

	<b>NCWorks Commission</b>
	<b>NCWorks Commission Policy Statement Number: CPS 07-2021</b>
	<b>Date: May 13, 2021</b>
	<b>Subject: Migrant and Seasonal Farmworker (MSFW) Complaint System and Appeal Policy Procedures</b>
	<b>From:</b>  <div style="text-align: center;"> <hr/> <b>Tom B. Rabon, Jr.</b>  <b>Chair, NCWorks Commission</b> </div>

**Purpose:** To establish and implement the Complaint System and Appeal Policy Procedures addressing MSFW complaints as mandated by the U.S. Department of Labor (USDOL).

**Background:** The MSFW Complaint System was established through the Monitor Advocate System and both were created and enforced through the Judge Richey Court Order in 1974 that required the USDOL to ensure all workforce development services, benefits, and protections for farmworkers are provided on an equitable and non-discriminatory basis. The basis for this policy can be referenced at 20 CFR Parts 651, 652, 653, 654, and 658.

**Action:** NCWorks Career Center staff will assist and record in writing any complaint filed by applicants, MSFW, and/or interested parties involving: acts or omissions on services provided, violations to wage regulations, job orders, terms and conditions of employment, field sanitation, farm labor housing standards, or other complaints that are MSFW-related. Complaints will be logged and immediately referred to the Complaint Specialist or to the State Monitor Advocate, if MSFW-related. The Complaint Specialist will inform the complainant of the action(s) that will be taken and will provide monthly or quarterly follow-up on the complaint until it has been resolved.

Any NCWorks Career Center customers not affiliated with the MSFW program can request a hearing and access associated appeal documents by contacting the DWS Ombudsman [DWSML\\_CustomerOmbudsman@ncommerce.com](mailto:DWSML_CustomerOmbudsman@ncommerce.com) or at 919-814-0302.

This Policy does not address procedures for appealing the imposition of sanctions for substantial violations or performance failures by subrecipients of federal grant awards and state grants. Such procedures can be found at <https://www.ncommerce.com/jobs-training/workforce-professionals-tools-resources/workforce-policies>.

The appeal actions described in the attachments to this policy supplement, but do not supplant, applicable civil and criminal actions under other pertinent federal, state, or local laws, regulations, policies, or terms and conditions of applicable awards, contracts, etc.

### **Federal-level Complaint Procedures**

Under 20 CFR § 683.630, if the state has not issued a decision within the required specified time limit, the complainant can file and appeal to the USDOL. An appeal must be made within 120 days of the filing of the complaint with the state or filing of the appeal of the local grievance or complaint with the state. An appeal can also be made after a decision on a grievance or complaint under 20 CFR § 683.600(d) has been reached and the party wishes to appeal to the U.S. Secretary of Labor. The appeal must be filed within 60 days receipt of the decision.

All appeals must be sent by certified mail, return receipt requested, to the following address: Secretary of Labor, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210, Attention: Assistant Secretary for Employment and Training (ASET). The Secretary of Labor shall issue a final determination no later than 120 days after receiving the appeal.

Nothing in this Policy precludes a complainant from pursuing a remedy authorized under another federal, state, or local law (20 CFR 683.600(h)).

**Effective Date:** Immediately

**Expiration:** Indefinite

**Contact:** State Monitor Advocate

**Attachments:**

- A. Complaint System Definitions
- B. Complaint System Poster
- C. Equal Opportunity is the Law Poster (English)
- D. Equal Opportunity is the Law Poster (Spanish)
- E. A Worker's Guide (How to File a Complaint) (English)
- F. A Worker's Guide (How to File a Complaint) (Spanish)
- G. Instructions for Completion of the Complaint Referral Record (ETA Form 8429)
- H. Complaint/Apparent Violation Form (ETA Form 8429)
- I. Migrant and Seasonal Farmworker Employment Service Complaint and Apparent Violation Log
- J. Complaint Handling Process Flowchart
- K. Informal Resolution Process Flowchart
- L. Complaints Covered by This Policy and Procedures
- M. Complaints Not Covered Under the Complaint System Procedures
- N. Common Steps to Follow When Handling Complaints
- O. Appeals Process for Migrant Seasonal Farm Worker Program Complaints
- P. List of Attachments