

	New Jersey Workforce Innovation Notice		WD-PY20-1
	Issued By:	Workforce Development Division of Career Services	
	Approved By:	Hugh Bailey, Assistant Commissioner Workforce Development	
	Issued Date:	July 2, 2020	

1. **SUBJECT:** Migrant Seasonal Farmworker (MSFW) System Monitoring Protocols
2. **PURPOSE:** To notify Local Workforce Development Boards (WDB), One-Stop Career Center (OSCC) Operators, Employment Service (ES) Managers and other local workforce partners of state policy and guidance regarding monitoring activities related to Workforce Innovation Opportunity Act (WIOA) Service and Protections to Migrant and Seasonal Farmworkers (MSFW).
3. **EFFECTIVE DATE:** This NJWIN is effective July 2, 2020.
4. **BACKGROUND:** The Workforce Innovation Opportunity Act (WIOA) mandates the monitoring of Federally-funded programs, including Wagner-Peyser ES- State allotment grants. Assessment of performance involves the review of performance goals and measures, participant outcomes, and compliance with grant management, ES regulations, and other applicable laws, while ensuring fiscal integrity and transparency. The monitoring of the Migrant and Seasonal Farmworkers (MSFW) system improves delivery of services by identifying challenges and areas of concerns in order for technical assistance and training needs to be promptly addressed.
5. **POLICY:** As part of ongoing responsibilities to oversee federal employment and training WIOA activities, the Office of Career Services (OCS) must ensure that Migrant and Seasonal Farmworkers (MSFW) are provided with and have access to employment and training services consistent with the requirement that all services of the Workforce Development System be available to all job seekers on an equitable basis. This includes the following services:
 - a.) WIOA/Wagner-Peyser Act (Employment Services) Program;
 - b.) WIOA Training Programs;
 - c.) WIOA Youth Services; and
 - d.) Other DOL funded services available through partners.

MSFWs must receive these services on a basis which is qualitatively equivalent and quantitatively proportionate to services provided to non-MSFWs. In addition, One Stop Career Centers (OSCCs) are to ensure that MSFWs have access to these services in a way that meet their unique needs.

The State Monitor Advocate (SMA) at the Office of Career Services (OCS) is responsible for establishing and operating a comprehensive monitoring program designed to ensure that the State Workforce Agency (SWA) and the OSCCs are in compliance with appropriate regulatory requirements related to services provided to MSFWs by the state office and OSCCs.

As part of these responsibilities, the SMA conducts an ongoing review of the service delivery and protections which OCS and the OSCCs afford to MSFWs under WIOA and Wagner-Peyser regulations; makes certain that the monitoring review format is used as a guideline in conducting local office MSFW onsite monitoring reviews.

Consistent with Federal requirements, OCS will ensure that those locations that are designated as significant MSFW offices will be monitored yearly. Non-significant OSCC offices will be reviewed on an as needed basis and a sample of the local offices will be chosen for review at least every two years.

All statistical and other MSFW-related data reported by OSCCs will be reviewed in order to determine the extent to which the state agency has complied in providing the full range of employment services to MSFWs, and to identify the areas of inadequate compliance.

In addition, the SMA is responsible for the submission of timely reports on status of services and maintaining regular and personal contacts with National Farmworker Jobs Program (NFJP - WIOA section 167 grantee) to coordinate and monitor service and activity.

6. **PROCEDURE:** In order to conduct a comprehensive review of the Migrant and Seasonal Farmworker System, the following topics will be covered during the State Monitor Advocate (SMA) monitoring review:

- 6.1 **Equity Ratio Indicators (ERIs):** NJ's compliance is based on performance of five Equity Ratio Indicators (ERIs). NJ must meet four of five ERIs each program year for compliance. Equity is measured by comparing the service ratios for MSFWs to all other jobseekers. The ERI is met when the MSFW ratio is equal or greater than the ratio for all other jobseekers. A review of case files will be used to determine the equity of services that are provided to MSFWs compared with those provided to all other job seekers. Case file reviews consist of on-site file reviews as well as a review of MSFW services and activities entered in to the New Jersey's American One Stop Operating System (AOSOS). The five ERIs measured include:

- referred to jobs;
- received staff assisted services;
- referred to support services;
- career guidance; and
- job development contact.

6.2 Service Delivery: MSFW customer flow is determined by services provided (Basic, Individualized, Follow-up). MSFWs must receive the full range of career services as defined in WIOA sec. 134(c)(2), including supportive services, appropriate language assistance services for English Language Learners (ELL), benefits and protections, and job and training referral services, as are provided to non-MSFWs. OSCCs must provide MSFWs a list of available career and supportive services in their native language. The services include the provision of:

- labor exchange services, including job search and placement assistance;
- career counseling and individual counseling;
- information on in-demand industry sectors and occupations;
- information on nontraditional employment;
- referrals to and coordination of activities with other programs and services; and
- workforce and labor market employment statistics information.

6.3 Outreach Activities: Outreach quality and productivity includes services provided and methods and tools used to offer services. Outreach staff must provide basic services to MSFW where they work, live and gather; inform MSFWs of the full array of services available at the OSCC, and provide needed supportive services and referrals to other service providers. Outreach efforts must be documented in outreach logs, submitted by Employment Service (ES) Managers to SMA on a monthly basis for an ongoing outreach effort review. Quality of outreach will be assessed through interviews with Outreach Staff and MSFWs.

