receipt of the complaint will be formally acknowledged in writing or by phone and the complaint will then be investigated and processed as expeditiously as possible. The complainant may be contacted to provide additional information about the complaint.

When the investigation of the complaint has been completed, he/she will receive a written explanation of the final disposition of the matter, within the limits of confidentiality laws.

Office of the Commissioner
Maine Department of Labor
54 Statehouse Station
Augusta, ME 04333-0054
207-621-5095

Discrimination

The **Civil Rights Act of 1964** and regulations of 29 CFR Part 37 of the **Workforce Investment Act of 1998** state that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance from the Department of Labor.

CareerCenters are prohibited from discriminating against members of the public, applicants for services, registrants, participants, claimants, applicants for employment and employees on the basis of **race, color, religion, sex, national origin, age, disability, political affiliation or belief**. In addition, it is prohibited to discriminate against any individual or beneficiary of WIA programs based on the **beneficiary's citizenship status** as a lawfully admitted immigrant authorized to work in the United States. Finally, it is prohibited to discriminate against any individual or beneficiary of WIA programs based on his or her **participation of any WIA Title I financially assisted program or activity**.

Time Frames

A complainant has a right to file a complaint within 180 days of the alleged act(s) of discrimination.

Where to file

Local Level: EO Official (See Master Personnel List in Appendix A)
or
Maine Department of Labor EO Coordinator and/or MHRC

National Level: U.S. DOL Civil Rights Center
Director, Room N4123
200 Constitution Avenue NW
Washington, DC 20210

The recipient of a complaint, which may in this instance mean the local EO Officer, MDOL EO Coordinator or MHRC must issue a written Notice of Final Action on discrimination complaint within 90 days of the date on which the complaint is filed. The complainant may file action again with the CRC if he/she is dissatisfied with the Notice of Final Action or if a Notice of Final Action is not issued within the 90-day period. In this regard, the complainant has 30 days from the date of the Notice of Final Action or from the end of the 90 days to file with CRC. Only the US DOL-CRC has the authority to accept complaints filed beyond the 30 days discussed above. The CRC may extend this time limit if the Notice of Final Action did not provide complete filing instructions or for other good cause shown by the complainant. The same authority rests with the CRC when a complaint is filed beyond the above-mentioned 180-day period.

Poster

The EO notice, "Equal Opportunity is the Law" provides complainants with basic instructions on filing complaints of discrimination. This poster can be found in Appendix D.

Processing Discrimination Complaints

1. When anyone alerts the CareerCenter that he/she (or they) wants to file a discrimination complaint, steps should be taken to connect the complainant with the local EO Officer. If the local EO Officer is not available immediately, the Manager should arrange a face-to-face meeting with the complainant and local EO Officer at the earliest possible date. The Manager should contact the MDOL EO Coordinator if the EO Officer will not be available for an extended period.

2. In all possible instances, the local EO Officer should meet personally with the complainant(s) in a private area, ensuring confidentiality.

3. At this meeting, the EO Officer should explain the process and if the complainant intends to file a formal complaint, provide the complainant with a copy of the US DOL Civil Rights Center Complaint Information Form DL 1-2014a found in Appendix B.

4. If the complainant does not complete the Complaint Information Form during this meeting, EO Officer should obtain the following information at a minimum:

    - Complainant's address and means for contacting him/her/them
    - Basis of complaint
    - Detailed description of allegation(s)
    - Dates of alleged events of discrimination
    - Representative and entity or program against which complaint is being filed (respondent)
    - Address or town location or entity or program
    - Signed consent statement

5. Once the information is gathered, the document should be signed and dated by the complainant or the complainant's authorized representative. The signed/dated consent statement should indicate that the complainant allows the local EO Officer to disclose the complainant's identity if necessary to investigate his/her complaint. In addition, a copy of the written complaint will be provided to the complainant and to the MDOL EO Coordinator.

6. Once the complaint has been filed and received, the local EO Officer should ask the complainant whether he/she would prefer the complaint processed through:

    - Alternative Dispute Resolution/Mediation (ADR)
    - Investigation by the local EO Officer, MDOL EO Coordinator or MHRC
    - Investigation by the U.S. DOL Civil Rights Center in Washington, D.C. (The full address appears on the EO Notice, "Equal Opportunity is the Law.")
    - The complainant should indicate his/her decision on the signed complaint document. The complainant must be informed that if ADR fails, the complaint can still be filed with CRC.

    NOTE: If an employee of the State of Maine committed the alleged discriminatory act, the MDOL EO Coordinator must be contacted immediately. In those instances, the Complaints and Investigations Article of the Collective Bargaining Agreements will be followed.

7. The choice to use Alternative Dispute Resolution (ADR) or investigation rests with the complainant. If the choice is ADR, the MDOL EO Coordinator will contact the Director, Office of Human Resources, who will assign a mediator to assist with an ADR conference.

8. If ADR is successful, a settlement agreement is prepared at the end of the conference and signed by the involved parties. If ADR is unsuccessful, the complainant is apprised of his/her rights to file the complaint with USDOL CRC within 30 days after the issuance of a Notice of final Action.

9. Cases when ADR is not appropriate include complaints that are high profile, involve legal issues, involve policy, are precedent setting, or impact others in a protected group.

10. If the complainant elects to resolve the complaint using the investigation by the MDOL EO Coordinator, the MDOL EO Coordinator will provide an acknowledgement letter to the complainant containing the following:

    - Notice that the complaint has been received
    - Restatement of the issues raised in the complaint
    - Notice of which issues have been accepted for investigation
    - Explanation, if necessary, of issues not being investigated
    - Notice of the complainant's right to representation by any individual he/she chooses during the complaint process. Legal fees (if an attorney is selected) are the responsibilities of the complainant.
    - Notice that complaint processing will be completed within 90 days of the date that the complaint was filed at the local level and a Notice of Final Action issued.
    - Notice that the complainant has the right to re-file his/her complaint within 30 days of the end of the 90 days cited above, if the Local EO Officer fails to issue the notice within that period.

11. In addition, the MDOL EO Coordinator must: contact and write to (return receipt requested) the respondent identified in the complaint; advise the respondent that a complaint alleging discrimination has been filed and is being processed; provide a summary of the complaint and notice that any form or retaliation is against the law.

Complaint investigation or fact-finding may include the following elements:

- Holding an interview with complainant to gather facts
- Collecting any evidence the complainant may have to support allegations
- Interviewing the respondent, obtaining a signed position statement, and any evidence supporting the response to the complaint
- Inspecting location of where alleged discrimination occurred (this applies specifically to allegations of sexual harassment and inaccessibility to individuals with a disability
- Interviewing witnesses, if any, and obtaining signed statements
- Reviewing documents – data, reports, correspondence, contracts, plans, personnel or participant records, policies/procedures related to activities which gave rise to allegations of discrimination
- Preparing an investigatory report that includes statement of basis of complaint, specific allegations, respondent response and witness statements, findings of fact, rationale and conclusion (probable cause or no probable cause that respondent may have discriminated) and appeal rights
- Maintaining a complaint file

It should be noted that the MDOL EO Coordinator is available for technical assistance at any time to the local EO Officers.

Final Action

A Notice of Final Action must be provided to the complainant with a copy to the respondent and Local EO Officer within 90 days of the date that the complaint was filed with the MDOL EO Coordinator. The Notice must be sent "return receipt requested." The Notice must provide the recipient's decision and explanation on each issue of discrimination that was accepted for processing and resolution. Clearly state what specific action has been taken or will be taken (and when) to complete the resolution.

If the complainant is dissatisfied with the Notice of Final Action, he/she has 30 days from the date the final notice is issued to file with the CRC. If a Notice is never issued, the complainant has 30 days from the date that the notice should have been issued to file with the CRC.

Maine Human Rights Commission

EO Representatives will inform all complainants of their right to file with the Maine Human Rights Commission in addition to the above procedure.

Maine Human Rights Commission
51 State House Station
Augusta, ME 04333-0051
207-624-6050

Civil Rights Center
USDOL
200 Constitution Avenue NW, Room N412
Washington, DC 20210

The complaint procedures outlined here are effective immediately. Equal opportunity Officers are to become familiar with these procedures and to share this information with directors, managers, and supervisors within his/her jurisdiction.

Source: 29 CFR Part 31; 29 CFR Part 37

Americans with Disabilities Act

Title I and Title II 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 failing to make 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.

It is the policy of the State of Maine that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of the State of Maine or be subjected to discrimination by the State. All programs, services, and activities, including grants and contracts, shall be available, with or without accommodations, to individuals with disabilities, as they are for other persons. Accommodations could include changes to policies, practices, or procedures; removing architectural, communication, or transportation barriers; and providing auxiliary aids and services, such as interpreters.

