



**Employment Services (ES)  
Complaint System Training for  
Michigan Works! (MW)  
Service Center Complaint Coordinators**

**November 20, 2008  
Joe Billig, State Complaint Specialist**



# Learning Objectives

Upon completion of this training you will:

1. Be able to identify the two types of complaints,
2. Understand the difference between an ES-related and a non-ES-related complaint,
3. Know the processing procedures, time-frames, and referral agencies,
4. Be able to identify who is responsible for resolution.



## Learning Objectives (cont.)

Upon completion of this training you will:

- 5) Understand the processing differences between complaints received from non-migrant and seasonal farm workers (MSFWs) and MSFW complainants.
- 6) Be able to identify posters that are required to be displayed in your MW Service Center.



## Why do we have an ES Complaint System?

- Federal Regulation 20 CFR 658.400 mandates each state must establish and maintain an ES complaint system.
- Judge Richey's Court Order in 1972 established separate timelines for handling the complaints from migrant and seasonal farm workers.



## The ES Complaint System...

- ✓ Promotes compliance with employment laws;
- ✓ Causes the removal of ES services from employers who do not comply with employment laws;
- ✓ Addresses complaints concerning violations of ES regulations by Service Center and SOM staff.



# The ES Complaint System Supports Business

- ✓ Assures a level playing field among employers,
- ✓ Sends qualified job seekers to employers following employment laws,
- ✓ Reduces competitive advantage of illegal employment practices,
- ✓ Promotes consistent employment practices,
- ✓ Educates and provides guidance to employers.



# Overview of the ES Complaint System

The ES complaint system provides customers with a formal mechanism to make complaints about the services or treatments that they received through the Employment Service or to make employment-related complaints.



# Who Administers the ES Complaint System in Michigan?

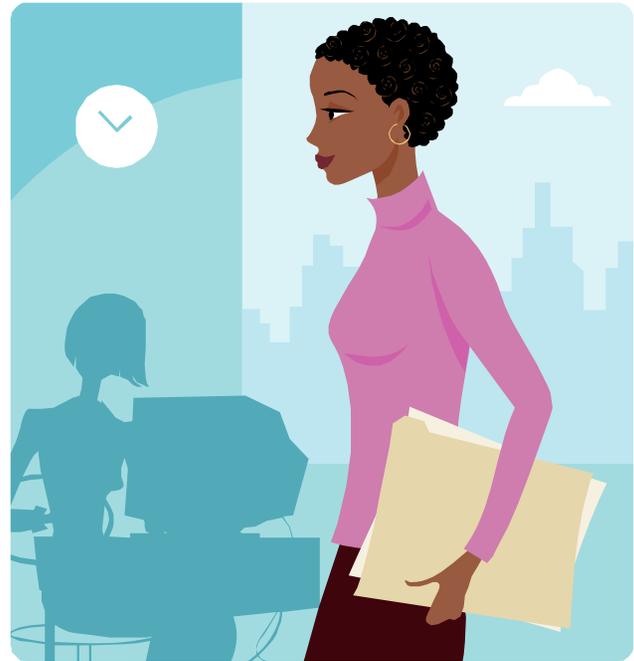
- The Department of Labor & Economic Growth, Bureau of Workforce Transformation Director, has overall responsibility for the operation of the ES complaint system.
- At the Michigan Works! Service Center, the Complaint Coordinator is responsible for the management of the ES complaint system.
- The State Complaint Specialist, Joe Billig, oversees complaints against state workers.



# Availability of Complaint Coordinator (CC)

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

(20 CFR 658.413 (a))





# Confidentiality

All information must be kept **confidential** to the maximum extent possible.





# Who May File an ES Complaint?

Any individual, organization or employer may file a complaint under the ES complaint system provided the complaint alleges that

- 1) the Employment Service agency,
- 2) an employer, or
- 3) both

failed to comply with ES regulations.



## How are ES Complaints Filed?

- A complainant comes into a MW Service Center to file a complaint, or
- The office receives a written complaint signed by the complainant, that includes sufficient information for complaint coordinator to initiate the process.