6.4 Agricultural Recruitment System (ARS): Review of agricultural clearance orders, including field checks, to ensure that agricultural employers recruit qualified U.S. workers on a temporary or seasonal basis, and provide workers seeking temporary agricultural employment with such employment. Review will include:

- Intra and interstate agricultural clearance orders, including access to frontline staff
- Out of state clearance order process (Identify local offices that receive job orders)
- Field checks process (including staff, tools, and protocols)

6.5 Employment Service (ES) and Employment- Related Law Complaint System: OSCCs must ensure that complaints are taken in writing, processed within prescribed time lines, and referred to enforcement agencies for resolution when appropriate. MSFWs, in particular, must be assisted with filing and resolving complaints. Complaints must be documented in the Complaint Log, and submitted to SMA on a quarterly basis. Review will include:

- Procedure signage, including a Complaint Poster that contains the name and contact information for the local OSCC's Complaint Specialist. In addition to English

and Spanish, if the OSCC serves significant populations of other language speakers, the poster should be displayed in these languages as well.

- Complaint Orientation Script to be included in customer presentations information on filing a complaint.
- Complaints Logs maintained by Complaint Specialist that record Migrant and Seasonal Farmworkers (MSFWs) Alleging Violations of Laws Enforced by United States Department of Labor (USDOL) Wage and Hour or Occupational Safety and Health Administration (OSHA)
- Staff knowledge and training

6.6 Local Area Review: Workforce Development Boards (WDB) must ensure compliance with Federal mandates to provide equitable services to MSFWs by establishing Local Workforce Development Board policies and procedures in serving MSFWs and agricultural employers in the area. Review will include:

- Workforce Development Board membership in order to better serve the needs of MSFWs and integrate services to MSFWs in the local area
- Quality of partnerships with MSFW-serving organizations, service providers
- Agricultural business services, including a review of job fairs, recruitments, job matching, etc.
- Local WDB Local Plan identifying MSFWs as a priority population. Service providers identified including program/activities provided
- Local WDB Youth Committee membership, including NFJP and Migrant Education
- Adult Priority of Service Policy to include MSFWs as a priority due to multiple barriers to employment

7. MONITORING REVIEW FORMAT

7.1 Notice of Onsite Review to WDB and OSCC- Notice will be provided at least 45 days prior to visit. Written notification should describe scope of review, review process, and include a detailed agenda

7.2 Desk Review- Prior to onsite review, a review of ten MSFW files in New Jersey's American One Stop Operating System (AOSOS) of participants served by the OSCC during the preceding program year. Also, local area plans, Outreach reports, Complaint Logs, Agricultural Outreach Plan (AOP), and Employment and Training Administration (ETA) 5148 Reports, must be reviewed.

7.3 Entrance Meeting- The State Monitor Advocate (SMA) and Local Workforce Area designated staff will discuss the monitoring protocol to be followed, including the objectives of the on-site review, review dates, times, items to covered during the review, monitoring tools, documentation to be reviewed, and an agenda including topics that will

be covered and staff who need to be available for interviews. Entrance meetings may be conducted in-person or virtually.

- 7.4 Observation of Facilities and Customer Flow- A complete walk-through of the facility and observe the reception area traffic.
- 7.5 Review of SOP and Policies- Verify that protocols and policies are in place; determine “best practices” and make a note of areas of concern.
- 7.6 Review of Customers Records- Completeness of records, use of MSFW indicators, general maintenance of records.
- 7.7 Interview Management and Staff- SMA interviews key program staff and partners including WDB Director, ES Manager, Operations Manager, Business Service Representative, Job Specialists, Counselors, Receptionist, Complaint/EO Officer, partner staff and customers, as appropriate.
- 7.8 Exit Meeting- SMA must hold one or more wrap-up sessions with the ES office manager and staff to discuss any findings and offer initial recommendations and appropriate technical assistance. Local Workforce Area staff is provided with an opportunity to clarify any of the issues that the SMA noted during the on-site visit, rebut or correct any false conclusions or mistaken impressions the SMA may have.
- 7.9 Closing Meeting- SMA and the WDB/OSCC discuss findings and corrective action (if any) and set dates for follow-up visits (as needed).
OCS Issues Notice of Findings to WDB/OSCC- OCS sends notice within 30 working days after Closing Meeting.
- 7.10 WDB/OSCC Proposes Corrective Action Plan- Response to OCS/SMA within 30 working days after receipt of Notice of Findings. OCS approval and follow-up takes place within 30 working days of receipt of Corrective Action Plan. WDB/OSCC Starts Implementation of Corrective Action after OCS/SMA Approval

Note: SMA conducts follow-up every month until issues are resolved.

8. **REQUIRED ACTION:** Each local Workforce Development Board will ensure that Career Center staff is informed of the content of this issuance and that the local One-Stop Career Centers continue to comply with the MSFW service requirements set forth in 20 CFR Parts 651, 652, 653, 658, 675 and 678.
9. **QUESTIONS:** For any questions regarding this guidance, please contact Patricia Robertson (patricia.robertson@dol.nj.gov), State Monitor Advocate (SMA), at 609-306-0199.
10. **References:**
 - Workforce Innovation and Opportunity Act of 2014 (WIOA or Opportunity Act), Public Law (Pub. L.)

- Workforce Innovation and Opportunity Act, Department of Labor Only, Final Rule, 20 Code of Federal Regulations (C.F.R.) Parts 651, 652, 653, 658, 675 and 678. et al.
- Training and Employment Guidance Letter (TEGL) No. 20-16, *Designation of Significant Migrant and Seasonal Farm Worker (MSFW) States, Significant MSFW One-stop Centers, and Significant Multilingual MSFW One-stop Centers*
- New Jersey Workforce Innovation Notice 12-16(A), *New Jersey Unified One-Stop Career Center Complaint Procedure*