

# Fact Sheet on Providing Services to Farmworkers

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## BACKGROUND

Practices of the US Department of Labor and state employment security agencies in the 1970s lead to litigation against the Department of Labor by farmworkers and farmworker advocate groups. They alleged discriminatory treatment of farmworkers.

The regulations for serving MSFWs (20 CFR Part 651, 653 and 658) were published because of litigation (NAACP et al v. Marshall) and require the DOL to provide farmworkers access to all services, benefits, and protections in a fair and equitable manner. The authority for these regulations is the Wagner Peyser Act. The MSFW regulations mandate activities and services which are in addition to the provisions provided under the implementing regulations at 20 CFR Part 652. Provision of the full range of employment services, benefits and protections, including counseling, testing, and job and training referral services shall be offered by each state agency and each local office to MSFWs as they are provided to non-MSFWs (20 CFR 653.101).

The central concepts of the lawsuit settlement became the basis for federal regulations. They require the Department and its nationwide system of public employment offices to:

- provide **employment services** to farmworkers which are qualitatively equivalent and quantitatively proportional to those received by non-farmworker customers (20 CFR 653.100);

- provide the full range of ES services to farmworkers (20 CFR 653.101);
- conduct **outreach** to locate and contact farmworkers who are not reached by the normal office intake activities, tell them about our services, encourage them to visit our offices, and deliver services outside of the office if that facilitates their access to our services (20 CFR 653.107);
- establish the position of **Monitor Advocate** to monitor agency and field office performance to avoid re•occurrence of discriminatory treatment and advocate for improved employment services for farmworkers (20 CFR 653.108) and
- identify and designate annually local offices with a general concentration of farmworkers as “**significant MSFW**” and “**significant bilingual MSFW**” offices. These designations are based on the number of MSFWs who register with the local ES office or on estimates of the number of MSFWs in the community (20 CFR 651.10).

These specific federal obligations apply to **farmworkers**, people who by federal definition for this program **receive over half their earned income from agricultural work, work at least 25 days earning that income, and don't work year round for the same employer:**

- A **seasonal farmworker** is a farmworker as defined above who "lives in the area on a year round basis" •• that is, lives at their permanent place of residence while earning his agricultural income.
- A **migrant farmworker** is a farmworker who "migrates" •while doing agricultural work does not always live year round at their permanent place of residence.
- **Agricultural work** is defined by federal regulation; it is typically a farm, ranch, nursery, and Christmas tree plantation work.
- DOL also includes "**migrant food processing worker**" in our definition of farmworker - someone who receives over half their earned income from food processing work and while engaged in that work lives somewhere other than their permanent place of residence.

Field or local offices, whether designated MSFW significant or not, are responsible to:

- identify whether each customer is or isn't a farmworker;
- provide information about ES services to farmworkers who come to the office and assist those who need help to register with us, including in Spanish;

- offer the full range of ES services to farmworkers, including in Spanish;
- ensure that each farmworker's registration includes complete information for assessing skills, abilities and preferences and education and training needs;
- deliver ES services to farmworkers which are **quantitatively proportional** and **qualitatively equivalent** to services provided to non-farmworkers;
- refer farmworkers to agricultural AND non-agricultural jobs based on their skills, abilities and preferences;
- display job order information in conspicuous places and make it available to farmworkers, including when farmworkers are not English language fluent;
- write agricultural job orders so they include the expected length of work, whether or not there is a guarantee of minimum wage if the offered pay is at piece rate, and directions to the work site if that's not clear from the address;

- take job orders from farm labor contractors only if they are properly registered with state and federal authorities;
- operate an outreach program so that large numbers of farmworkers in the service area come to know about the services available from the office;
- monitor and report on office compliance with federal standards; and
- maintain and operate an ES complaint process in a customer-friendly manner for accepting and processing complaints promptly, with special attention to those filed by farmworkers.

Both **Wagner•Peyser Act regulations** and **Title VI of the federal Civil Rights Act of 1964** require the agency to provide services in Spanish where a significant number of Spanish speaking customers are not fluent in English. Also see Executive Order 13166 and USDOL Policy Guidance (Federal Register Vol. 66, No. 11 published Jan 17 2001).