An attempt should be made at the local level to resolve disability complaints. If the CareerCenter Manager or designee is unable to resolve the complaint to the complainant's satisfaction, the complainant or the CareerCenter Manager (or designee) should fill out ETA Form 8429. Once the complaint is logged, a copy of the form must be sent to the Department of Labor's Accessibility Coordinator. The complainant may also take the issue to the Maine Human Rights Commission.

Accessibility Coordinator
Office of the Commissioner
Maine Department of Labor
54 State House Station
Augusta, ME 04333-0054

Or

Maine Human Rights Commission
51 State House Station
Augusta, ME 04333-0051
207-624-6290
TTY: 1-888-577-6690

Referrals to the Wage and Hour Division, Bureau of Labor Standards (BLS)

The Wage and Hour Division of BLS investigates and interprets the following complaints:

- Severance pay in plant closings
- Complaints about
  - rest breaks
  - time off to deal with domestic violence at home
  - wage issues related to plant closures
  - overtime and minimum wages
  - timely payment of wages
  - Family Leave Law
  - unfair agreements (illegal wage deductions or paybacks)
  - requirement for written reason for termination
  - whistle blower violations
  - requests to review personnel files by employee
  - child labor issues
  - equal pay
  - housing complaints (ask for BLS Housing Inspectors)

BLS does not have legal authority over:

- fringe benefits (except payment of earned vacation upon termination of employment)
- working conditions (schedules, dress codes, types of work performed, part-time or full-time status)
- hiring or firing practices
- discharge notices, warning, disciplinary actions
- minimum/maximum hours per day or week (except for minors under 18)
- union or other contract agreements

Maine is an "at will" state, which means that employees can legally be hired or fired at the employer's discretion, provided there is no illegal discrimination, contract or collective bargaining agreement involved. If a customer feels there is discrimination, the process for filing a discrimination complaint should be followed.

Bureau of Labor Standards
Maine Department of Labor
45 State House Station
Augusta, ME 04333-0045
207-623-7900

Appeals Process for the Division of Vocational Rehabilitation, Bureau of Rehabilitation Services

An applicant for or recipient of vocational rehabilitation services who is dissatisfied with any determination made by a rehabilitation counselor concerning the furnishing or denial of services may request (or, if appropriate, may request through the individual's representative) a timely review of the determination. Maine Division of Vocational Rehabilitation (DVR) shall make reasonable accommodation to the individual's disability in the conduct of the appeals process.

Informal Review
Whenever possible, Maine DVR will attempt to resolve conflicts informally prior to Mediation or a Due Process Hearing, but an individual may request a Due Process Hearing immediately without having to go through other appeal steps. An individual may request a meeting with the counselor, the appropriate supervisor, and a Client Assistance Program representative, if desired, to explore options for resolving any conflicts.

Continuation of Services Pending Completion of the Hearing
Pending a final determination of an appeal hearing, the DVR may not suspend, reduce, or terminate services being provided under an Individualized Plan of Employment (IPE), unless the services were obtained through misrepresentation, fraud or collusion of the individual, or authorized representative, requests suspension, reduction, or termination of services.

Time Frames
The time frames listed under Sections Mediation and Due Process Hearing may be waived if both parties agree to an extension of time in order to conduct the Mediation or Hearing and render a decision.

Mediation
The Department of Labor Mediation process is an option to resolve conflicts when a resolution is not possible informally. Mediation is voluntary for both parties and either party may withdraw at any time. The mediator does not have the authority to impose a settlement on the parties but will attempt to help them reach a mutually satisfactory resolution of their dispute.

An individual must request Mediation within 30 calendar days of the agency notice regarding the provision or denial of services that is in question. The request shall be in writing and the request shall describe the complaint. The request should be sent to the Director of DVR who will immediately forward it to the Department of Labor, Division of Administrative Hearings.

The Division of Administrative Hearings will commence a mediation meeting within 15 calendar days of receipt of the request and shall be held in a location that is convenient to the parties in the dispute.

Mediation will be conducted in accordance with the Court Alternative Dispute Resolution Service's (CADRES) standards on ethics and neutrality.

An agreement reached in the mediation process shall be set forth in a written mediation agreement.

Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding in accordance with CADRES confidentiality standards.

The individual may be represented at the mediation, including but not limited to, representation by the Client Assistance Program.

Due Process Hearing

A Due Process Hearing is a procedure whereby an individual who is dissatisfied with any determinations concerning the provision or denial of DVR services may seek a re-determination of agency action before an impartial hearing officer.

The individual must request a Due Process Hearing within 30 calendar days of the agency notice regarding the provision or denial of service if Mediation was not requested.

If no request for Due Process Hearing is made within 30 calendar days, the agency decision is considered final.

The request for Due Process Hearing shall be in writing and shall describe the complaint. Maine DVR will accommodate an individual's disability and offer assistance, if appropriate, in this process. The request should be sent to the Director of DVR who will immediately forward the request to the Department of Labor, Division of Administrative Hearings.

A pre-hearing conference will be held. At that time mediation will be explored as an option for resolving the dispute.

The Due Process Hearing shall be conducted within 45 calendar days of receipt of the request for Due Process Hearing.

A Due Process Hearing shall be conducted by an impartial hearing officer from the pool of qualified persons identified jointly by the Director of Maine DVR and the State Rehabilitation Council.

Maine DVR may not deny or dismiss a request for Due Process Hearing unless the individual or his/her representative:

- withdraws the request in writing or
- is adjudged by the Due Process Hearing officer to be in default for failure to appear at the hearing without good cause.

The Due Process Hearing shall be conducted and a recommended decision shall be issued in accordance with Maine's Administrative Procedures Act, 5 M.R.S.A. Chapter 375, subchapter IV.

The Due Process Hearing Officer shall issue a decision within 30 days of the completion of the hearing. If the Commissioner of the Department of Labor or the Commissioner's designee decides to review the decision of the impartial hearing officer, he/she will notify the individual or, if appropriate, the individual's representative, of that intent within 20 days of the mailing of the impartial hearing officer's decision. The Commissioner or his/her designee shall give the individual or individual's representative 10 calendar days to submit additional evidence and information relevant to the final decision. If the Commissioner or his/her designee does not notify the applicant/ client of the intent to review the decision, the decision of the impartial hearing officer becomes the final decision.

Within 30 days of providing notice of intent to review the impartial hearing officer's decision, the Commissioner or designee shall make a final decision and provide a full report in writing of the decision, including findings and the statutory, regulatory, or policy grounds for the decision, to the individual or, if appropriate, the individual's representative.

The Commissioner or designee may not overturn or modify a decision, or part of a decision, of an impartial hearing officer unless the Commissioner or designee concludes, based on clear and convincing evidence, that the decision is clearly erroneous because it is contrary to the approved State Plan, the Act, Federal Regulations or State Policy.

The Due Process Hearing decision shall be considered final by the agency pending the outcome of further appeal procedures.

Judicial Review

In the written decision from the Commissioner or designee on a Due Process Hearing, the individual shall be advised on his/her right to file a petition in Superior Court under Rule 80C of the Maine Rules of Civil Procedure.

Appeals Process for the Division of the Blind and Visually Impaired, Bureau of Rehabilitation Services

An applicant for or recipient of vocational rehabilitation (VR) services who is dissatisfied with any determination made by a rehabilitation counselor concerning the furnishing or denial of services may request (or, if appropriate, may request through the individual's representative) a timely review of the determination. The Division of the Blind and Visually Impaired (DBVI) shall make reasonable a CareerCenter accommodation to the individual's disability in the conduct of the appeals process. Written notification of appeal rights will be provided to the individual at the time of application, when assigned an order of selection category, when an Individual Plan of Employment (IPE) is developed, and whenever DBVI VR services are reduced, suspended, or terminated. Notification will include the name and address of the person with whom an appeal may be filed and information regarding the Client Assistance Program.

Mediation and/or due process hearings are provided at no cost to the individual; however, costs related to legal representation are not covered by DBVI.

Informal Review
Whenever possible, DBVI will attempt to resolve conflicts informally prior to mediation or a due process hearing. An individual may request a meeting with the counselor, the appropriate supervisor, and/or a Client Assistance Program representative, if desired, to explore options for resolving any conflicts. An individual may request mediation or due process hearing immediately without having to participate in the informal process.

Continuation of Services Pending Appeal
Pending a final determination following an appeal hearing, the Division may not suspend, reduce, or terminate services being provided under an IPE, unless the services were obtained through misrepresentation, fraud or collusion or the individual, or the individual's authorized representative requests suspension, reduction or termination of services.

Mediation
Mediation is a voluntary process conducted by a qualified and impartial mediator. Mediation is provided at no cost to the individual, but costs related to legal representation are not covered by DBVI.

An individual must request mediation within 30 calendar days of the agency notice regarding the provision or denial of services that are in question. The request shall be in writing and shall describe the basis for the grievance. The request should be sent to the Director of DBVI who will immediately forward it to the Department of Labor, Division of Administrative Hearings.

