



Policy

SECTION: MSFW	POLICY#020-C0106	PAGE: 1 of 9
TITLE: Migrant Seasonal Farm Worker (MSFW) Registration and Agricultural Employer Services		EFFECTIVE DATE: 3.18.2021
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PURPOSE: To provide guidance on the proper procedures relating to migrant and seasonal farm workers (MSFWs) services, registration and agricultural employer services in the Wagner-Peyser (WP) reporting system, as well as outreach requirements.

BACKGROUND: According to WP Employment Services regulations 20 CFR 652.207, labor exchange services must be available to all employers and job seekers, including unemployment insurance claimants, veterans, MSFWs, and individuals with disabilities.

In 1972, the National Association for the advancement of Colored People (NAACP) v. the Secretary of Labor lawsuit included allegations by farmworkers and MSFW groups of repeated violations of their rights to employment services by state employment security agencies. In 1973, U.S. District Court Judge Charles R. Richey rendered a declaratory judgement that farmworkers' civil rights had been violated by the U.S. Employment Service system. In August 1974, Judge Richey entered an extensive Court Order, stipulated and agreed to by both sides, requiring the U.S. Department of Labor (USDOL) to undertake specified actions on providing farmworkers all employment services on a non-discriminating basis.

The Settlement Agreement established rules and regulations that provide criteria for serving farmworkers with the same equity of services as provided to non-farmworkers. One of the criteria was to establish full-time MSFW outreach staff in LWDBs where a large number of MSFWs were known to be available. Other requirements include ensuring that all agricultural employers hiring job seekers referred by the Employment Services system comply with federal and state laws, as well as reporting violations of any state or federal employment-related law by any agricultural employer. As a result of the Court Order, federal regulations at title 20, Parts 651, 653 and 658 were formed.

The Migrant and Seasonal Agricultural Worker Protection Act (MSPA) was enacted in 1983 and amended in 1994 and 1997. MSPA provides employment-related protections to MSFWs and is administered and enforced by the USDOL Wage and Hour Division.

Section 167 of WIOA provides funds for the National Farmworker Jobs Program (NFJP). This program provides additional services to assist MSFWs and their families to achieve economic self-sufficiency through job training. The program is authorized by Congress to counter the impact of chronic unemployment and underemployment experienced by MSFWs who primarily depend on jobs in agricultural labor. Services provided by the NFJP are supplementary services to those provided by the Department of Economic Opportunity (DEO). Florida's NFJP grantee, the Florida Department of Education and its local NFJP providers are prime partners in providing services to MSFWs. LWDBs should coordinate with these providers to facilitate MSFWs' access to services available through the workforce system and coordinate co-enrollments. Also, USDOL oversees this program and ensures that MSFWs receive the same treatment as non-MSFWs.

POLICY:

Florida has 10 career centers designated as significant offices located in Winter Haven, Bradenton, Tampa (Brandon Career Center), Sebring, Wauchula, Port Saint Lucie, Belle Glade, Homestead, Immokalee and Clewiston. CSTB Region 15 is considered a significant area and our Brandon center is the designed MSFW center.

MSFWs must be offered the full range of CSTB career and supportive services, benefits and protections, and employment and training referral services. MSFWs have access to workforce development services in a manner that meets their unique needs.

Every LWDB must determine whether or not a jobseeker is an MSFW. MSFW customers with limited English proficiency must receive the language assistance necessary (free of charge) to afford them meaningful access to programs, services and information offered by CSTB. Additionally, the services available through the LWDB shall be explained, including the Employment Service and Employment-Related Law Complaint System, and all MSFWs must be provided with a copy of the "Notice to Job Seekers" form in their native language that provides a list of those available services and a copy of the Farm Labor rights brochure. This information must be provided, at a minimum, during the MSFW's first visit to the career center or contact with staff during outreach, and subsequently at each time of enrollment.

Designated staff can provide individual assistance in completing a MSFW customer full application, EF registration and job referrals through EF. For any EF registrations created by staff, a case note entry is required stating the jobseeker gave staff permission to create the EF account. The date the job seeker gave permission should be indicated in the case note, and that date should be on or prior to the EF registration creation date.

