

TRAINING AND EMPLOYMENT NOTICE	NO. 09-25
	DATE May 18, 2026

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE LIAISONS
STATE WORKFORCE ADMINISTRATORS
STATE AND LOCAL WORKFORCE BOARDS
LABOR COMMISSIONERS
AMERICAN JOB CENTERS
STATE MONITOR ADVOCATES

FROM: HENRY MACK, ED.D. 
Assistant Secretary

SUBJECT: Exercise of Enforcement Discretion Regarding Certain Wagner-Peyser Act Employment Service Regulations

1. **Purpose.** The purpose of this Training and Employment Notice (TEN) is to announce that the U.S. Department of Labor’s (Department) Employment and Training Administration (ETA) is using its discretion to temporarily not enforce certain requirements within the Wagner-Peyser Act Employment Service (ES) regulations.

2. **Action Requested.** State Workforce Agencies should be aware that ETA will temporarily not enforce certain ES regulatory requirements described below in sections 4(a-h) of this TEN.

3. **Summary and Background.**

a. Summary – This TEN announces that ETA will temporarily not enforce certain ES regulations.

b. Background – The Wagner-Peyser Act of 1933, 29 U.S.C. 49 et seq., established the ES program, a nationwide system of public employment offices that provide public labor-exchange services. The ES program promotes the improved functioning of the nation’s labor markets by matching job seekers with employers that are seeking workers.

In 1974, a court order was issued in *NAACP, Western Region v. Brennan*, No. 2010-72, 1974 WL 229 (D.D.C. Aug. 13, 1974), mandating various Federal and State actions consistent with applicable law (Richey Order). The Richey Order required the Department to implement and maintain a Federal and State monitoring and advocacy system relating to farmworker ES services. In 1977 and 1980, the Department published regulations at 20 CFR parts 651, 653, and 658 to implement the requirements of the Richey Order. Part 651 sets forth definitions used in the ES regulations. Part 653 sets forth standards and procedures for providing services to migrant and seasonal

farmworkers (MSFWs) and provides regulations governing the Agricultural Recruitment System, a system for interstate and intrastate agricultural job recruitment. Part 658 sets forth standards and procedures for the administrative handling of complaints alleging violations of ES regulations and of employment-related laws, the discontinuation of services provided by the ES system to employers, the review and assessment of State agency compliance with ES regulations, and the process the Department must follow if State agencies are not complying with the ES regulations.

ETA is reviewing certain provisions of these regulations to ensure that the regulations are consistent with nondiscrimination laws and guidance, in accordance with the requirements described in Executive Order (EO) 14173, *Ending Illegal Discrimination and Restoring Merit-Based Opportunity*, and the Attorney General Memorandum issued July 29, 2025, *Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination*. ETA has not concluded that any of the provisions cited below are inconsistent with EO 14173 or the Attorney General’s Memorandum, and this TEN does not constitute a legal determination with respect to any of those provisions. The Department has finite resources available for grant monitoring and compliance activities. During its review of these regulations, the Department found that its limited resources are best used in the pursuit of other priorities, so it will temporarily not enforce compliance with certain provisions of these regulations described below. ETA will issue further guidance in advance of any change to the enforcement posture articulated in this TEN and provide state workforce agencies with sufficient time to update state policies as appropriate. The requirements addressed in this notice are limited to administrative, monitoring, and equity comparison provisions and will not affect states’ obligations to recruit U.S. workers or provide core ES services to agricultural employers. ETA will continue to enforce all statutory and program integrity requirements, including domestic recruitment, complaint handling, State Monitor Advocate (SMA) responsibilities, and nondiscrimination obligations, ensuring continuity in agricultural hiring support. This TEN is not the agency’s final action.

4. **Non-Enforced Requirements.** ETA will temporarily not enforce the following regulation requirements.
 - a. [20 CFR 653.107\(a\)](#)(3)(i)(A) and (4), certain hiring requirements for state outreach workers, and the number of outreach workers. States may wish to maintain previous levels of outreach workers in order to meet agricultural employer demands, and must continue to recruit U.S. farmworkers for job orders. The State ES must recruit U.S. workers before an agricultural employer can use the H-2A program (criteria clearance orders) and must assist agricultural employers who are not using the H-2A program (non-criteria clearance orders) as the ES would serve any employer unless the state has discontinued services to that employer.
 - b. [20 CFR 653.108\(b\)\(1\)](#), requirements to consider certain aspects of the background of candidates when hiring SMAs.
 - c. [20 CFR 653.108\(h\)](#)(1)(i) and (ii), and (h) (6), requirements to conduct an ongoing review of the delivery of services, including assessing staffing, whether ES services are

qualitatively equivalent and quantitatively proportionate to the services proved to non-MSFWs, and reviewing outreach efforts.

- d. [20 CFR 653.108\(r\)](#), requirements for SMAs to review ES statistics.
- e. [20 CFR 653.108\(u\)](#)(5), (8), (11), requirements for SMAs to include in their Annual Report data and information on outreach, statistics, and staffing.
- f. [20 CFR 653.109\(b\)](#)(2), (5), (6), (7), (8), (10), requirements to ensure collection of certain data elements about outcomes of MSFW compared to non-MSFW. States still must capture employment outcomes for each participant, whether or not the participant is an MSFW. States are still subject to the reporting requirements for ES. The Department's exercise of enforcement discretion is about the analysis comparing MSFW and non-MSFW.
- g. [20 CFR 653.109](#)(g) and (h), requirements to meet equity indicators and minimum levels of service.
- h. [20 CFR 653.111](#)(a)-(b), requirements to staff significant MSFW American Job Centers in a manner facilitating the delivery of ES services tailored to the unique needs of MSFWs. In ES regulations, "significant" refers to ES offices that are designated by the Department as described at [20 CFR 651.10](#), processes that consider being located in an area with a higher-than-average number of MSFWs.

5. **Inquiries.** Please direct inquiries to the appropriate Regional Office.

6. **References.**

- The Wagner-Peyser Act of 1933, 29 U.S.C. 49 et seq
- Wagner-Peyser Act Employment Service Regulations at 20 CFR parts 651, 652, 653, and 658

7. **Attachment(s).** N/A