The Division of Administrative Hearings shall convene a mediation within 15 calendar days of receipt of the request. The mediation shall be held at a location that is convenient to the parties to the dispute.

Mediation shall be conducted in accordance with the Court Alternative Dispute Resolution Service's (CADRES) standards on ethics and neutrality. At any point during the mediation process, either party or the mediator may elect to terminate the mediation.

Any agreement reached in the mediation process shall be set forth in a written mediation agreement and shall be signed by both parties.

Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding in accordance with CADRES confidentiality standards.

The individual may be represented at the mediation, including but not limited to representation by the Client Assistance Program. DBVI is not obligated to cover the cost of applicant's legal representative.

The mediation process may not be used to deny or delay the individual's right to pursue resolution of the dispute through a due process hearing within the specified time period.

Due Process Hearing

A due process hearing is a proceeding whereby an individual who is dissatisfied with any determination concerning the provision or denial of VR services may seek a review of agency action before a hearing officer.

The individual must request due process hearing within thirty (30) calendar days of the agency notice regarding the provision or denial of service if mediation is not requested. If no request for due process hearing is made within 30 calendar days, the agency decision becomes final.

The request for due process hearing shall be in writing and shall describe the basis for the grievance. DBVI will accommodate an individual's disability and offer assistance, if appropriate, in this process. The request should be sent to the Director of DBVI who will immediately forward the request to the Department of Labor, Division of Administrative Hearings.

A pre-hearing conference shall be held to clarify issues and explore options for resolving grievances.

The due process hearing shall be conducted within 60 calendar days of receipt of the request for due process hearing. A due process hearing shall be conducted by an impartial hearing officer assigned on a random basis from the pool of qualified persons identified jointly by the Director of DBVI and the State Rehabilitation Council of DBVI.

The DBVI VR program may not deny or dismiss a request for due process hearing unless the individual or his/her representative:

- withdraws the request in writing or
- is adjudged by the hearing officer to be in default for failure to appear at the hearing without good cause.

The due process hearing shall be conducted and will include an opportunity for the individual or the individual's representative to present witnesses and relevant evidence. A decision will be issued in accordance with The Maine Administrative Procedure Act.

The due process hearing officer shall issue a written decision containing findings and grounds for the decision within 30 days of the completion of the hearing. The hearing officer's decision becomes final unless one of the parties requests a Judicial Review.

Judicial Review

Any party who disagrees with the decision resulting from the due process hearing has the right to file a petition in Superior Court under Rule 80C of the Maine Rules of Civil Procedure.

State Complaint System Administration

The purpose of this section is to make transparent to the CareerCenters and customers how complaints are handled at the State level. The source of the regulations is cited.

- State Complaint Resolution Administrator
- Hearings
- Discontinuation of Services

State Complaint Resolution Administrator

The State Complaint Resolution Administrator has overall responsibility for the operation of the CareerCenter complaint resolution system.

Responsibilities
The Maine Department of Labor ensures that centralized control procedures are established for the handling of complaints and files relating to the handling of complaints. The State Complaint Resolution Administrator shall ensure that a central complaint log is maintained, listing all complaints received.

The State Complaint Resolution Administrator shall receive a quarterly Log Sheet and related paperwork from each CareerCenter office and will submit a report to the U.S. DOL Regional office.

Referrals
Unresolved complaints referred from the CareerCenters and complaints received directly at the State office will be assigned by the State Complaint Resolution Administrator to the appropriate subject-matter expert at the State office for investigation/resolution. If complaints need to be referred to an enforcement agency, the State Complaint Resolution Administrator will forward the complaints.

Follow-up
The State Complaint Resolution Administrator is responsible for following up on each referred complaint. For most complaints, follow-up is performed quarterly. For migrant and seasonal farm workers, the follow-up is monthly. The State Complaint Resolution Administrator will update the referring CareerCenter and complainant with the status of the complaint.

Documentation
For each complaint that comes directly to the State, there needs to be a completed and signed ETA Form 8429 and copies of all relevant documentation of conversations and phone calls related to the complaint.

Within two months after the end of each calendar quarter, the State Complaint Resolution Administrator shall transmit copies of all local and State office complaint logs received for that quarter to the Regional U.S. DOL Administrator.

Migrant and Seasonal Farmworker Complaints
State agencies shall ensure that any action taken by the responsible official, including referral, on a CareerCenter-related or non-CareerCenter-related complaint from an MSFW alleging a violation of employment related laws enforced by USDOL Wage & Hour Division or OSHA is fully documented in a file at the State Department of Labor, containing all relevant information, including:

- a copy of the original ETA 8429 complaint form
- a copy of any CareerCenter reports
- any related correspondence
- a list of actions taken
- a record of related telephone calls

The State Complaint Resolution Administrator must provide a quarterly summary complaint report to the State Monitor Advocate.

Discrimination Complaints
The handling of all CareerCenter-related complaints received by the State office alleging unlawful discrimination by race, color, religion, national origin, sex, age, physical or mental status unrelated to job performance (handicap) status shall be assigned to the State EO Coordinator.

Complaints that Come Directly to the State
Documentation will be kept of all efforts to resolve the complaint, such as letters, notes of phone calls, etc. If the complaint is referred to another agency, the referral and results will be documented. For instance, a State level decision to uphold the CareerCenter's decision to deny a TAA claim should be documented, dated, and signed by the TAA Program Manager. The complaint then is sent to Administrative Hearings. The transmittal email and copy of the decision should be included in the file.

All Other Complaints
The handling of all other CareerCenter-related complaints and all non-CareerCenter-related complaints received by the State office shall be assigned to the appropriate State agency official.

Hearings and Discontinuation of Services
The State Complaint Administrator is responsible for initiating the process for Hearings and Discontinuation of Services.

Source: 20 CFR 658.410

Maintenance of Complaint Files

- File folders are kept for each program year by quarter (July – September, October – December, January – March, April – June).
- Each folder should contain the Log Sheets from each CareerCenter for the quarter, cover letter summarizing the complaint activity, and the Log Sheets sent to the U.S. DOL Region 1 office. For reporting purposes, a copy of the cover letter will be sent to the State Monitor Advocate and the State EO Coordinator.
- For complaints that are being referred to the State level from the CareerCenters, a file should be created for each complainant. This file should contain all CareerCenter documentation, ETA Form 8429, an explanation of the activities to resolve the complaint at the State level, the result of the resolution, and a copy of the letter to the complainant about the resolution.
- If the complaint is referred to another agency from the State level (for instance, to the TAA Program Manager), copies of all documentation should be included with the referral documentation.
- Complaints sent directly to the State should be recorded on the Log Sheet for BES, Central Office. This Log Sheet should be kept in the quarterly file.
- Documentation of follow-up required of the State Complaint Resolution Administrator will be kept in the complainant's file, along with a copy of the letter notifying the complainant of the complaint's resolution.

Hearings

An opportunity to request a hearing may be offered in the following instances:

- when a complaint is WIA-related, has not been resolved by the local office, has been referred to the State Complaint Resolution Administrator, and has not been resolved within 60 days
- any complaint that results in a written determination at the State level
- when an investigation of a complaint against an employer has found the employer not to be in violation of State or Federal regulations
- when a complaint is against the State agency (MDOL)

Upon a written request for a hearing, the following procedures will be followed:
Source: 20 CFR 658.416(6) and 20 CFR 658.417

If the State office, within 20 working days from the certified date of receipt of the notification, has not referred the complaint to a local office or an enforcement agency and has issued a determination to resolve the complaint, and receives a written request for a hearing in response thereto, the State office shall refer the complaint to a State hearing official for hearing. The parties to whom the determination was sent (the State agency may also be a party) shall then be notified in writing by the State office that:

- The parties will be notified of the date, time, and place of the hearing.
- The parties may be represented at the hearing by an attorney or other representative.
- The parties may bring witnesses and/or documentary evidence to the hearing.
- The parties may cross-examine opposing witnesses at the hearing.
- The decision on the complaint will be based on the evidence presented at the hearing.
- The State hearing official may reschedule the hearing at the request of a party or its representative.
- With the consent of the State agency's representative and of the State hearing official, the party who requested the hearing may withdraw the request for hearing in writing before the hearing.

Hearings

1. Hearings shall be held by State hearing officials. A State hearing official may be any State official authorized to hold hearings under the State unemployment compensation law or any official of the State agency, authorized by State law to preside at State administrative hearings.
2. The State hearing official may decide to conduct hearings on more than one complaint concurrently if he/she determines that the issues are related or that the complaints will be handled more expeditiously in this fashion.
3. The State hearing official, upon the referral of a case for a hearing, shall:
    - Notify all involved parties of the date, time and place of the hearing.
    - Re-schedule the hearing, as appropriate.