Adequate staff assistance must be provided to MSFWs to register for services, to access job order information easily and efficiently, and to receive referrals as needed. In significant MSFW career centers, such assistance must be provided in the MSFW's native language. CSTB's Brandon Career Center has been designated as a "significant multilingual One-Stop Center."

Performance Indicators

The USDOL-ETA established equity and minimum service level standards for MSFWs that must be met by the states. The equity of services must be provided to MSFWs as are provided to all other job seekers. The standards, designed to measure the level of equity and quality of services provided by a state (through LWDBs) to MSFWs during the program year, are:

Equity Ratio Indicators	Minimum Service Level Indicators
<ul style="list-style-type: none"> • Received Basic Career Services (Staff-Assisted) • Received Staff Assisted Career Guidance Services • Received Staff Assisted Job Search Activities • Referrals to Employment • Received Unemployment Insurance Claim Assistance • Referred to Federal Training • Referral to other Federal/State Assistance • Received Individual Career Services 	<ul style="list-style-type: none"> • Individuals Place in Job • Median Earning of Individual in Unsubsidized Employment • Individuals place long-term in non-agricultural jobs

Equity ratio indicators are controllable services and must be met by all LWDBs. LWDBs must make an attempt to meet all minimum service level indicators, while significant MSFW LWDBs must meet two at a minimum. CSTB Region 15 is considered a significant area and as such, we must meet two of the identified service level indicators outlined above. All other LWDBs must meet at least one minimum service level indicator. Data for these indicators can be found in the MSFW Indicators of Compliance (MIC)/ MSFW Service Level Indicators Report in Employ Florida (EF).

All of the MIC/MSFW Service Level Indicators Report Equity Measures are established through candidate referrals, all of which is tracked through established MSFW reporting locally and submitted to DEO MSFW Statewide Advocate on a quarterly basis. All service codes are recorded in EmployFlorida system. CSTB Career Services staff, including the MSFW Outreach Specialist, transactions contribute directly to these measures.

Staff goals are aligned with key performance indicators on the MIC/MSFW Service Level Indicators Report as well. CSTB management staff analyzes and tracks performance on these key indicators on a monthly basis. Also, The MIC/ MSFW Service Level Indicators Report is reviewed and discussed during the Workforce Performance Committee meetings on a quarterly basis.

MSFW Registration

Upon registration or re-enrollment in Employ Florida (EF), MSFWs must be appropriately coded as seasonal or migrant farmworkers. DEO recommends that staff do not change the MSFW code after enrollment during participation to not affect compliance reporting, unless the code was selected in error. MSFWs must have a full registration in EF. However, a partial registration may be inputted for an MSFW after all benefits of a full registration have been explained and the MSFW elects not to complete a full registration. A case note should be entered explaining the reason for the partial registration. When a partial registration has been input and the MSFW returns to the office seeking work or other job seeker services, a full registration should be completed at that time. Both full and partial registrations for MSFWs should include applicable information in the Farm Worker Information section in EF. The date that the MSFW received the “Notice to Job Seekers” form must also be entered in EF.

MSFW full registrations must contain, to the extent possible, the significant work history (at a minimum, 12 months) with a description of the work performed, training, and educational background, desired employment, and a description of any training needs based on the desired employment. This information must be listed in the General Information and Background sections on the Personal Profile screen in EF. Associated crop codes based on work experience must be listed as well; these can be entered in a case note. Background Wizard in EF must contain sufficient information to permit a

thorough assessment of the job seeker's skills, knowledge, and abilities. The MSFW standards for required data apply to all job seeker intake processes whether automated or non-automated. Based on the immediate needs of the MSFW or his/her family, and barriers to employment. CSTB will utilize the One Stop Partner portal to identify appropriate community-based services and where applicable execute electronic referrals. The One Stop Partner portal can be found at: <https://one-stop.atlasforworkforce.com/login>. In addition, the 2-1-1 Contact Center- Crisis Center of Tampa Bay Community Resource Guide can be utilized to identify a variety of programs and services. This resource can be found at: <https://www.crisiscenter.com/wp-content/uploads/2017/02/ResourceGuide2016KG.pdf>.