# How Complaints are NOT Accepted

- *Telephoned complaints* cannot be accepted.
- Complaints cannot be filed *anonymously*.





# How do You Know When a Customer Has a Complaint?

1. They say they have a complaint.





# How do You Know When a Customer Has a Complaint?

## 2. They indicate there may be a problem.

Examples:

- I didn't get paid correctly,
- The job I had (or you sent me to) wasn't safe,
- I wasn't referred to a job opening that I believed I was qualified for,
- I was fired for complaining about harassment or for talking to Occupational Safety & Health Administration (OSHA).



# Types of Complaints

## 1. ES Related:

- Against Employer,
- Against Agency (Service Center or SOM Staff).

## 2. Non-ES Related.



# ES-Related Complaints

Complaints must be filed within one year of the alleged violation.

- Employer Related:

- Violation of **job order** or employment-related law where job seeker has been referred by ES.

- Agency Related:

- Violation of **ES regulations** by action or omission.



# ES-Related Complaints

1. A violation of an employment-related law.

Example:

Service Center/SOM staff referred the complainant to the specific employer who did not pay the employee for hours worked.



# ES-Related Complaints

2. Alleged violations of the Michigan Talent Bank (MTB) job listing conditions or ES regulations.

Example:

Employer paid the worker \$7.40 per hour but the MTB job order stated \$8.00 per hour.



# ES-Related Complaints

3. Violation of ES regulations, by action or omission.

Example:

The customer was denied the opportunity to file a complaint.

# Non-ES-Related Complaints





# Non-ES-Related Complaints

1. Complaints against an employer to whom the Service Center/SOM staff did not refer the job seeker and the job was not posted on the MTB.

## Example:

- Complainant obtained employment on his/her own at a local school and is being paid below the state hourly minimum wage.



## Non-ES-Related Complaints

2. Complaints that were not reported to ES within 12 months of the alleged incidents are *all* considered Non-ES-related complaints.





## How Complaints are Referred to the Complaint Coordinator

- ✓ The complainant is referred to the Complaint Coordinator by Service Center or SOM staff; or
- ✓ A signed complaint letter is received by the Service Center; or
- ✓ Complaint taken by SOM agricultural staff while on outreach is brought into the Complaint Coordinator.



# Actions Taken By Complaint Coordinator

## Complaints Against SOM Employees

- If the complaint involves allegations of discrimination, assist the complainant to contact the State EO Officer (Mildred Williams, 517-373-7675).
- If complaint involves other allegations, assist the complainant to contact the State Complaint Specialist (Joe Billig, 517-241-8614).



# Actions Taken By Complaint Coordinator

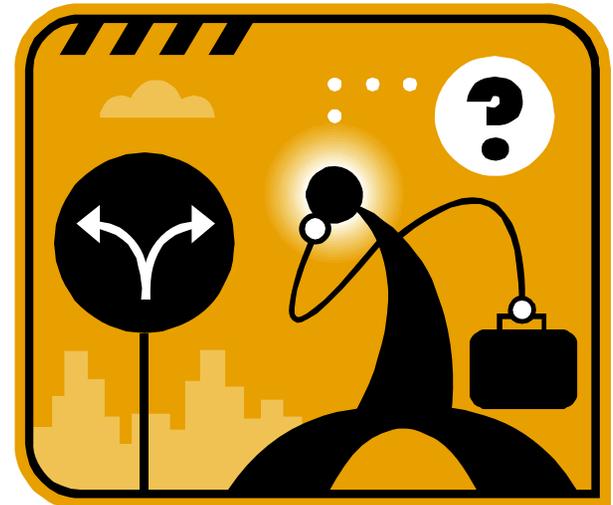
Complaints that must be immediately elevated to the State Complaint Specialist:

- Complaints concerning an employer in another state;
- Complaints involving more than one MWA area.



# Actions Taken By Complaint Coordinator

- 1) Identify if the complaint is ES-related or Non-ES-related.