4. In conducting a hearing, the State hearing official shall:

    - Regulate the course of the hearing.
    - Issue subpoenas, if empowered to do so under State law, if necessary.
    - Assure that all relevant issues are considered.
    - Rule on the introduction of evidence and testimony.
    - Take any other action which is necessary to insure an orderly hearing.

5. The testimony at the hearing shall be recorded and may be transcribed when appropriate.

6. The parties shall be afforded the opportunity to present, examine, and cross-examine witnesses.

7. The State hearing official may elicit testimony from witnesses, but shall not act as advocate for any party.

8. The State hearing official shall receive and include in the record, documentary evidence offered by any party and accepted at the hearing. Copies thereof shall be made available by the party submitting the document to other parties to the hearing upon request.

9. Technical rules of evidence shall not apply to hearings conducted pursuant to this section, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination, shall be applied where reasonably necessary by the State hearing official. The State hearing official may exclude irrelevant, immaterial, or unduly repetitious evidence.

10. The case record, or any portion thereof, shall be available for inspection and copying by any party at, prior to, or subsequent to the hearing upon request. Special procedures may be used for disclosure of medical and psychological records such as disclosure to a physician designated by the individual.

11. The State hearing official shall, if feasible, resolve the dispute by conciliation at any time prior to the conclusion of the hearing.

12. At the State hearing official's discretion, other appropriate individuals, organizations, or associations may be permitted to participate in the hearing as amicus curiae (friends of the court) with respect to specific legal or factual issues relevant to the complaint. Any documents submitted by the amicus curiae shall be included in the record.

13. The following standards shall apply to the location of hearings involving parties in more than one State or in locations within a State but which are separated geographically so that access to the hearing location is extremely inconvenient for one or more parties as determined by the State hearing official.

    - Whenever possible, the State hearing official shall hold a single hearing, at a location convenient to all parties or their representatives wish to appear and present evidence, and with all such parties and/or their representatives present.

- If a hearing location cannot be established by the State hearing official pursuant to the statement above, the State hearing official may conduct, with the consent of the parties, the hearing by a telephone conference call from a State agency office with all parties and their representatives not choosing to be present at that location permitted to participate in the hearing from their distant locations.
- Where the State agency does not have the facilities to conduct hearings by telephone pursuant to the above two paragraphs of this section, the State agencies in the States where the parties are located shall take evidence and hold the hearing in the same manner as used for appealed interstate unemployment claims in those States, to the extent that such procedures are consistent with Sec. 658.416.

Source: 20 CFR 658.418

Decision of the State Hearing Official

1. The State hearing official may:
   - Rule that the case is improperly before it, that is, that there is a lack of jurisdiction over the case.
   - Rule that the complaint has been withdrawn properly and in writing.
   - Rule that reasonable cause exists to believe that the request has been abandoned or that repeated requests for re-scheduling are arbitrary and for the purpose of unduly delaying or avoiding a hearing.
   - Render such other rulings as are appropriate to the issues in question. However, the State hearing official shall not have jurisdiction to consider the validity or constitutionality of CareerCenter regulations or of the Federal statutes under which they are promulgated.
2. Based on the entire record, including the investigations and determinations of the local and State offices and any evidence provided at the hearing, the State hearing official shall prepare a written decision. The State hearing official shall send a copy of the decision stating the findings and conclusions of law and fact and the reasons therefore to the complainant, the respondent, entities serving as amicus capacity (if any), the State office, the Regional Administrator, and the Solicitor of Labor, Attn: Associates Solicitor for Employment and Training Legal Services, Department of Labor, Room N2101, 200 Constitutional Avenue, NW, Washington, DC 20210. The notification to the complainant and respondent must be sent certified mail.
3. All decisions of a State hearing official shall 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, if they are not satisfied, they may, within 20 working days of the certified date of receipt of the decision, file an appeal in writing with the Regional Administrator. The notice shall give the address of the Regional Administrator.

Discontinuation of Services to Employers

Basis for Discontinuation of Services: Federal Regulations 20 CFR 416 and 417; 20 CFR 655.210; 20 CFR 658.501 to 503.

The State agency shall initiate procedures for discontinuation of services to employers who:

1. Submit and refuse to alter or withdraw job orders containing specifications which are contrary to employment-related laws.
2. Submit job orders and refuse to provide assurances that the jobs offered are in compliance with employment-related laws or to withdraw such job orders.
3. Are found through field checks or otherwise to have either misrepresented the terms or conditions of employment specified on job orders or failed to comply fully with assurances made on job orders.
4. Are found by a final determination by an appropriate enforcement agency to have violated any employment-related laws and notification of this final determination has been provided to the Job Service (JS) by that enforcement agency.
5. Are found to have violated JS regulations pursuant to Sec. 658.416(d)(4).
6. Refuse to accept qualified workers referred through the clearance system.
7. Refuse to cooperate in the conduct of field checks conducted pursuant to Sec. 653.503.
8. Repeatedly cause the initiation of the procedures for discontinuation of services pursuant to paragraphs (1) through (6) of this section.

The State agency may discontinue services immediately if, in the judgment of the State Administrator, exhaustion of the administrative procedures set forth in this subpart at Secs. 658.501 through 658.502 would cause substantial harm to a significant number of workers. In such instances, procedures at Sec. 658.503(b) et seq. shall be followed.

For employers who are alleged to have not complied with the terms of the temporary labor certification, State agencies shall notify the Regional Administrator of the alleged non-compliance for investigation and pursuant to Sec. 655.210 consideration of ineligibility for subsequent temporary labor certification.

Notification to Employers

The State agency shall notify the employer in writing that it intends to discontinue the provision of the CareerCenter services pursuant to 20 CFR Part 653 and the reason 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 State agency 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 JS services will be terminated in 20 working days unless the employer within that time:
   - provides adequate evidence that the specifications are not contrary to employment-related laws, or
   - withdraws the specifications and resubmits the job order in compliance with all employment-related laws, or
   - 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
   - requests a hearing from the State agency pursuant to Sec. 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 State agency shall specify the date the order was submitted, the job order involved and the assurances involved. The employer shall be notified that all JS services will be terminated within 20 working days unless the employer within that time:
   - resubmit the order with the appropriate assurances,
   - 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
   - requests a hearing from the State agency pursuant to Sec. 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 State agency shall specify the basis for that determination. The employer shall be notified that all JS services will be terminated in 20 working days unless the employer within that time:
   - provides adequate evidence that terms and conditions of employment were not misrepresented, or
   - provides adequate evidence that there was full compliance with the assurances made on the job orders, or
   - provides resolution of a complaint which is satisfactory to a complainant referred by the JS, and
   - 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
   - requests a hearing from the State agency pursuant to Sec. 658.417.

4. Where the decision is based on a final determination by an enforcement agency that the employer-related laws, the State agency shall specify the determination. The employer shall be notified that all JS services will be terminated in 20 working days unless the employer within that time:

    - provides adequate evidence that the enforcement agency has reversed its ruling and that the employer did not violate employment-related laws, or
    - provides adequate evidence that the appropriate fines have been paid and/or appropriate restitution has been made, and
    - 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.

5. Where the decision is based on a finding of a violation of JS regulations under Sec.658.416(d)(4), the State agency shall specify the finding. The employer shall be notified that all JS services will be terminated in 20 working days unless the employer within that time:

    - provides adequate evidence that the employer did not violate JS regulations, or
    - provides adequate evidence that appropriate restitution has been made or remedial action taken, and
    - 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
    - requests a hearing from the State agency pursuant to Sec. 658.417.

6. Where the decision is based on an employer's failure to accept qualified workers referred through the clearance system, the State agency shall specify the workers referred and not accepted. The employer shall be notified that all JS services will be terminated in 20 working days unless the employer within that time:

    - provides adequate evidence that the workers were accepted, or
    - provides adequate evidence that the workers were not available to accept the job, or
    - provides adequate evidence that the workers were not qualified, and
    - provides adequate assurances that qualified workers referred in the future will be accepted, or
    - requests a hearing from the State agency pursuant to Sec. 658.417.

7. Where the decision is based on lack of cooperation in the conduct of field checks, the State agency shall specify the lack of cooperation, the employer shall be notified that all JS services will be terminated in 20 working days unless the employer within that time:

    - provides adequate evidence that he did cooperate, or
    - cooperates immediately in the conduct of field checks, and
    - provides assurances that he/she will cooperate in future field checks in further activity, or
    - requests a hearing from the State agency pursuant to Sec. 658.417.

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 the State agency 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, the State agency shall follow procedures set forth at Sec. 658.417 and notify the complainant whenever the discontinuation of services is based on a complaint pursuant to Sec. 658.501 (a) (5).

Source: 20 CFR 658.502

Discontinuation of Services

If the employer does not provide a satisfactory response in accordance with Sec. 658.502, within 20 working days, or has not requested a hearing, the State agency shall immediately terminate services to the employer.

