

ARIZONA DEPARTMENT OF ECONOMIC SECURITY

Program: Employment Service (ES)

Effective Date: 05/15/2025

CHAPTER 4: COMPLAINTS AND DISCONTINUATION OF SERVICE

I. Policy Statement

Under [20 CFR 658.410](#), the Arizona Department of Economic Security (DES) is required to establish and maintain a uniform system for accepting, investigating, resolving, and referring complaints and apparent violations through the Employment Service (ES). This system is referred to as the ES Complaint System.

II. Applicability

Unless otherwise noted, this policy applies to all DES ES State staff.

III. Authority

[20 CFR 651.10](#) Definitions of terms.

[20 CFR 652](#) Establishment and Functioning of State Employment Service.

[20 CFR 653](#) Services of the Wagner-Peyser Act Employment Services System.

[20 CFR 653.108](#) State Workforce Agency and State Monitor Advocate responsibilities.

[20 CFR 653.503](#) Field checks.

[20 CFR 654](#) Special Responsibilities of the Employment Service System.

[20 CFR 655 \(b\)](#) Labor Certification Process for Temporary Agricultural Employment in the United States (H-2A Workers)

[20 CFR 655.73](#) Debarment

[20 CFR 655.135 \(d\)](#) Assurances and obligations of H-2A employers.

[20 CFR 655.185](#) Job service complaint system; enforcement of work contracts.

[20 CFR 658.410](#) Establishment of local and State complaint systems.

[20 CFR 658.411](#) Action on complaint

[20 CFR 658.417](#) State hearings.

[20 CFR 658.419](#) Apparent Violations.

[20 CFR 658.501](#) Basis for discontinuation of services.

[20 CFR 658.502](#) Notification to employers of intent to discontinue services.

[20 CFR 658.503](#) Discontinuation of services.

[20 CFR 658.504](#) Reinstatement of services.

[29 CFR 38](#) Implementation of the Nondiscrimination and Equal Opportunity provisions of the Workforce Innovation and Opportunity Act.

[29 CFR 501.6](#) Investigation authority of the Secretary.

[29 CFR 501.20](#) Debarment and revocation

[29 CFR 503.3](#) Coordination among Governmental agencies.

[29 CFR 503.7](#) Authority of the Administrator, WHD

[Sec. 188 of the WIOA](#) Nondiscrimination.

[TEGL 15-23](#) Employment and Training Administration Recipient Responsibilities for Reporting Instances of Suspected Fraud, Program Abuse, and Criminal Conduct.

IV. Acronyms and Definitions

Reference the Glossary for an explanation of the acronyms and definitions used in this chapter: **Complaints and Apparent Violations Management Log, Complaint/Apparent Violation Form (ETA 8429), Complaint System Representative, Employment and Training Administration (ETA), English Language Learner (ELL) Equal Opportunity (EO), Job Center Memorandum of Understanding, Local Workforce Development Area (LWDA), Office of Equal Opportunity (OEO), Office of Inspector General (OIG), State-designated Staff, State Monitor Advocate (SMA), State Workforce Agency (SWA), Wagner Peyser Act.**

V. Standards

A. TYPES OF COMPLAINTS

A complaint is a representation, made or referred to a State or ES office, of an alleged violation of the ES regulations and/or other federal laws.

1. ES-related complaints: Complaints against an ES-related employer or the ES program:
 - a. Filed within 24 months of the alleged offense.
 - b. Including any complaints from a veteran.
 - c. Involving a failure to comply with ES regulations under [20 CFR 652](#), [20 CFR 653](#), and [20 CFR 654](#).
2. Migrant and Seasonal Farmworker (MSFW) complaints: Complaints filed by a migrant farm worker or a seasonal farm worker against:
 - a. An ES-related employer or the ES program, when ES referred the complainant to the employer and the complaint was filed within 24 months of the alleged offense; or
 - b. An employer or an entity/agency that is unrelated to any services provided through the ARIZONA@WORK Job Center.
3. Non-ES related complaints:
 - a. Employment-related complaints against an employer or an entity/agency that are unrelated to any services provided through the ARIZONA@WORK Job Center. The complainant must be immediately referred to the appropriate enforcement agency, another public agency, a legal aid organization, and/or a consumer advocate organization, as appropriate, for assistance.
 - b. Any complaints alleging violations under the Unemployment Insurance program must be referred to the Unemployment Insurance Client Advocate.
 - c. Complaints under Workforce Innovation and Opportunity Act (WIOA) Title I programs, other ARIZONA@WORK partners, or complaints by veterans alleging employer violations of the mandatory listing requirements under 38 U.S.C. 4212, are not covered by this policy and must be referred to the appropriate team as indicated by the Job Center Memorandum of Understanding for the respective Local Workforce Development Area (LWDA)
 - d. Complaints regarding these topics should not appear on the Complaints and Apparent Violations Management Log.