Notice to Job Seekers

Federal regulation 20 CFR 653.103(c) requires MSFWs to be provided with a list of employment services that are available to them. For Notice to Job Seekers" form outlines the services that are available without an EF registration, and those services that require a full or partial EF registration. The form must be provided to the MSFW in his/her native language.

Outreach and Significant LWDBs

Significant MSFW LWDBs, as defined are offices designated annually by ETA where MSFWs account for ten percent (10%) or more of annual WP participants in employment services and those LWDBs which the administrator determines must be included due to special circumstances such as an estimated large number of MSFWs in the service area. It must have a full time, year-round MSFW Outreach Specialist assigned to conduct outreach.

LWDBs that are designated as significant must employ WP/ Employment Service staff in a manner facilitating the delivery of services tailored to the special needs of MSFWs, including multilingual staff and the hiring of staff members from the MSFW community or members of community-based migrant programs. .

For purposes of hiring and assigning staff to conduct outreach duties, and maintaining compliance with CareerSource Florida's Affirmative Action programs, LWDBs must seek, through DEO merit system procedures, qualified candidates who are multilingual based on the language common among MSFWs in the service area. They must be from an MSFW background or from a race or ethnicity most representative of the MSFW population in the area. Significant office outreach workers must spend a majority of their time in the field. Historically, during the season (October through June) the MSFW Outreach Specialist for CSTB is out of the office approximately 80% of the time visiting farms and other establishments where farmworkers generally congregate. Staff are equipped with tools such as a company cell phone, collateral materials, portable scanner and a laptop to support their efforts.

Also, outreach workers must coordinate their outreach efforts with Farmworker Career Development Program staff in their service area, as well as with public and private community service agencies and MSFW groups.

Outreach workers must be trained in local procedures and in the services, benefits, and protections afforded to MSFWs by the Employment Service system, including training on protecting farmworkers against sexual harassment. Also, training may include similar issues such as sexual coercion, assault, and human trafficking. These trainings are intended to help outreach workers identify when these issues may be occurring in the fields and how to document and refer the cases to the appropriate enforcement agencies. Outreach workers must be trained in the procedure for informal resolution of complaints. The program for such training must be formulated by DEO.

Outreach is not limited to significant LWDBs and should be conducted by any LWDB operating in a service area that has an MSFW population. These non-significant LWDBs that have agricultural

activity shall establish formal or informal cooperative agreements, with other public and private social service agencies that provide services to MSFWs, in order to supplement outreach efforts to the MSFWs in their service area. Non-significant offices that have a Farmworker Career Development Program provider in their service area must collaborate with this partner to ensure seamless service delivery for MSFWs, per DEO agreement F1134.

Outreach Worker Activities

Outreach workers must locate and contact MSFWs who are not being reached by normal intake activities conducted by CSTB. CSTB's MSFW Outreach Specialist is provided with photo identification cards, business cards, name tags, or other material identifying them as DEO or CSTB employees. This identification must be carried at all times during outreach and displayed upon request.

