

Employment Service Complaint Coordinator's Webinar  
November 20, 2008  
Slide Notes

Slide 1: These procedures are not applicable for complaints or grievances against other programs, such as UI, WIA or TANF. Such alleged violations should be handled within the procedures set forth in their respective regulations

Slide 2, 3: No notes.

Slide 4: The ES Complaint System has been in effect since 1933. This is NOT NEW. The different timelines for complaints from Migrant and Seasonal Farmworkers are due mainly to the transient nature of their work. What are those timelines? We will go over them again later in the presentation.

Slide 5: The ES Complaint System is mandated by federal law, but there are certainly some very good reasons, both from a service standpoint and from a business standpoint, why we should have a process in place for customers to let us know that they have had a problem with the Employment Service system. All of these help protect workers and helps guarantee that they receive proper service.

Slide 6: The ES Complaint System also supports business and polices employment practices among businesses.

Slide 7: That is a little about why we have a complaint system. In the next several slides we want to give you a high level overview of the structure of the complaint system, who administers it, who can file a complaint and how complaints can be filed.

So basically, a customer, whether it is a job seeker or an employer, who feels that they were treated unfairly has a process to complain about that unfair treatment. It can be a complaint about not receiving the right amount of pay, or a complaint that they weren't provided services, any number of things, but there is a complaint system in place in order to address the issue.

Slide 8: In DLEG, Liza Estlund-Olson has the overall responsibility for the ES complaint system. Functional responsibility is given to the State Complaint Specialist.

Slide 9: Important: MWAs are required to have a Complaint Coordinator or a backup in each One-Stop office during business hours. Complainants should not be turned away or told to come back later because no one is available to take the complaint. It is the responsibility of the MWA to assure that a CC or backup is available.

I also want to make a note here about complaints from MSFWs. We will talk more about this later in the presentation, but complaints made in the One-Stop office that are from MSFWs go to the CC or backup, not to the SOM Agricultural Employment staff. So, for

those Service Centers that have a SOM Agricultural Employment staff person, the CC is responsible for taking these complaints, even if they are from a MSFW.

Slide 10: Throughout the entire complaint process, confidentiality must be maintained! This means of course that you need to keep files in a secure location, limit access to the files, and basically not share any information about the complaint with anyone that you do not need to. This protects the people or companies involved in the complaint, but it also helps protect you from charges that someone's personal information was improperly handled. We have to avoid identity theft and litigation from companies.

Slide 11: No notes.

Slide 12: Complaint must be signed, either on the ETA 8429 complaint form, or if received in a written letter form, the letter must be signed. So if someone says that they want to file a complaint, but when it comes down to it they do not wish to sign the complaint, then we really do not have a valid complaint. We will go over this again when we review the Complaint Form (ETA 8429) and the instructions, but you put it in your complaint log that the person did not wish to sign the complaint, and write a letter to the complainant letting them know that no further action will be taken on the complaint. So it is important to make sure you have a signed complaint form or letter from the complainant.

Slide 13: If someone calls you regarding a complaint, ask them to go to their nearest Michigan Works Service Center to file the complaint in person or to send in a signed written letter detailing the complaint.

Slide 14: Seems pretty straightforward, someone comes in and says that they have a complaint.

Slide 15: But customers may not come right out and say they have a complaint, many may not even know that they can complain. So you may have to infer from what a customer is saying that they have a complaint, and then tell them about the complaint system and their right to file a complaint.

Slide 16: We are now going to talk about the two different types of complaints, those that are ES related and those that are non-ES related. One of the first steps in deciding how to process a complaint is deciding what type of complaint it is. We will go through more detail later, but you will see that the steps that you have to take for an ES related complaint are different from what you do with a non-ES related complaint. Unless you know if it is ES or non-ES, you will not know how to proceed, so you have to make that determination first. We will give several examples of ES related complaints in the next couple of slides, but they can be complaints against employers, or against the agency.

Slide 17: One of the first steps is to determine if the complaint is ES-related or not. In order to make this determination you will have to gather enough information about the complaint.

I want to note here that when we talk about “Referred by ES” this includes really any job that the jobseeker obtains through our ES system. So it includes jobs where you tell the jobseeker about the job opening and actually tell them to apply. But it also includes jobs where the jobseeker finds out about the job opening all by themselves through the MTB. So anytime the ES system is involved in the employment process, it is technically “Referred by ES”.

As you gather information about the complaint, you should determine if the violation occurred within one year. It has to be within the last 12 months in order to be ES related. If the violation is more than 12 months ago, it can still be a complaint, but it is processed as non-ES related.