# Actions Taken By Complaint Coordinator

## If the complaint is ES-Related:

- 2) and the complaint involves allegations of discrimination, refer immediately to the MWA EO officer.
  - Explain why the referral is being made
  - Document the referral of the complaint in the Service Center Complaint Log (DLEG-BWT 301)



# Actions Taken By Complaint Coordinator

## If the complaint is ES-Related:

- 3) And does not allege discrimination, listen to the complainant to gain a clear understanding of what occurred. Perhaps it was a misunderstanding or can be easily resolved.
- 4) Explain the ES complaint process.



# Actions Taken By Complaint Coordinator

## If the complaint is ES-Related:

- 5) Complainant fills out Part 1 of ETA 8429, CC should assist if necessary, CC fills out Part 2.
- 6) Provide complainant with a signed copy of ETA 8429.
- 7) Offer appropriate Service Center services.



# Actions Taken By Complaint Coordinator

## If the complaint is ES-Related:

- 8) Enter the complaint information in the Service Center ES Complaint System Log (DLEG-BWT 301).



# Completing ETA 8429 Complaint/Referral Form Part I

**One-Stop Career Center (OSCC) Complaint/  
Referral Record**

**U.S. Department of Labor  
Employment and Training Administration**

OMB Approval No. 1205-0039  
Expiration Date: 06/30/2009

For OSCC Use Only

Complaint No.
Date Received



Part I. Complainant's Information		Respondent's Information
1. Name of Complainant (Last, First, Middle Initial) [REDACTED]		4. Name of Person Complaint Made Against [REDACTED]
2a. Permanent Address (No., St., City, State, ZIP Code) [REDACTED]		5. Name of Employer/OSCC Office [REDACTED]
b. Temporary Address (if Appropriate) [REDACTED]		6. Address of Employer/OSCC Office [REDACTED]
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) [REDACTED]		
<p><b>Certification</b> 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.</p>		
9. Signature of Complainant	10. Social Security Number [REDACTED] - [REDACTED] - [REDACTED]	11. Date Signed [REDACTED] / [REDACTED] / [REDACTED]



# Completing ETA 8429 Complaint/Referral Form Part II

Part II. For OSCC Use Only		
<p>1. Migrant or Seasonal Farmworker? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <hr/> <p>2. Type of Complaint ("X" Appropriate Box(es))</p> <p><input type="checkbox"/> WIA Related Job Order No. _____</p> <p><input type="checkbox"/> Against Job Service</p> <p><input type="checkbox"/> Against Employer</p> <p><input type="checkbox"/> Alleged Violation of WIA Regulations</p> <p><input type="checkbox"/> Alleged Violation of Employment Law(s)</p> <p><input type="checkbox"/> Non-WIA Related</p>	<p>3. If non-WIA-related, does Complaint concern laws enforced by U.S. Employment Standards Administration (Wage and Hour) or OSHA? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <hr/> <p>4. Kind of complaint ("X" Appropriate Box(es))</p> <p><input type="checkbox"/> Wage Related <input type="checkbox"/> Housing</p> <p><input type="checkbox"/> Child Labor <input type="checkbox"/> Pesticides</p> <p><input type="checkbox"/> Working Conditions <input type="checkbox"/> Health/Safety</p> <p><input type="checkbox"/> Migrant and Seasonal Agricultural Worker Protection Act (MSPA) <input type="checkbox"/> Disability Discrimination</p> <p><input type="checkbox"/> Discrimination*</p> <p><input type="checkbox"/> Other (Specify) _____</p>	<p>5. H-2a/Criteria Employer</p> <p><input type="checkbox"/> U.S./Domestic Worker</p> <p><input type="checkbox"/> H-2a Worker</p> <p><input type="checkbox"/> Wages</p> <p><input type="checkbox"/> Transportation</p> <p><input type="checkbox"/> Meals</p> <p><input type="checkbox"/> Housing</p> <p><input type="checkbox"/> Other _____</p>
<p>6. *For DISCRIMINATION COMPLAINTS ONLY. Persons wishing to file complaints of discrimination may file either with the SWA, or with the Directorate of Civil Rights (DCR), U. S. Department of Labor, 200 Constitution Avenue, NW, Room N-4123, Washington, D. C. 20210.</p>		
<p>7a. Referrals To Other Agencies ("X" one)</p> <p><input type="checkbox"/> Wage &amp; Hour ESA/U.S. DOL. <input type="checkbox"/> OSHA</p> <p><input type="checkbox"/> Other _____</p>	<p>8. Address of Referral Agency (No., St., City, State, ZIP Code and Telephone No.)</p> <p>_____</p> <p>(____) _____ - _____</p>	
<p>b. Follow-Up ("X" one) <input type="checkbox"/> Monthly <input type="checkbox"/> Quarterly</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>c. Follow-up Date _____ / _____ / _____</p>	
<p>9. Comments (If additional space is needed, use separate sheet of paper) Provide OSCC Services? <input type="checkbox"/> Yes <input type="checkbox"/> No If "No", explain.</p> <p>_____</p>		



