

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Monitor Advocate
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ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 17-12

TO: ALL STATE WORKFORCE AGENCIES
ALL STATE WORKFORCE ADMINISTRATORS
ALL STATE WORKFORCE LIAISONS

FROM: JANE OATES 
Assistant Secretary

SUBJECT: Responsibility of State Workforce Agency Administrators and State Monitor Advocates in Providing Services to Migrant and Seasonal Farm Workers

- Purpose.** To provide guidance to State Workforce Agencies (SWAs) on the responsibilities of serving migrant and seasonal farm workers (MSFWs) through the American Job Center (also known as One-Stop Career Center) network and on the responsibilities of the State Monitor Advocates (SMAs).
- Reference.** Wagner-Peyser Act of 1933 as amended by the Workforce Investment Act (WIA) of 1998; 20 CFR (Code of Federal Regulations) Parts 651, 653, and 658; 65 FR 49294, Aug. 11, 2000.
- Background.** The Monitor Advocate system and state requirements for services to MSFWs originated from a court ruling in the 1970s (NAACP, Western Region, et al., v. Brennan). Following a Court Order approving a settlement agreement, the Department published Federal regulations at 20 CFR Parts 651, 653 and 658 on June 10, 1980, to establish standards to ensure that state agencies do not discriminate against MSFWs in providing employment services. These regulations remain in effect today. These regulations also established a Monitor Advocate system, with Monitor Advocates at the national, regional, and state levels, who monitor and review state agencies for compliance with Wagner-Peyser regulations affecting MSFWs on a continuing basis. Through the American Job Center network, SMAs also advocate on behalf of MSFWs to assure that MSFWs can access and use training programs and services offered by local Workforce Investment Boards, community colleges, and other training providers.
- Services to MSFWs.** Under 20 CFR 653.100, state agencies must ensure that MSFWs are provided the full range of employment and training services on a basis that is qualitatively

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equivalent and quantitatively proportionate to services provided to non-MSFWs. The services available from the WIA Adult and Dislocated Worker programs, the WIA Youth program, the Wagner-Peyser Act Employment Service (or Job Service) program, and from all other Department of Labor-funded public workforce system partners in the state must be available to farm workers in an equitable fashion, appropriate to their needs as job seekers as well as to their needs as farm workers.

- 5. Role of SWA Administrators.** SWA Administrators of the Wagner-Peyser program are responsible for establishing a comprehensive program designed to assure compliance with regulatory requirements concerning services provided to MSFWs. They are also responsible for the operation of an outreach program in order to locate and contact MSFWs who are not being reached by the normal intake activities conducted by the local offices.

The Attachment to this TEGL provides a partial list of the SWAs' responsibilities; Federal regulations at 20 CFR Parts 653 and 658 provide the full details of such responsibilities.

- 6. The Role of State Monitor Advocates.** The SMAs' role focuses on three primary functions: monitoring, advocacy, and field duties.

Monitoring activities may include: the day-to-day review of service delivery by state agencies and local offices and of the protections afforded by Federal regulations to MSFWs; the submission of timely reports to the SWA Administrator on status of services to MSFWs; and the resolution of local and statewide complaints submitted by MSFWs.

Advocacy activities may include: recommending improvements to the SWA Administrator on improving services to MSFWs through the American Job Center network and maintaining regular and personal contacts with National Farmworker Jobs Program (NFJP) WIA section 167 organizations, and various other farm worker and agricultural employer groups, including attendance at conferences and meetings.

Field visit activities may include: conducting frequent field visits to working and living areas of MSFWs to offer the full range of employment and training services and to verify referrals made on job orders; collaborating with state and Federal enforcement agencies in conducting field checks; and meeting frequently with farm worker groups and agricultural employers to promote use of the American Job Center network.

The Attachment to this TEGL provides additional duties and responsibilities of the SMAs.

- 7. Action Required.** SWA administrators are required to comply with the procedures outlined in this TEGL and the regulations set forth at 20 CFR Parts 651, 653, and 658. Administrators should ensure that SMAs and all other appropriate staff are familiar with the requirements in this TEGL.
- 8. Inquiries.** Any questions concerning this TEGL should be directed to the ETA Regional Monitor Advocate for your state, or the National Monitor Advocate:

Region 1 – George J. Kincannon, at kincannon.george.j@dol.gov or (617) 788-0135

Region 2 – Nicole Duchman, at duchman.nicole@dol.gov or (215) 861-5208

Region 3 – Toni Buxton, at buxton.toni@dol.gov or (404) 302-5367

Region 4 – Jesus Morales, at morales.jesus@dol.gov or (972) 850-4616

Region 5 – Eric Hernandez, at hernandez.eric@dol.gov or (312) 596-5419

Region 6 – Diane Walton, at walton.diane@dol.gov or (415) 625-7924

National Monitor Advocate – Juan M. Regalado, at nma@dol.gov or (415) 625-7904

9. Attachment. State Workforce Agency and State Monitor Advocate Responsibilities

Migrant and Seasonal Farm Workers

State Workforce Agency and State Monitor Advocate Responsibilities

State Workforce Agency (SWA) Responsibilities

Offering the full range of employment and training services to migrant and seasonal farm workers (MSFWs) and administering a comprehensive and effective Monitor Advocate system require the SWA Administrators to:

- Assure that the SWA monitors its own compliance with Wagner-Peyser regulations in serving MSFWs on an ongoing basis.
- Appoint a State MSFW Monitor Advocate (SMA).
- Inform farm worker organizations and other organizations with expertise concerning MSFWs whenever there is an opening for a SMA, and to encourage these organizations to refer qualified applicants to apply through the state merit system prior to filling the position.
- Seek persons for SMA: (1) who are from MSFW backgrounds; or (2) who speak Spanish or other languages of a significant proportion of the state's MSFW population; or (3) who are racially or ethnically similar to the MSFWs in the state; or (4) who have substantial work experience in farm worker activities.
- Ensure that SMA has status and compensation as approved by the state's civil service classification system, and that position is comparable to other state positions assigned similar levels of tasks, complexity, and responsibility.
- Develop an annual agricultural outreach plan and submit it as an essential component of the WIA and Wagner-Peyser five-year state plan.
- Establish and maintain a Job Service Complaint System.

State Monitor Advocate (SMA) Responsibilities

The responsibilities of the SMA fall within the three primary activities of monitoring, advocacy, and field visits.

Monitoring Activities

The SMAs fulfill responsibilities for monitoring activities by:

- Having direct, personal access, whenever he/she finds it necessary, to the SWA Administrator.
- Working in the state central office, unless the SWA Administrator determines a more appropriate location closer to MSFW activity.
- Devoting full time to Monitor Advocate functions. An exception is provided in the regulations that the Employment and Training Administration's (ETA) Administrator of the Office of Workforce Investment may reallocate positions from states of low MSFW activity to states of higher MSFW activity, and also may approve a plan for less than full-

time work in states of low MSFW activity. This plan must demonstrate that the SMA function can be performed effectively with part-time staffing.

- Participating in training sessions as required by the regional or national MSFW Monitor Advocate.
- Conducting an ongoing review of the service delivery and protections which the state agency and local office afford to MSFWs under Wagner-Peyser regulations.
- Participating in onsite local office MSFW formal monitoring reviews on a regular basis.
- Assuring that the monitoring review format, developed by ETA, is used as a guideline in the conduct of local office MSFW onsite formal monitoring reviews.
- Reviewing the state agency's agricultural outreach plan.
- Reviewing, on a random basis, outreach workers' daily logs and other reports, including those showing or reflecting the MSFWs' activities, to ensure that they comply with the agricultural outreach plan.
- Participating in Federal reviews of the Wagner-Peyser program in the state.
- Participating in and monitoring the performance of the Job Service Complaint System.
- Reviewing the local office managers' informal resolution of complaints relating to MSFWs and ensuring that the state agency transmits copies of the logs of MSFW complaints to the regional office quarterly.
- Ensuring that outreach efforts in all significant MSFW local offices are reviewed at least annually, to ensure that there is continuing compliance with the states' agricultural outreach plan.
- Reviewing and assessing the adequacy of the annual state affirmative action plan for MSFWs, and reporting their findings to the SWA Administrator.
- Reviewing, on at least a quarterly basis, all statistical and other MSFW-related data reported by significant MSFW local offices in order to: (1) determine the extent to which the state agency has complied in providing the full range of employment services to MSFWs, and (2) identify the areas of inadequate compliance.
- Reviewing and commenting on proposed state Wagner-Peyser directives, manuals, and operating instructions relating to MSFWs and ensuring that they (1) accurately reflect the requirements of the regulations, and (2) are clear and workable.
- At the discretion of the SWA Administrator, the SMA may be assigned the responsibility as the complaint specialist.

Advocacy Activities

The SMAs fulfill responsibilities for advocacy activities by:

- Advising the state agency and local offices of: (1) problems, deficiencies, or improper practices in the service delivery and protections afforded by these regulations (including progress made in achieving affirmative action goals and timetables), and (2) ways to improve their delivery.
- Assuring that all significant MSFW local offices not reviewed onsite by Federal staff are reviewed at least once a year by state staff, and that, if necessary, those local offices in which significant problems are revealed by required reports, management information, the Job Service Complaint System or otherwise are reviewed as soon as possible.
- Serving as an advocate to improve services for MSFWs within Wagner-Peyser.

- Preparing for the SWA Administrator an annual summary of Wagner-Peyser services to MSFWs within his/her state, based on statistical data and his/her reviews and activities set forth at 20 CFR Parts 653 and 658.
- Establishing ongoing liaison with WIA section 167 NFJP and other organizations serving farm workers, and employers and/or employer organizations, in the state.

Field Visit Activities

The SMAs fulfill responsibilities for field activities by:

- Meeting frequently with representatives of farm worker advocacy organizations to receive complaints, assist in referrals of alleged violations to enforcement agencies, and receive input on improving coordination within the American Job Centers (AJCs) or improving services to MSFWs through the AJCs.
- Conducting frequent field visits to the working and living areas of MSFWs, and discussing AJC services and other employment-related programs with MSFWs, crew leaders, and employers.
- Collaborating with state and Federal enforcement agencies in the conduct of field checks.

Federal regulations at 20 CFR Parts 653 and 658 provide the detailed list of responsibilities for SWAs and SMAs.