Finding out information about what type of violation is alleged helps you determine if the complaint is employer-related, like a violation of employment-related law; or a violation of the terms of a job order that we referred a job seeker to. Here it is important to know if the complainant was referred by us out to the job, or if the job order was listed in the Michigan Talent Bank. In both of these cases, the complaint would be ES related (provided it was within the last 12 months). If someone comes in and complains about a job that we did not send them to, and it was not listed in the Talent Bank, then that becomes a non-ES related complaint. So it is important to get enough information about the complaint to know what steps to take.

Slide 18: Here is an example of a complaint that is a violation of an employment related law. We referred the person to this job and the employer did not pay them for all of the hours that they worked. So this is ES related because we referred them, and it is a violation of employment related law and as we will see later, you take specific steps to take the complaint, log it in, and then forward the complaint to the appropriate enforcement agency.

Slide 19: The ES related complaint can also be a violation of an MTB job listing. The complainant may have been referred to job listed on the MTB or they may have seen the job listing on the MTB by themselves. There is also a specific process for this type of complaint, and we will also go over that process in just a few slides. Because this is ES related and involves a Talent Bank job order, jurisdiction for resolving the complaint falls to the local CC. So you as the CC take the complaint, log it in and then gather the necessary information to investigate the complaint in order to try and resolve the complaint.

Slide 20: And here is our final example of an ES related complaint. These are only three examples of ES-related complaints. There are many other types of ES-related complaints. We just wanted to give you a few.

Slide 21: So those are a few examples of ES related complaints.

- Complaints where a violation of job order occurred

- Complaints where job seeker has gotten a job through the ES system and there is a violation of an employment-related law
- Or a complaint about a violation of ES regulations by action or omission of the employment service agency

So what about Non-ES related. What types of complaints are those?

Slide 22: This represents a violation of an employment-related law but the complainant did not get the job through the ES system.

Slide 23: No notes.

Slide 24: The third bullet point only impacts those Service Centers that have SOM Agricultural Employment Specialists. We will go over that process towards the end of today's presentation.

Slide 25: Now we are going to move into some of the specific steps that you need to do to handle different types of complaints. See, I have been promising on all of those earlier slides that we would get to some specifics, and here we are!

There are a couple of "special" types of complaints that are not handled by the local CC. Assisting the complainant refers to providing access to a Service Center telephone in a private location. You must maintain confidentiality, don't get into details with the complainant; don't enter info into the local office ES complaint log. The complaint will be logged at the state level.

Slide 26: These two types of complaints are also handled at the state level. So for these types of complaints, you just elevate them to the state level, you do not have to do any local investigation.

Slide 27: Now let's get into some more detailed step-by-step instructions on how to handle both ES related and non-ES related complaints. Remember how we said earlier that one of the first things you need to do is to determine if the complaint is ES related or non-ES related? Here's where we will take a look at the different steps for each type of complaint.

Slide 28: As we mentioned a couple of slides ago, ES Allegations of discrimination against state employees go to Mildred Williams, DLEG's State EO officer. But discrimination complaints not involving state employees, the MWA EO officer handles ES allegations of discrimination. So you as CC explain why the referral to the MWA EO officer is being made, and then document the referral in the 301 complaint log.

Slide 29: No notes.

Slide 30: We will go over the 8429 in just a few minutes today's training session. Keep in mind that during this initial discussion with the complainant, you should be trying to find

out as much information as possible that may be necessary to investigate the complaint. This includes having the complainant indicate all of the addresses through which he or she might be contacted during the investigation of the complaint. Request that the complainant contact the ES before leaving the area if possible, and explain the need to maintain contact during the complaint investigation. This is particularly important for complaints from MSFWs, since they tend to move around the state as they work on different crops.

Slide 31: An updated 301 log and instructions have been sent to you by email. Please make sure you review the form and instructions.

Slide 32: This form and instructions were emailed to you. It is important that you go over this form and instructions. Spend some time going over specific areas of the ETA 8429 and how to fill out the form. OSCC (One-Stop Career Center) is what was called ES Office on the previous version of the form. And WIA-Related always means ES-Related for our purposes.

Part 1, item 8 – Description of complaint: Enter the complainant's statement of his/her complaint. The statement should be complete and indicate the results expected. 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 sheet(s) are to be identified with the name of the complainant and the complaint number, if one is used. 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.