4. Discrimination complaints: all ES-related complaints that are filed with a local office alleging unlawful discrimination.
5. Complaints alleging fraud, program abuse, or criminal conduct should be reported to the [DES Office of Inspector General \(OIG\)](#), pursuant to [TEGL 15-23](#).

B. OVERALL RESPONSIBILITIES

1. DES is the State Workforce Agency (SWA), and the Division of Employment and Rehabilitation Services (DERS), within DES, has overall responsibility for the operation of the ES Complaint System. DERS will ensure that information pertaining to the use of the ES Complaint System is publicized by the prominent display of U.S. Department of Labor (DOL) Employment and Training Administration (ETA)-approved Complaint System Posters in each local, satellite, and district office.
2. In addition to documenting complaints, DERS is responsible for identifying an apparent violation, which occurs when any ES Staff observes, has reason to believe, or receives information regarding a suspected violation, except as part of a field check.
3. The State Monitor Advocate (SMA) is responsible for auditing and monitoring the Complaint System and will identify any challenges, complaint trends, findings from reviews of the Complaint System, training offered throughout the year, and steps taken to inform MSFWs, employers and farmworker advocacy groups about the Complaint System pursuant to [20 CFR 653.108](#). The SMA is responsible for;
 - a. Monitoring the performance of the Complaint System;
 - b. Reviewing the ES office's informal resolution of complaints relating to MSFWs, and ensuring that the State-designated Staff transmits copies of the Complaints and Apparent Violations Management Log;
 - c. Reviewing the appropriateness of informal resolutions of complaints and apparent violations, as documented in the Complaints and Apparent Violations Management Log;
 - d. Reviewing complaint processes elevated from the ES office or concerning the ES office.
4. At the local level, each ARIZONA@WORK office must have access (either in-person or virtual) to a designated and trained Complaint System Representative, pursuant to [20 CFR 658.410\(d\)](#), available during normal

DES business hours to take complaints and to explain how the complaint system works.

5. At the State level, there must be trained staff who are responsible for reviewing the Complaint System for DES, and who are also responsible for:
 - a. Reviewing the complaint process and maintaining the Complaints and Apparent Violations Management Log;
 - b. Transmitting an electronic copy of the Complaints and Apparent Violations Management Log to the State Monitor Advocate (SMA) within one month after the end of the calendar quarter;
 - c. Collaborating with and assisting the SMA in identifying any issues within the complaint system.

C. COMPLAINT SYSTEM DOCUMENTATION

1. DERS must ensure a centralized referral system is established for the processing of complaints. There must be a central complaint log maintained, listing all complaints taken by the trained Complaint System Representative, and specifying for each complaint:
 - a. The name of the complainant;
 - b. The name of the respondent (employer or State agency);
 - c. The date the complaint is file;
 - d. Whether the complaint is filed by or on behalf of an MSFW;
 - e. Whether the complaint concerns an employment-related law or ES regulations; and
 - f. Any action taken, and whether the complaint has been resolved, including informally. The complaint log must also include action taken on apparent violations;
2. Any action taken by DES, including referral on a complaint from an MSFW, must be fully documented, containing all relevant information, including:
 - a. A notation of the type of each complaint, pursuant to Department guidance;
 - b. A copy of the original complaint form;

- c. A copy of any ES-related reports;
 - d. A list of actions taken;
 - e. A record of pertinent phone calls;
 - f. All related correspondence.
3. The SMA audits the Complaints and Apparent Violations Management Log and is responsible for:
- a. Monitoring the performance of the Complaint System;
 - b. Reviewing the ES office's informal resolution of complaints relating to MSFWs, and ensuring that the State-designated Staff transmits copies of the Complaints and Apparent Violations Management Log;
 - c. Reviewing the appropriateness of informal resolutions of complaints and apparent violations, as documented in the Complaints and Apparent Violations Management Logs;
 - d. Reviewing complaint processes elevated from the ES office or concerning the ES office.
4. The Complaints and Apparent Violations Management Log must be reviewed monthly for errors by supervisory staff, and corrected or noted for compliance purposes in the future;
5. Quarterly reports, using the electronic complaint log, will be submitted to the SMA by supervisory staff within one (1) month after the end of the calendar quarter;
6. A separate electronic file must be maintained for each complaint;
7. The Complaints and Apparent Violations Management Log and files must be retained for three years and be made available to the DOL ETA upon request.