If services are discontinued to an employer subject to Federal Contractor Job Listing Requirements, the State agency shall notify the ETA regional office immediately.

Reinstatement of Services

Services may be reinstated to an employer after discontinuation under Sec. 658.503, if:

- The State is ordered to do so by a Federal Administrative Law Judge or Regional Administrator, or
- The employer provides adequate evidence that 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 occur in the future, and the employer provides adequate evidence that the employer has responded adequately to any findings of an enforcement agency, State JS agency, or USES, including restitution to the complainant and the payment of any fines, which were the basis of the discontinuation of services.

The State agency shall notify, within 20 working days, the employer requesting reinstatement whether his request has been granted. If the State 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 within 20 working days.

If the employer makes a timely request for a hearing, the State agency shall follow the procedures set forth at Sec. 658.417.

The State agency shall reinstate services to an employer if ordered to do so by a State hearing officer, Regional Administrator, or Federal Administrative Law Judge as a result of a hearing offered pursuant to paragraph (c) of this section.

Source: 20 CFR 658.504
Source: 20 CFR 658.503
Source: 20 CFR 658.501

Appendix A — Master List of Personnel and Contacts

- State Agencies
- Equal Opportunity Contacts
- Federal Agencies

State Agencies

State Complaint Resolution Administrator

Jorge Acero
Bureau of Employment Services
Maine Department of Labor
55 State House Station
Augusta, ME 04333-0055
207-623-7928
Jorge.A.Acero@Maine.gov

Office of the Commissioner, MDOL Disability Coordinator

Office of the Commissioner
Maine Department of Labor
54 State House Station
Augusta, ME 04333-0054
207-621-5095

State Monitor Advocate

Juan Perez-Febles
Bureau of Employment Services
Maine Department of Labor
55 State House Station
Augusta, ME 04333-0055
207-623-7929 or 207-446-9081
Juan.A.Perez-Febles@Maine.gov

Foreign Labor Certification

Jorge Acero
Bureau of Employment Services
Maine Department of Labor
55 State House Station
Augusta, ME 04333-0055
207-623-7928
Jorge.A.Acero@Maine.gov

Bureau of Unemployment Compensation

47A State House Station
Augusta, ME 04333-0047
800-593-7600

Bureau of Labor Standards

45 State House Station
Augusta, ME 04333-0045
207-623-7900

Bureau of Rehabilitation Services

150 State House Station
Augusta, ME 04333-0150
1-800-698-4440
TTY: 1-888-755-0023

Department of Health & Human Services

11 State House Station
221 State Street
Augusta, ME 04333-0011
(207) 287-3707

Maine Human Rights Commission

51 State House Station
Augusta, ME 04333-0051
207-624-6050

Equal Opportunity Contacts

State Equal Opportunity Coordinator

Michaela Loisel
SESC
108 State House Station
Augusta, ME 04333-0108
207-623-6735
TTY: 800-794-1110
Michaela.T.Loisel@Maine.gov

Local Equal Opportunity Officers

Aroostook County
William Crandall, Assistant Director/COO
Aroostook County Action Program, Inc.
P. O. Box 1116
Presque Isle, ME 04769
207-764-3721
TTY: 207-760-6301
bcrandall@acap-me.org

Washington County Equal Opportunity Officer
Nichole Jamison, CareerCenter Manager
Machias CareerCenter
53 Prescott Drive, Suite 1
Machias, ME 04654
207-255-1900
TTY: 800-381-9932
Nichole.S.Jamison@Maine.gov

Penobscot, Piscataquis, and Hancock Counties
Cindy Meservey, HR Director
Eastern Maine Development Corporation
40 Harlow Street
Bangor, ME 04401
207-974-3223
cmeservey@emdc.org

Androscoggin, Franklin, and Oxford Counties
Patricia Ladd, Program Manager
Western Maine Community Action Program
865 US Route 2E
Wilton, ME 04294
207-645-5800
TTY: 888-697-2895
patty.ladd@maine.gov

Kennebec County
Elinor Weissman, Regional Manager
Rehabilitation Services
Augusta CareerCenter
109 State House Station
Augusta, ME 04333-0109
207-624-5120
TTY: 800-633-0770

Somerset County Equal Opportunity Officer
Anita Dunham, CareerCenter Manager
Skowhegan CareerCenter
98 North Avenue
Skowhegan, ME 04976
207-474-4950
TTY: 888/697-2912
anita.c.dunham@maine.gov

Cumberland, Sagadahoc, Lincoln, Knox, and Waldo Counties
Chris Harvey
Goodwill Industries of Northern New England
P. O. Box 8600
Portland, ME 04104
207-774-6323

Cumberland County Equal Opportunity Officer
John Bouchard, CareerCenter Manager
Portland CareerCenter
185 Lancaster Street
Portland, ME 04101
207-771-5627
TTY: 888-817-7113
john.c.bouchard@maine.gov

York County
Richard Freund, CareerCenter Manager
Springvale CareerCenter
9 Bodwell Court
Springvale, ME 04083
207-324-5460
TTY: 888-697-2913
richard.freund@maine.gov

U.S. Department of Labor
Employment and Training Administration

25 New Sudbury St
John F. Kennedy Federal Building, Room E-350
Boston, MA 02203
617-788-0170

U.S. Department of Labor
Wage & Hour Division

1750 Elm Street, Suite 111
Manchester, NH 03104-2907
603-666-7716
1-866-487-9243

OSHA

JFK Federal Building
Room E340
Boston, MA 02203
617-565-9860

40 Western Avenue,
Room G-26
Augusta, ME 04330
207-626-9160

382 Harlow Street
Bangor, ME 04401
207-941-8177

Civil Rights Center

U.S. DOL Civil Rights Center
Room N4123
200 Constitution Avenue, NW
Washington, DC 20210
202-693-6500
TTY: 202-693-6515 or 6516

Veterans' Employment and Training Service

U.S. Department of Labor
5 Mollison Way Suite 104
Lewiston, Maine 04240
207-753-9090

DVET
Jon Guay
Guay.jon@dol.gov

VPA
Edwina Bagley
Bagley.edwina@dol.gov

Appendix B — Forms

- Customer Complaint Resolution Log Sheet
- ETA Form 8429
- Apparent or Field Check Violation Form
- DL Form 1-2014a

Maine Department of Labor

Customer Complaint Resolution System Quarterly Log

Local Office:

Program Year:

Quarter:

Complaint #	Complainant Name: person making complaint	Respondent Name: who/what complaint is against	Date Filed	CareerCenter-Related					Non-CareerCenter-Related							Referred To:								Resolved Locally	Staff Person Taking Complaint
				MSFW	H-2A Worker	Against Employer	Against CareerCenter	Program Decision	Workplace Safety	H-2A Regulations/Law	Wages/Hours/UI/TANF/etc.	Disability	Discrimination	MSFW Regulations/Laws	Other	State Complaint Administrator	UI/TANF/OSHA	Wage & Hour, USDOL (H-2A)	Bureau of Labor Standards	DBVI/DVR	EO State Office (discrimination)	State Monitor Advocate (MSFW)	Other		
1																									
2																									
3																									
4																									
5																									
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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 / /	

Part II. For OSCC Use Only

1. Migrant or Seasonal Farmworker? ☐ Yes ☐ No

2. Type of Complaint ("X" Appropriate Box(es))

☐ WIA Related Job Order No. _____
- ☐ Against Job Service
- ☐ Against Employer
- ☐ Alleged Violation of WIA Regulations
- ☐ Alleged Violation of Employment Law(s)

☐ Non-WIA Related

3. If non-WIA-related, does Complaint concern laws enforced by U.S. Employment Standards Administration (Wage and Hour) or OSHA? ☐ Yes ☐ No

4. Kind of complaint ("X" Appropriate Box(es))

- ☐ Wage Related
- ☐ Child Labor
- ☐ Working Conditions
- ☐ Migrant and Season Agricultural Worker Protection Act (MSPA)
- ☐ Housing
- ☐ Pesticides
- ☐ Health/Safety
- ☐ Disability Discrimination
- ☐ Discrimination*
- ☐ Other (Specify) _____

5. H-2a/Criteria Employer

- ☐ U.S./Domestic Worker
- ☐ H-2a Worker
- ☐ Wages
- ☐ Transportation
- ☐ Meals
- ☐ Housing
- ☐ 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)
☐ Wage & Hour ESA/U.S. DOL. ☐ OSHA
☐ Other _____

b. Follow-Up ("X" one) ☐ Yes ☐ No ☐ Monthly ☐ Quarterly

c. Follow-up Date ___/___/___

8. Address of Referral Agency (No., St., City, State, ZIP Code and Telephone No.)

_____

_____

(____) _____ - _____

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.