1. The MSFW outreach workers shall explain to MSFWs at their working, living or gathering areas (including day-hail pick-up sites), by means of written and oral presentations either spontaneous or recorded, and in a language readily understood by them, the following:
 - a. Services available at CSTB, including the availability of referrals to employment, training, supportive services, and career services, as well as specific employment opportunities and other related services;
 - b. Information on the Complaint system (including the Florida Farmworker Helpline 1-800-633-3572);
 - c. Information on other organizations serving MSFWs in the area; and
 - d. A basic summary of farmworker rights, including rights with respect to the terms and conditions of employment (along with a copy of the Farm Labor Rights Brochure).
2. After making the presentation, outreach workers must encourage the MSFWs to go to a local CSTB center to obtain the full range of employment and training services.
3. If an MSFW cannot or does not wish to visit a CSTB center, the outreach worker must offer to provide on-site the following:
 - a. Assistance with EF registration or re-enrollment;
 - b. Assistance in obtaining referral(s) to current and/or future employment opportunities;
 - c. Referral(s) to supportive services and/or career services in which the MSFW or a family member may be interested;
 - d. Assistance with the preparation of complaints, if necessary, and referral of complaints to the CSTB complaint specialist or CSTB center manager; and
 - e. As needed, assistance in making appointments and arranging transportation for the MSFW or members of his/her family to and from CSTB center(s) or other appropriate agencies.
4. Outreach workers shall make follow-up contacts as necessary and appropriate to provide the assistance specified above.
5. Outreach workers must be alert to observe the working and living conditions of MSFWs and, upon observation or receipt of information regarding a suspected violation of employment-related law or Employment Service regulations, document and refer information to the CSTB center manager for processing in accordance with the Apparent Violations chapter in the DEO Employment Service Complaint-Resolution System Handbook.

Unless otherwise authorized to enter by law, outreach workers must not enter work areas to perform outreach duties described above on an employer's property without permission of the employer, must not enter workers' living areas without permission of the workers, and must comply with the appropriate State laws regarding access. Outreach workers must keep a record of employers who have refused the outreach workers access to MSFWs. If an H2A employer has refused reasonable access to conduct outreach, staff must alert the DEO Senior Monitor Advocate immediately.

Outreach workers must not engage in political, unionization or anti-unionization activities during the performance of their duties.

MSFW Outreach Plan

Significant career centers must develop an MSFW outreach plan every four (4) years in conformance with the state's Agricultural Outreach Plan found within the WIOA Unified Plan. The MSFW outreach plan must describe proposed outreach activities and set numerical goals and objectives. It must include the following:

1. Provide an assessment of the unique needs of MSFWs in the service area based on past and projected agricultural and MSFW activity in the area;
2. Provide an assessment of available resources for outreach;
3. Describe the career center's proposed outreach activities including strategies on how to contact MSFWs who are not being reached by the normal intake activities conducted by the CSTB center staff;
4. Describe the activities planned for providing the full range of employment and training services to the agricultural community, including both MSFWs and agricultural employers, through the CSTB center(s);
5. Describe CSTB's multilingual office plan;
6. Describe the process for meeting the indicators of compliance; and
7. CSTB provides assurance that the MSFW outreach worker was afforded the opportunity to review the plan and provide input by involving the staff member in the development process and presenting the plan to the Workforce Performance Committee, Executive Committee, and Full Board. Also, the developed plan is shared with partner agencies including the Farmworker Career Development Program and is posted on CSTB's website for public comment prior to formally submitting to DEO for final approval.

Log of Daily Outreach Activities

Every staff who makes an outreach contact with an MSFW or an agency or organization that serves MSFWs, should record that on the Log of Daily Outreach Activities, DEO-1303. Outreach contacts made each day must be included on the log. Federal Regulations stipulate that center managers should review Logs of Daily Outreach Activities to ensure proper completion and provision of services. Copies of logs must be maintained by the LWDB for five (5) years after the date of completion. Log data should be included in the monthly Outreach Worker's Log Review and Migrant and Seasonal Farmworker Outreach Services Report, DEO-1659. Completed reports should be submitted by the fifth working day following the report month, to the DEO MSFW mailbox at MSFW@deo.myflorida.com.

The name of the individual performing the outreach and the name of the LWDB should be entered in the appropriate spaces at the top of the form.

Instructions for completion of the Log of Daily Outreach Activities can be found at: <http://www.floridajobs.org/PDG/MSFW/DEO1303Instructions.pdf>.