# Appropriately Handling an ES-Related Complaint

If the complaint is ES-Related:

Appropriately handle the complaint by

- 1) Referring to appropriate enforcement agency, or
- 2) Attempting local resolution.



# Appropriately Handling an ES-Related Complaint

## (1) If action is to refer to enforcement agency:

- If complaint is against an employer for alleged violation of an employment-related law (except discrimination), immediately refer the complaint to the appropriate enforcement agency.
  - Ex: MW/SOM staff referred the complainant to the specific employer who did not pay employee for hours worked.
  - Action: Take complaint, log it in, forward to appropriate enforcement agency, send copy of 8429 to State Complaint Specialist, send letter to complainant with referral contact information.



# Appropriately Handling an ES-Related Complaint

## (2) If action is to attempt local resolution:

- If complaint is against an employer for alleged violation of a Michigan Talent Bank job listing condition or employment service regulation, attempt local resolution and if unsuccessful, refer to the State Complaint Specialist.
  - Ex: Employer paid worker \$7.40 per hour but MTB job order stated \$8.00.
  - Action: Take complaint, log it in, investigate to attempt local resolution, send copy of ETA 8429 to State Complaint Specialist, send letter to complainant if referred to state level.



# Appropriately Handling an ES-Related Complaint

## Attempting Local Resolution

- Time frames allowed to attempt local resolution within:
  - 15 working days for complaints from non-Migrant and Seasonal Farm Workers (MSFWs)
  - 5 working days for complaints from MSFWs



# Appropriately Handling an ES-Related Complaint

## Attempting Local Resolution

- If additional information is needed to investigate the matter, it must be put in writing to the complainant.
  - Non-MSFW complainants have 20 days to respond.
  - MSFW complainants have 40 days to respond.



# Appropriately Handling an ES-Related Complaint

## Local Resolution Unsuccessful

- If you are not waiting for additional information from the complainant and the complaint is not resolved according to time limits:

### Action:

- Refer the complaint to the State Complaint Specialist, and
- Send letter to complainant with referral contact information.



Complaints are resolved when any of these conditions are met:

### The complainant . . .

- indicates satisfaction with the outcome;
- chooses not to elevate the complaint to the next level;
- (or the complainant's authorized representative) fails to respond to a written request from the local or state office, in the allotted time frame;
- exhausts the final level of review; **or**
- A final determination has been made by the enforcement agency to which the complaint was referred.



# Non-ES-Related Complaints

## Reminder:

1. Complaints against an employer to whom the Service Center/SOM staff did not refer the job seeker **and** the job was not posted on the MTB.
2. Complaints that were not reported to ES within 12 months of the alleged incidents are all considered Non-ES-related complaints.



## If the Complaint is Non-ES-Related:

The Complaint Coordinator's role is chiefly that of a *referral agent*.

However, the *first step* is to determine if the complaint is from a migrant or seasonal farm worker.