MAINE
DEPARTMENT OF
LABOR

APPARENT or FIELD CHECK VIOLATION FORM

Date Received: _____

Apparent violation is an allegation made by a department employee who observes, has reason to believe, or is in receipt of information regarding a suspected violation of employment related laws, or Employment Service (ES) regulations by an employer only involving a migrant seasonal farm worker.

Field check violation is the observation, or receipt of information, or otherwise a reason to believe by a department employee that conditions are not as stated in the job order, or that an employer is violating an employment related law arising from a field check at an agricultural work site.

In addition to the employer's name, address and phone number, to the extent possible, please include addresses and phone numbers of any persons involved in or able to corroborate the information alleged in the apparent violation.

A. Employer:

B. Employer's Address and Telephone Number (include e-mail address, if available):

C. Source of Information (customer, outreach, consultant observation, telephone call, field check, etc):

D. Indicate what happened &/or describe the situation:

E. Identify and attach all documentation and related materials:

VIOLATION

1. a. Does this employer have a current listing with Maine Department of Labor? N0 ☐ YES ☐
   b. Has this employer had a listing with Maine Department of Labor within the last 12 months? N0 ☐ YES ☐
   c. Does the current situation suggest violations of the job listing? N0 ☐ YES ☐
   d. Does the current situation suggest violations of Employment Service regulations? N0 ☐ YES ☐
   e. Does the current situation suggest violations of employment related laws? N0 ☐ YES ☐
2. If 1.a. is NO check the Non ES related box
   If 1.a. or, 1.b. and 1.c. are BOTH YES, check the ES- Related box NO – Non ES-Related ☐ YES – ES-Related ☐
3. Does the violation involve a Migrant Seasonal Farm Worker (MSFW)? Non-MSFW ☐ MSFW ☐
4. Indicate all the issues involved and/or alleged:

   Wages-☐ Field Sanitation-☐ Health/Safety-☐ Child Labor-☐ Migrant Seasonal Protection Act-☐ State FLC license-☐ Other -☐:

5. Does the complaint involve Temporary Labor Certification, Agricultural (H2A) or other workers? Indicate which:

H2A Worker ☐ H2A Employer ☐ _____Other Worker ☐ _____Other Employer ☐

If H2A related, please indicate all of the issues involved and/or alleged:

Transportation-☐ Housing-☐ Wages-☐ H2A Job Listing Assurances-☐ Meals-☐ Working Conditions-☐ Other-☐

NOTE: Apparent or field check violations alleging unlawful discrimination are to be forwarded immediately to the State Equal Opportunity Officer (c/o Labor Complaint Specialist).

E. Was the apparent violation or field check violation resolved by the local office? N0 ☐ YES ☐

Indicate actions taken at local office- include a summary of actions taken, attempts to resolve the violation and comments or recommendations that may assist in the investigation and contribute to the agency determination of the apparent violation or field check violation:

Referral made to:

☐ State Wage and Hour	☐ State Monitor Advocate	☐ State EO Officer	☐ Federal Wage & Hour	☐ OSHA	☐ Federal ETA
Anne L. Harriman, Director Wage and Hour Division Maine Department of Labor 45 State House Station Augusta, Maine 04333 207-623-7926	Juan Perez-Febles Bureau of Employment Services Maine Department of Labor 55 State House Station Augusta, ME 04333-0055 207-623-7929 or 207-446-9081 Juan.A.Perez-Febles@Maine.gov	Michaela Loisel SESC 108 State House Station Augusta, ME 04333-0108 207-623-6735 TTI: 800-794-1110 Michaela.T.Loisel@Maine.gov	Urgent Note: If Migrant Seasonal Farmworkers are involved and the complaint involves laws enforced by Federal Wage & Hour, such as farm labor contractor, field sanitation, housing or transportation laws, immediately refer all documentation by fax or electronic copy with transmittal or e-mail cover to the Federal Wage & Hour office in: George Rioux Manchester Area Office US Dept. of Labor Wage & Hour Division 1750 Elm Street, Suite 111 Manchester, NH 03104-2907 603-666-7716 1-866-4-USWAGE (1-866-487-9243)	William J. Coffin Augusta Area Director Occupational Safety & Health Administration John F. Kennedy Federal Building, Room E340 Boston, MA 02203 617-565-9860	George Kincannon Regional Monitor Advocate JFK Federal Building Room E-350 Boston, MA 02203 Tel: 617-788-0135 Fax: 617-788-0125

Name and Title of Maine Department of Labor Employee:	Local Office and Phone Number:
Signature	Date Signed:

Complaint Information Form

Maine Department of Labor
Discrimination Complaint

1. Complainant Information:

State your name and address:

Home Number: **( ) -**

_____

Work Number: **( ) -**

_____

Your telephone number(s):

_____

2. Respondent Information:

Provide name and address of agency involved:

Telephone Number: **( ) -**

3. What is the most convenient time and place for us to contact you about this complaint?

4. To your best recollection on what date(s) did the discrimination take place?

Date of first occurrence:

Date of most recent occurrence:

5. Have you ever attempted to resolve this complaint at the local level? ☐ No ☐ Yes

a. Have you been provided with a final decision at the local level regarding your complaint?

☐ No ☐ Yes

Date of final decision (if any)

b. Have 90 days elapsed since you filed or attempted to file this complaint at the local level?

☐ No ☐ Yes

Date you filed or attempted to file your complaint at the local level.

6 . Explain as briefly and clearly as possible what happened and how you were discriminated against. Indicate who was involved. Be sure to include how other persons were treated differently from you. Also attach any written material pertaining to your case.

For DOL use only

CIF Received by CRC: _____Accepted _____ Not Accepted **Case Number _____**

By: **Date:**

7. To the best of your knowledge, which of the following Department of Labor programs were involved? (Check one)

- ☐ Workforce Investment Act (WIA)
- ☐ Job Training
- ☐ MSHA
- ☐ Welfare to Work
- ☐ OSHA
- ☐ Job Service
- ☐ Youth
- ☐ Unemployment Insurance
- ☐ Job Corps
- ☐ Apprenticeship
- ☐ Older Americans
- ☐ Displaced Worker
- ☐ Other: Specify

8. Basis of Complaint: Which of the following best describes why you believe you were discriminated against: (Check)

- ☐ Race: Specify
- ☐ Color: Specify
- ☐ Religion: Specify
- ☐ National Origin: Specify
- ☐ Sex: Specify [ ] Male [ ] Female
- ☐ Age: Specify Date of Birth:
- ☐ Disability: Specify
- ☐ Political Affiliation: Specify
- ☐ Citizenship: Specify
- ☐ Reprisal/Retaliation: Specify
- ☐ Other: Specify

9. Do you think the discrimination against you involved: (Check one)

- ☐ Your job or seeking employment?

or

- ☐ Your use of facilities or someone providing/not providing you with services or benefits?

If so, which of the following are involved?

- ☐ Hiring
- ☐ Transition
- ☐ Wages
- ☐ Job Classification
- ☐ Discharge/Termination
- ☐ Promotion
- ☐ Training
- ☐ Transfer
- ☐ Qualification/Testing
- ☐ Grievance Procedure
- ☐ Layoff/Furlough
- ☐ Recall (From Layoff-Furlough)
- ☐ Seniority
- ☐ Other: Specify
- ☐ Harassment
- ☐ Access/Accommodation
- ☐ Union Representation
- ☐ Union Activity
- ☐ Application
- ☐ Enrollment
- ☐ Referral
- ☐ Exclusion
- ☐ Placement
- ☐ Benefits
- ☐ Performance Appraisal
- ☐ Discipline/Reprimand
- ☐ Intimidation/Reprisal

10. Why do you believe these events occurred?

11. What other Information do you think is relevant to our investigation?

12. If this complaint is resolved to your satisfaction, what remedies do you seek?

13. Please list below any persons (witnesses, fellow employees, supervisors, or others) that we may contact for additional information to support or clarify your complaint:

_____	_____	_____
Name	Address	Telephone Number

14. Do you have an attorney?

☐ Yes ☐ No

If yes, please provide name, address and phone:

_____	_____	_____
Attorney Name	Address	Telephone Number

15. Have you filed a case or complaint with any of the following?
- ☐ Civil Rights Division, U.S. Dept of Justice
- ☐ U.S. Equal Employment Opportunity Commission
- ☐ Federal or State court
- ☐ Your State or local Human Relations/Rights Commission

16. For each item checked in #15 above, please provide the following Information:

Agency:
Data Filed:
Case or Docket Number
Date of Trial or Hearing:
Location of agency or court
Name of Investigator:
Status of Case:
Comments:

17. Sign (Complaint NOT VALID unless signed)

_____	_____
Name	Date

U.S. Department of Labor, Civil Rights Center
NOTICE ABOUT INVESTIGATORY USES OF PERSONAL INFORMATION

Two Federal laws govern personal information to Federal agencies, including the Civil Rights Center (CRC), the Privacy Act of 1974, (5 U.S.C. 552) and the Freedom of Information Act (5 U.S.C. 552) or "FOIA". Please read the description of how these laws apply to information connected with your complaint. After reading this notice, please sign and return the consent agreement printed on the back of this notice, along with your complaint form.