MSFW Outreach Services Report

Every significant MSFW career center must complete the Migrant and Seasonal Farmworker Outreach Services Report (DEO-1659) and the Outreach Worker's Log Review on a monthly basis. Non-significant career centers must complete these reports for months that outreach is conducted. Completed reports should be submitted by the fifth working day following the report month to the DEO MSFW mailbox at MSFW@deo.myflorida.com. Managers should ensure that all data is accurate prior to the report being submitted. These forms can be accessed at:

- MSFW Outreach Services Report:
<http://www.floridajobs.org/PDG/MSFW/DEO1659MSFWOutreachServicesReport.pdf>
- MSFW Outreach Workers Log Review:
<http://www.floridajobs.org/PDG/MSFW/OutreachWorkersLogReview.pdf>
- Instructions for completion of the DEO-1659 can be found at:
<http://www.floridajobs.org/PDG/MSFW/DEO1659Instructions.pdf>.

Log of Apparent Violations

All career center staff must be trained and prepared to address Employment Service complaints. Refer to CSTB POLICY#020-C0072: Disruptive Customer for approved guidance on how to handle a disruptive customer. Outreach staff must also be trained in the protections afforded to MSFWs by employment-related laws, to enable outreach workers to identify any issues occurring in the field. Any associate who observes, has reason to believe, or is in receipt of information regarding a suspected violation of employment-related laws or Employment Service regulations pertaining to MSFWs or agricultural job orders is required to document and refer the information to the career center manager. The career center manager is then required to determine if the career center has received a job order from that employer within the last 12 months. If no job order has been filed within this period, the manager is then required to refer the apparent violation of employment-related law in writing to the appropriate enforcement agency. If the career center has received a job order from the employer within the last 12 months, the manager or outreach worker should attempt to informally resolve the apparent violation and assist the employer in achieving compliance with the law and/or the job order within five (5) business days. If informal resolution cannot be achieved, procedures for discontinuation of services must be initiated. If a violation of employment-related law exists, the violation should be referred in writing to the appropriate enforcement agency. Authority for Discontinuation of Services to an employer by the career center is located in 20 CFR 658 Subpart F.

Apparent violations must be documented by CSTB staff on the Log of Apparent Violations Form DEO-1300, which can be accessed at http://www.floridajobs.org/PDG/MSFW/LogOfApparentViolations_MSFW.pdf. Instructions for filling out this form can be found at <http://www.floridajobs.org/PDF/MSFW/1300instructions.pdf>.

One incident may be a violation of one or more employment-related laws or Employment Service regulations. The most accurate method of logging apparent violations is to enter one type of violation per line on the log. For additional instructions and information refer to guidance in the DEO Employment Service Complaint-Resolution System Handbook found at <http://www.floridajobs.org/PDG/MSFW/EmploymentServiceComplaintResolutionSystemHandbook.pdf>.

Agricultural Job Orders

Outreach workers and LWDB Business Service staff shall also conduct outreach to agricultural employers to offer labor exchange services and assistance with workforce planning.

Agricultural job orders, including but not limited to those with the North American Industry Classification System (NAICS) farm work industry codes that fall under subsection 111 Crop Production, subsection 112 Animal Production and subsection 115 Support Activities for Agriculture and Forestry, or with an O*NET code in agricultural industry, must contain the criteria listed below:

1. Use job titles that match the O*NET codes if possible, otherwise use the job title the employer provides.
2. If the job is seasonal or temporary, a specific estimated number of days or months must be shown.
 - a. Example: "Early February to mid-June depending on weather, etc."