Part 1, item 10: Enter the complainants Social Security Number (SSN). The State of Michigan does not require the Social Security Number to file a complaint. If the SSN is voluntarily provided by the complainant, it is of utmost importance that the complainant authorizes the MW Service Center Complaint Coordinator or designated staff to use his/her SSN by placing their initials next to the SSN.

Slide 33: Part II is filled out by the complaint coordinator

Part 2, item 2: Explain WIA related = ES related, only check “against job service, against employer” etc, if it is ES related

Part 2, item 3: U.S. Employment Standards Administration is U.S. Wage & Hour. Only check Yes if complaint concerns laws enforced by US Wage & Hour or OSHA (not MI Wage & Hour or MIOSHA)

Part 2, item 5: Important note: only fill out if the complaint is filed against an H-2A employer

Part 2, item 7a & b: Enter an "X" in the appropriate box with the name of the agency to which complaint was referred. In addition, if it is an ES-related complaint, follow-up is required. Enter an “X” in the box marked monthly if the complainant is a MSFW or enter an “X” in the box marked quarterly if the complainant is a non-MSFW.

Part 2, item 8: Enter the full name, address, and telephone number of the enforcement agency to which the complaint was referred. The instructions include contact information for several of the enforcement agencies.

Slide 34: We just talked about completing the ETA 8429, now we will move on to how the complaint coordinator handles the ES-related complaint to resolution

Slide 35: If the complaint will be referred to Michigan Wage & Hour, you should provide the complainant with MI Wage & Hour form WH-43 so they can begin to gather information that Wage & Hour will need.

The WH-43 can be obtained

[http://michigan.gov/documents/WH43\\_Employment\\_Wage\\_Complaint\\_Form\\_R6\\_29\\_05\\_141360\\_7.pdf](http://michigan.gov/documents/WH43_Employment_Wage_Complaint_Form_R6_29_05_141360_7.pdf)

Note: USDOL has jurisdiction over the Migrant and Seasonal Farmworker Protection Act. Therefore you should send ES-related complaints from MSFWs to USDOL Wage & Hour and continue to send wage complaints from non-MSFWs to Michigan Wage & Hour.

Slide 36, 37: No notes.

Slide 38: When a complainant makes a timely response to the written request, new time frames are established. Example: you will have 5 or 15 more days to investigate.

Slide 39: When a Complaint has been referred to the State Complaint Specialist, the state will attempt to resolve the complaint within 20 working days for MSFWs and 30 working days for non-MSFWs. If you refer such complaints to the state level and the complaint came from a MSFW, it will be the State Monitor Advocate who attempts to resolve the complaint at the state level. If the State is unable to achieve resolution or the complainant or respondent is unhappy with the State's determination, then either the complainant or respondent may request a hearing. If dissatisfied with the outcome of the hearing, then either party may appeal to the USDOL Regional Administrator.

Slide 40: No notes.

Slide 41: Ok, now we want to talk about non-ES-related complaints

Slide 42: if the complaint is from a migrant and seasonal farm worker, there are additional processing requirements that will be explained in the following slides.

Slide 43, 44: No notes.

Slide 45: If the complaint will be referred to Michigan Wage & Hour, you should provide the complainant with MI Wage & Hour form WH-43 so they can begin to gather information that Wage & Hour will need.

Slide 46: We have presented information that should help you determine whether a complaint is ES-related or non-ES-related. We have discussed how to process different complaints. And we have explained the additional processing requirements for complaints received from MSFWs. Now we would like to talk about a special situation. Not all service centers will have SOM AES workers.

Slide 47: AES do not investigate or attempt to resolve complaints.

Slide 48: If you need additional posters for your service center, please contact Joe Billig

Slide 49, 50, 51: No notes.

Slide 52:

The form itself is very similar to what you have been filling out, but we have made some clarifications in the column titles. Also, the instructions will provide you with better guidance on how the form is completed; this should make completing the form easier for you. We do not have time today to do a training session on this form or the 302, but if you have questions as you go through the instructions, please feel free to send those questions to Joe Billig.

The important thing to remember is that the 301 log is where you should document the Service Center's interaction with all complainants who want to complain about the services or treatments that they received through the Employment Service or to make employment-related complaints against employers. Whether the alleged complaint is non-ES-related and you only provided enforcement contact information, the complaint is ES-related and an ETA 8429 was filled out and the complaint coordinator is processing for eventual resolution or even if the complainant decided NOT to file a complaint. All of these contacts would be documented on the Service Center's ES complaint log.

Slide 53: The 302 form has not been changed or updated. But again, we would like both of the forms to be sent in on a monthly basis.

Slide 54, 55: No notes.