The PRIVACY ACT protects individuals from misuse of personal information held by the Federal Government. The law applies to records that are kept and can be located by the individual's name, social security number, or other personal identification system. Anyone who submits information to CRC in connection with a discrimination complaint should know the following:

- CRC has been authorized to investigate complaints of discrimination on the basis of race, color, national origin, age, and handicap and in some programs on the basis of sex, religion, citizenship, and political affiliation or belief, in programs that receive Federal funds through the Department of Labor, CRC is also authorized to conduct reviews of federal funded program to assess their compliance with civil rights laws.

- Information that CRC collects is analyzed by authorized personnel with CRC. This information may include personnel or program participant records, and other personal information. CRC staff may want to reveal some of the personal information to individuals outside the office in order to verify facts related to the complaint, or to discover new facts which will help CRC determine whether the law has been violated. Such information could include, for example, the physical condition or age of a complainant. CRC may also have to reveal personal information to a person who submits a request for disclosure authorized by the Freedom of Information Act.

- Information submitted to CRC may also be revealed to persons outside of CRC because it is necessary in order to complete enforcement proceedings against a program that CRC finds to have violated the law or regulations. Such information could include, for example, the name, income, age, marital status or physical condition of the complainant.

- Any personal information you provide may be used only for the specific purpose for which it was requested. CRC requests personal information only for the purpose of carrying out authorized activities to enforce, and determine compliance with, civil rights laws and regulations. CRC will not release personal information to any person or organization unless the person who submitted the information gives written consent, or unless release is required by the Freedom of Information Act.

- No law requires that a complainant reveal personal information CRC, and no action will be taken against a person who denies CRC's request for personal information. However, if CRC cannot obtain the information needed to fully investigate the allegations in the complaint, CRC may close the case.

- Any person may ask for, and receive, copies of all personal materials CRC keeps in his or her file for investigatory use.

AS A POLICY, CRC DOES NOT REVEAL NAMES AND OTHER IDENTIFYING INFORMATION ABOUT INDIVIDUALS UNLESS IT IS NECESSARY TO COMPLETE INVESTIGATION OR ENFORCEMENT ACTIVITIES AGAINST A PROGRAM WHICH HAS VIOLATED THE LAW. CRC never reveals to the program under investigation the identity of the person who filed the complaint, unless the complainant first gave CRC written permission to do so.

The FREEDOM OF INFORMATION ACT (FOIA) gives the public maximum access to Federal government files and records. Persons can request and receive information from many types of records kept by the Federal government-not just materials that apply to them personally. The Civil Rights Center must honor most requests for information submitted under FOIA, but there are exceptions.

- CRC is usually not required to release information during an investigation or an enforcement proceeding if that release would limit CRC's ability to do its job effectively; and

- CRC can refuse to disclose information if release would result in a "clearly unwarranted invasion" of a person's privacy.

PLEASE READ AND SIGN SECTION A OR SECTION B OF THE CONSENT FORM PRINTED ON THE BACK OF THIS NOTICE, AND RETURN IT TO THE CIVIL RIGHTS CENTER WITH YOUR SIGNED COMPLETED COMPLAINT INFORMATION FORM.

CONSENT FORM

I have read the Notice about Investigatory Uses of Personal Information, printed on the front of this form. I understand the following provisions of the Privacy Act and Freedom of Information Act, which apply to personal information I reveal to the Civil Rights Center in connection with my complaint:

In the course of investigating my complaint, CRC may have to reveal my identity to staff of the program named in my complaint in order to obtain facts and evidence regarding my complaint;

I do not have to reveal any personal information to CRC, but CRC may close my complaint if I refuse to reveal information needed to fully investigate my complaint;

I may request and receive a copy of any personal information CRC keeps in my complaint file for investigatory uses; and

Under certain conditions, CRC may be required by the Freedom of Information Act to reveal to others personal information I have provided in connection with my complaint.

SECTION A

[ ] YES, CRC MAY DISCLOSE MY IDENTITY IF NECESSARY TO INVESTIGATE MY COMPLAINT. I have read and understand the notice, and I consent for CRC to disclose my identity during investigation of my complaint.

_____ _____
(Signature) (Date)

SECTION B

[ ] NO, CRC MAY NOT DISCLOSE MY IDENTITY, EVEN IF NECESSARY TO PROCESS MY COMPLAINT. I have read and understand the notice, and I do not consent for CRC to disclose my identity during investigation on of my complaint. I request that CRC process my complaint, however, I understand that CRC may cancel my complaint if it cannot fully investigate without disclosing my identity. I also understand CRC may close my complaint if it cannot begin an investigation because I have not consented for CRC to reveal my identity.

_____ _____
(Signature) (Date)

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number. Completing this form is voluntary; however, the requested information must be provided in order to file a complaint of discrimination. The Department of Labor's Civil Rights Center will use the information to investigate your complaint of discrimination. The estimated average response time to complete this form is 15 minutes per response. Send comments regarding this estimate or any other aspects of this collection of information to the U.S. Department of Labor, Office of the Assistant Secretary for Administration and Management, Civil Rights Center, Room N-4123, Washington, D.C. 20210. Please reference OMB control number 1225-0077.

Appendix C – Sample Letters

- Request for Complainant's Signature
- Notification of Complaint Referral

Request for Complainant's Signature

CareerCenter
The Maine Employment Resource

21 Enterprise Drive, Suite 2
109 State House Station
Augusta, ME 04333-0109
Tel 207-624-5120
or 1-800-760-1573
Fax 207-287-6236
TTY 1-800-663-0770
www.mainecareercenter.com

Date

Complainant Name
Address
City state zip

Dear

This letter is to advise you that no further action can be taken on the resolution of your complaint unless a signed ETS Form 8429 is received from you. Efforts to resolve your complaint at the local office level were unsuccessful.

If you wish to pursue resolution of your complaint, please sign the enclosed ETS Form 8429 and return to me within 20 business days.

As you will note under Part I, Complainant's Information, lines 1 through 8 are complete. This information was entered when you first lodged your complaint at the CareerCenter.

To continue the resolution process, you must sign, date and return this form to me within 20 business days from the date of this letter.

Should you have any questions regarding the handling of your complaint, please contact me at (telephone number/email address).

Sincerely,

CareerCenter Manager

enclosure

A collaboration of the Maine Department of Labor and employment, education and training providers.
The Maine Department of Labor provides equal opportunity in employment and programs.
Auxiliary aids and services are available to individuals with disabilities upon request.

Notification of Complaint Referral

CareerCenter
The Maine Employment Resource

21 Enterprise Drive, Suite 2
109 State House Station
Augusta, ME 04333-0109
Tel 207-624-5120
or 1-800-760-1573
Fax 207-287-6236
TTY 1-800-663-0770
www.mainecareercenter.com

Date

Complainant Name
Address
City state zip

Dear

This letter is to confirm that I have received the ETA Form 8429, One Stop Career Center (OSCC) Complaint/ Referral Record filed with this office.

Your complaint has been referred to [State Complaint Resolution Administrator, State EEO Coordinator, Maine Wage and Hour Division, Migrant and Seasonal Farm Worker State Monitor Advocate, etc.] for immediate review and action.

Should you have any questions regarding the handling of your complaint, please contact me at [telephone number/e-mail address].

Sincerely,

CareerCenter Manager

A collaboration of the Maine Department of Labor and employment, education and training providers.
The Maine Department of Labor provides equal opportunity in employment and programs.
Auxiliary aids and services are available to individuals with disabilities upon request.

Appendix D – Posters

- If you have a complaint….
- How to File a Personnel Complaint
- Equal Opportunity is the Law
- Migrant and Seasonal Agricultural Worker Protection Act
- Employee Rights under the H-2A Program

If you have a complaint about:

- an employer
- services you've received here at the CareerCenter
- a decision that was made about receiving CareerCenter services
- the actions of a CareerCenter staff person
- the laws governing programs offered at the CareerCenter

This is the process we will follow:

- You will meet with the CareerCenter manager or that person's designee to explain your complaint.
- We will try to resolve your complaint. We will offer you CareerCenter services that may meet your needs.
- If we can't resolve your complaint here within 15 days (or 5 days if you're a migrant or seasonal farm worker), we will help you fill out a form that will allow us to refer your complaint to the State office of the Maine Department of Labor in Augusta. You will need to complete and sign that form. You'll receive a copy of the completed form.
- The State Complaint Resolution Administrator may do some further investigation and will work with you on resolving your complaint.
- You will receive information in writing on all actions taken regarding your complaint.
- If your complaint is not resolved at the State level, it will be referred to the next level/ agency responsible for complaint resolution. Again, you will be notified in writing of any referral and the final decision about your complaint.