3. Specific days and hours to be worked must be included in the job summary. Phrases such as “TBA” are not acceptable. A qualifying phrase may follow the days and hours such as:
 - a. Example: “Monday-Saturday, 6:30 a.m. – 4:00 p.m.; Days and hours to be worked depend on crop and weather conditions.”
4. The summary of the job description should include all pertinent data. Describe the job specifically. What does the worker do? How does he/she perform the work? Why does he/she do it? What degree of skill is involved?
 - a. Example: “Pick oranges by hand, use up to 24 ft. ladder with 1 ¾ bushel pick sack, will dump into large bins.”
5. A wage rate must be specific on job orders. The note “depending on experience (DOE)” is not acceptable. Employers covered by FLSA must adhere to minimum wage laws.
6. If the worker is to be paid by piece rate, the job summary should include the following:
 - a. The amount to be paid;
 - b. The unit of measurement;
 - c. A brief, concise description of the size or capacity of the measurement;
 - d. A statement as to whether or not the agricultural employer is covered by Fair Labor Standards Act (FLSA) or employer guarantees minimum wage.
 - i. Example: “\$0.90 per 1 3/5 bushel, employer covered by FLSA.”
7. If the employer is a farm labor contractor (FLC) or farm labor contractor employee (FLCE), the job order must include the federal and state registration numbers. If driving, transporting or housing of workers is involved, verify on the FLC/FLCE registration card that the FLC/FLCE has these authorizations on his/her license and that they have not expired.
8. If the work site(s) is/are different from the employer address, both addresses must be included. Precise location and directions to get to the work site(s) are imperative. Directions to work site(s) must be indicated on the EF “Work Sites” screen in the Corporate Profile or in the job order itself. If the work site is the same as the employer address and is the only work site, a statement indicating so should be added to the job order.
9. The statement “Referrals within commuting distance only” is required if the job is not permanent.

CSTB staff should refer to CSTB POLICY#018-C0019, Job Orders and Placements for further information regarding MSFW job orders.

Agricultural Recruitment System

Agricultural job orders for work in other areas of the state outside of a normal commuting distance and for work out-of-state must go through the Agricultural Recruitment System (ARS) and be approved by DEO and ETA prior to posting in EF for intrastate or interstate recruitment. Only the local job order for local recruitment may be entered by career center staff. For more information, please visit <https://www.doleta.gov/programs/ars.cfm>.

REFERENCES:

- MSFW Desk Aid: <http://www.floridajobs.org/PDG?MSFW?MSFWDeskAid.pdf>
- Farm Labor Rights Brochure: <http://www.floridajobs.org/docs/default-source/office-of-workforce-services/farmlaborrightsbrochure.pdf?sfvrsn=2>
- CareerSource Florida Administrative Policy #03-040, Wagner-Peyser Migrant and Seasonal Farmworker and Agricultural Employer Services Procedures: http://www.floridajobs.org/docs/default-source/lwdb-resources/policy-and-guidance/administration/2017-administration/msfw_adminpolicy03-040_011317.pdf?sfvrsn=7c5f78b0_2

- Log of Daily Outreach Activities, DEO-1303: <http://www.floridajobs.org/PDG/MSFW/DEO1303LogofDailyOutreachActivities.pdf>
- DEO Employment Services Complaint-Resolution system Handbook: <http://www.floridajobs.org/PDG/MSFW/EmploymentServiceComplaintResolutionSystemHandbook.pdf>
- WP Act of 1933, Employment and Training Administration (ETA): <https://www.dol.gov/agencies/eta/performance/results/wagner-peyser>
- WIOA Act of 2014: <https://www.congress.gov/113/bills/hr803/BILLS-113hr803enr.pdf>
- 20 CFR 651: <https://www.govinfo.gov/app/details/CFR-2012-title20-vol3/CFR-2012-title20-vol3-part651>
- 20 CFR 652.207: <https://www.govinfo.gov/app/details/CFR-2018-title20-vol3/CFR-2018-title20-vol3-sec652-207>
- 20 CFR 653 Subpart B: <https://www.govinfo.gov/app/details/CFR-2009-title20-vol3/CFR-2009-title20-vol3-sec655-100>
- 20 CFR 653 Subpart F: <https://www.ecfr.gov/cgi-bin/text-idx?SID=fbea00bef22c32bf97e0f8690231867b&mc=true&node=pt20.3.653&rqn=div5#sp20.3.653.f>
- Florida WIOA Unified Plan: <http://dbs.myflorida.com/Leadership/State-Plan/CSF-WIOA-2018-Plan-Digital-FINAL.PDF>
- MSPA: <https://www.dol.gov/agencies/whd/agriculture/mspa>

INQUIRIES: Any questions about this policy should be directed to the Chief Executive Officer and/or their designee.