# Processing a Non-ES-Related Complaint

If complaint is from a MSFW:

- 1) Complainant fills out Part 1 of ETA 8429, CC should assist if necessary, CC fills out Part 2,
- 2) Enter the complaint information in the Service Center ES Complaint System Log,
- 3) Provide complainant with a signed copy of the completed ETA 8429 form,
- 4) Offer appropriate Service Center services.



# Processing a Non-ES-Related Complaint

If complaint is from a MSFW (cont.)

- 5) Send the ETA 8429 to the appropriate enforcement agency and send a copy to the State Complaint Specialist,
- 6) Send a letter to the complainant
  - Include enforcement agency contact information.
  - Include a statement that the complainant needs to follow up with the enforcement agency and our responsibility has ended.



# Processing a Non-ES-Related Complaint

## If complaint is from a non-MSFW

- 1) Enter the complaint information in the Service Center ES Complaint System Log.
- 2) Provide the appropriate enforcement agency contact information to the complainant.
- 3) Offer appropriate Service Center services.
- 4) No follow-up contact is required.



# MW Service Centers with SOM Agricultural Employment Specialists (AES)

SOM AES (outreach workers) are assigned to some MW Service Centers to serve the migrant and seasonal farm worker population.





# MW Service Centers with SOM Agricultural Employment Specialists (AES)

The AES are involved with ES complaint system as follows:

- While in office – AES will refer complainants to the Complaint Coordinator
- While on outreach – AES will assist complainant to complete part 1 of the ETA 8429, gather supporting documents, enter activity in the service center DLEG-BWT 301 log and turn all information over to the Complaint Coordinator for processing.



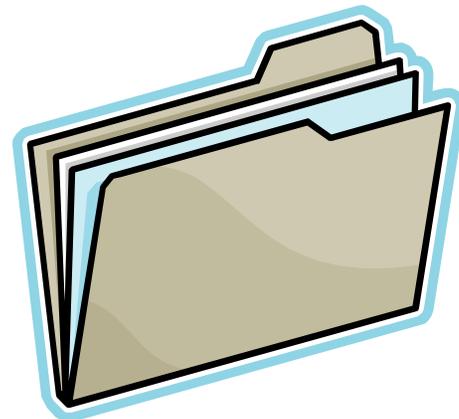
# ES Complaint System Posters Required

- ✓ **“If You Have a Complaint About”**  
(State form EEO 305-P).
- ✓ **“Notice to Applicants”**  
(State form DLEG-BWP 300-B).



# File Maintenance

Complaint Coordinators must maintain files for all ES-related complaints and any non-ES related complaints taken from MSFWs.





# File Maintenance

Each folder should include:

- Original of the completed ETA 8429
- Original notes taken at the time complaint was made
- Original notes taken during telephone conversations dealing with the complaint
- Originals of correspondence received that are relevant to the complaint
- Copies of the correspondence sent
- Miscellaneous items relevant to the complaint (copies of check stubs, work agreements, MTB job order, etc.)



# Record Retention Requirement

Complaint logs and all complaint files must be retained for three years from the date of resolution, and then destroyed.





# DLEG-BWT 301 ES Complaint System Log

- MW Service Centers are required to maintain an ES complaint log listing all complaints received and specifying certain information about each complaint.  
(20 CFR, 658.410(c)(1).
- Revised form and instructions have been emailed.



# Reporting Requirements

DLEG-BWT 301 *and* DLEG-BWT 302

Submit monthly (no later than the 20<sup>th</sup> day following the end of the month) to Joe Billig, State Complaint Specialist.



# Contact Information

**Joe Billig, State Complaint Specialist**

**DLEG-BWT**

**201 N. Washington Square, 5<sup>th</sup> Floor**

**Lansing, Michigan 48913**

**517-241-8614**

**[BilligJ@michigan.gov](mailto:BilligJ@michigan.gov)**



# Contact Information

For an emailed copy of today's PPT presentation, send your request to [HubskyD@Michigan.gov](mailto:HubskyD@Michigan.gov)

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