CareerCenter
The Maine Employment Resource

The Maine Department of Labor provides equal opportunity in employment and programs. Auxiliary aids and services are available to individuals with disabilities upon request.

How to File a Personnel Complaint

If you wish to make a complaint about the actions of any employee or employees of the Maine Department of Labor, please contact:

Office of the Commissioner
Maine Department of Labor
54 State House Station
Augusta, ME 04333-0054
207-621-5095

The complaint should identify yourself, provide contact information, and contain specific details about your complaint. The receipt of your complaint will be formally acknowledged in writing or by phone, and your complaint will then be investigated and processed as expeditiously as possible. You may be contacted to provide additional information about your complaint.

When the investigation of your complaint has been completed, you will receive a written explanation of the final disposition of the matter, within the limits of confidentiality laws.

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 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.

[Sample poster only. Download original at: www.dol.gov/ofccp/regs/compliance/posters/pdf/eeopost.pdf]

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, or by calling an OFCCP regional or district office, listed in most telephone directories under U.S. Government, Department of Labor.

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.

Notice

Migrant and Seasonal Agricultural Worker Protection Act

This federal law requires agricultural employers, agricultural associations, farm labor contractors and their employees to observe certain labor standards when employing migrant and seasonal farmworkers unless specific exemptions apply. Further, farm labor contractors are required to register with the U.S. Department of Labor.

Migrant and Seasonal Farmworkers Have These Rights

- To receive accurate information about wages and working conditions for the prospective employment
- To receive this information in writing and in English, Spanish or other languages, as appropriate
- To have the terms of the working arrangement upheld
- To have farm labor contractors show proof of registration at the time of recruitment

Aviso

Ley de Protección de Trabajadores Migrantes y Temporales en la Agricultura

Esta ley federal exige que los patrones agrícolas, las asociaciones agrícolas, los contratistas de mano de obra agrícola (o troqueros), y sus empleados cumplan con ciertas normas laborales cuando ocupan a los trabajadores migrantes y temporales en la agricultura, a menos que se apliquen excepciones específicas. Los contratistas, o troqueros, tienen además la obligación de registrarse con el Departamento del Trabajo.

Los Trabajadores Migrantes y Temporales en la Agricultura Tienen los Derechos Siguientes

- Recibir detalles exactos sobre el salario y las condiciones de trabajo del empleo futuro
- Recibir estos datos por escrito en inglés, en español, o en otro idioma que sea apropiado
- Cumplimiento de todas las condiciones de trabajo como fueron presentadas cuando se les hizo la oferta de trabajo
- Al ser reclutados para un trabajo, ver una prueba de que el contratista se haya registrado con el Departamento del Trabajo

[Sample poster only. Download original at: www.dol.gov/whd/regs/compliance/posters/mspaensp.htm]

- To be paid wages when due
- To receive itemized, written statements of earnings for each pay period
- To purchase goods from the source of their choice
- To be transported in vehicles which are properly insured and operated by licensed drivers, and which meet federal and state safety standards
- For migrant farmworkers who are provided housing
  - ✻ To be housed in property which meets federal and state safety and health standards
  - ✻ To have the housing information presented to them in writing at the time of recruitment
  - ✻ To have posted in a conspicuous place at the housing site or presented to them a statement of the terms and conditions of occupancy, if any

Workers who believe their rights under the act have been violated may file complaints with the department's Wage and Hour Division or may file suit directly in federal district court. The law prohibits employers from discriminating against workers who file complaints, testify or in any way exercise their rights on their own behalf or on behalf of others. Complaints of such discrimination must be filed with the division within 180 days of the alleged event.

For further information, get in touch with the nearest office of the Wage and Hour Division, listed in most telephone directories under the U.S. Government, Department of Labor.

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

The law requires employers to display this poster where employees can readily see it.

- Cobrar el salario en la fecha fijada
- Recibir cada día de pago un recibo indicando el salario y la razón de cualquier deducción
- Comprar mercancías al comerciante que ellos escojan
- Ser transportados en vehículos que tengan seguros adecuados y que hayan pasado las inspecciones federales y estatales de seguridad, y conducidos por choferes que tengan permisos de manejar
- Las garantías para los trabajadores migrantes a quienes se les proporcionen viviendas o alojamiento
  - ✻ Viviendas que satisfazcan los requisitos federales y estatales de seguridad y de sanidad
  - ✻ Al ser reclutados, recibir por escrito informes sobre las viviendas y su costo
  - ✻ Recibir de su patron un aviso escrito explicando las condiciones de ocupación de la vivienda, o que tal aviso esté colocado en un lugar visible de la vivienda

Los trabajadores que crean haber sufrido una violación de sus derechos pueden presentar sus quejas a la División de Salarios y Horas o pueden presentar una demanda directamente a los tribunales federales. La ley prohibe cualquier discriminación o sanción hacia los trabajadores que presenten tales quejas, que hagan declaraciones, o que reclamen de cualquier manera sus derechos, sea a beneficio de sí mismos o a beneficio de otros. Hay que presentar las quejas de discriminación o de sanción a la división dentro de 180 días del suceso.

En caso de que necesite más información, comuníquense con la oficina de la División de Salarios y Horas más cercana, que aparece en la mayoría de los directorios telefónicos bajo el título U.S. Government, Department of Labor.

Departamento del Trabajo de los EE. UU.
Administración de Normas de Empleo
División de Salarios y Horas

La ley exige que los patrones fijen este aviso en un lugar donde puedan verlo fácilmente los trabajadores.

WH Publication 1376
Revised April 1983

[Sample poster only. Download original at: www.dol.gov/whd/posters/pdf/WHD1491Eng_H2A.pdf]

EMPLOYEE RIGHTS
UNDER THE H-2A PROGRAM

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

The Immigration and Nationality Act (INA) allows for the employment of temporary non-immigrant workers in agriculture (H-2A WORKERS) only if the employment of U.S. workers would not be adversely impacted. To ensure that U.S. workers are not adversely impacted, ***H-2A WORKERS*** and ***OTHER WORKERS employed on an H-2A work contract or by an H-2A employer in the same agricultural work as the H-2A workers*** have the following rights:

DISCLOSURE
- To receive accurate, **WRITTEN INFORMATION** about the wages, hours, working conditions, and benefits of the employment being offered
- To receive this information prior to getting a visa and no later than on the first day of work
- To receive this information in a language understood by the worker

WAGES
- To be **PAID** at least twice per month at the rate stated in the work contract
- To be informed, in writing, of all **DEDUCTIONS** (not otherwise required by law) that will be made from the worker's paycheck
- To receive an itemized, written **STATEMENT OF EARNINGS** (pay stub) for each pay period
- To be guaranteed employment for at least **THREE-FOURTHS** (75%) of the total hours promised in the work contract

TRANSPORTATION
- To be provided or, upon completion of 50 percent of the work contract period, reimbursed for reasonable costs incurred for transportation and daily meals to the place of employment
- Upon completion of the work contract, to be provided or paid for return transportation and daily meals
- For workers living in employer-provided housing, to be provided **TRANSPORTATION**, at no cost to the worker, between the housing and the worksite
- All employer-provided transportation must meet applicable safety standards, be properly insured, and be operated by licensed drivers

HOUSING
- For any worker who is not reasonably able to return to his/her residence within the same day, to be provided **HOUSING AT NO COST**
- Employer-provided housing must meet applicable safety standards
- Workers who live in employer-provided housing must be offered three meals per day at no more than a DOL-specified cost, or provided free and convenient cooking and kitchen facilities

ADDITIONAL PROVISIONS
- To be provided state **WORKERS' COMPENSATION** insurance or its equivalent
- To be provided, at no cost, all **TOOLS**, supplies, and equipment required to perform the assigned duties
- **TO BE FREE FROM DISCRIMINATION** or discharge for filing a complaint, testifying, or exercising your rights in any way or helping others to do so
- Employers MUST comply with all other applicable laws (including the prohibition against holding workers' passports or other immigration documents)
- Employers and their agents MUST NOT receive payment from any worker for any costs related to obtaining the H-2A certification (such as application and recruitment fees)
- Employers MUST display this poster where employees can readily see it
- Employers MUST NOT lay off or displace similarly employed U.S. workers within 60 days of the date of need for H-2A workers
- Employers MUST hire any eligible U.S. worker who applies during the first 50 percent of the approved work contract period

Workers who believe their rights under the program have been violated may file confidential complaints.

For additional information:

1-866-4-USWAGE

(1-866-487-9243) TTY: 1-877-889-5627

U.S. Wage and Hour Division

WWW.WAGEHOUR.DOL.GOV

U.S. Department of Labor | Wage and Hour Division

WHD 1491 February 2010