D. ADDRESSING ES RELATED COMPLAINTS

- 1. ES-related complaints must be reported within 24 months of the alleged offense.
- 2. DERS must ensure that any complaint received is handled by trained Complaint System Representatives, who will work with both individuals and employers to gain complaint resolution when:

- a. The complaint is about a job posted in the ARIZONA@WORK system;
 - b. The complaint involves a specific job to which the individual was referred;
 - c. The complaint alleges that the employer violated the terms and conditions of the job order or other employment law;
 - d. The complainant is an English Language Learner (ELL). All written correspondence with the complainant must include a translation into the complainant's native language.
 - e. The complaint is from MSFW.
3. Complaints may be received at local offices, online, during field checks, and during outreach activities. Complainants have the option to phone, write, or email to file a complaint. The DES website has a link which is the primary online initial point of contact. All ES-related complaints, no matter how filed or received, are logged in the Complaints and Apparent Violations Management Log. [Employment Service/Related Law Complaint](#)
 4. DERS must ensure that any complaint received is fully documented in the Complaints and Apparent Violations Management Log and contains all relevant information:
 - a. Reports;
 - b. A list of actions taken;
 - c. A record of pertinent phone calls; and all related correspondence.

E. ADDRESSING NON-ES RELATED COMPLAINTS - NON-MSFW

1. Non-ES related complaints are complaints directed towards an employer or agency that is unrelated to any services provided through an ARIZONA@WORK Job Center. Non-ES complaints typically involve an alleged violation of employment-related law, and are referred to the appropriate labor enforcement agency by a trained Complaint System Representative or by State-designated Staff.
2. When a person files a complaint concerning an out-of-state ES agency or an out-of-state employer, DERS must ensure that a *Complaint/Apparent Violation Form ETA form 8429* is completed.

- a. The ARIZONA@WORK office receiving the complaint must ensure the Complaint/Apparent Violation Form is adequately completed and must then immediately send a copy of the Complaint/Apparent Violation Form and copies of any relevant documents to the SWA in the other state.
- b. Copies of the referral letter must be sent to the complainant, and copies of the complaint and referral letter must be sent to the ETA Regional Office(s) with jurisdiction over the transferring and receiving state agencies. All such copies must be sent via hard copy or electronic mail.
- c. DES, as the SWA receiving the complaint, must process the complaint as if it had been initially filed with DES.
- d. No further action is required of DES once the matter is referred to the ETA Regional Office, who must follow up to ensure the complaint is processed in accordance with federal regulations.

F. ADDRESSING MSFW COMPLAINTS

1. When an MSFW submits a complaint, a trained Complaint System Representative must follow up monthly on the processing of the complaint and must inform the complainant of the status of the complaint.
2. A complainant may designate an individual to act as their representative throughout the filing and processing of a complaint.
3. If the complainant is an MSFW, the ES office or the Complaint System Representative must:
 - a. Receive a written (hard copy or electronic) complaint or complaints from the MSFW or their representative, describing the alleged violation(s) of the employment-related law(s); and
 - b. Attempt to resolve the issue(s) informally at the local level, except in cases where the complaint was submitted to DERS and the Complaint System Representative determines that they must take immediate action or in cases where informal resolution at the local level would be detrimental to the complainant(s). In cases where informal resolution at the local level would be detrimental to the complainant(s), the Complaint System Representative must immediately refer the complaint to the appropriate enforcement agency. The Complaint System Representative must offer to refer the MSFW to other ES services should the MSFW be interested.

- c. If the issue is not resolved within five business days, the Complaint System Representative must refer the complaint to the appropriate enforcement agency (or another public agency, a legal aid organization, or a consumer advocate organization, as appropriate) for further assistance.
 - d. If the trained Complaint System Representative determines that the complaint must be referred to a State or federal agency, they must refer the complaint immediately to the appropriate enforcement agency for prompt action.
 - e. If the complaint was referred, the representative must notify the complainant of the enforcement agency to which the complaint was referred.
 - f. When a complaint alleges an employer in a different state from where the complaint is filed has violated an employment-related law:
 - i. The ES office or trained Complaint System Representative receiving the complaint must ensure the Complaint/Apparent Violation Form is completed and then send a copy of the Complaint/Apparent Violation Form and copies of any relevant documents to SWA in the other state. Copies of the referral letter must be sent to the complainant, and copies of the complaint and referral letter must be sent to the ETA Regional Office(s) with jurisdiction over the transferring and receiving state agencies. All such copies must be sent via hard copy or electronic mail.
 - ii. The SWA receiving the complaint, must process the complaint as if it had been initially filed with that SWA.
 - iii. If the complaint is against more than one SWA, the complaint must so clearly state. Additionally, the complaints must be processed as separate complaints and must be processed according to procedures.
4. No further action is required of DES once the matter is referred to the ETA Regional Office, who must follow up to ensure the complaint is processed in accordance with federal regulations. [20 CFR 658.411 \(f\)](#) ADDRESSING DISCRIMINATION COMPLAINTS
1. All ES-related complaints that are filed with a local office alleging unlawful discrimination must be referred to a trained Complaint System

2. Representative who will provide the complainant with instructions from the DES website on how to [File a Discrimination Complaint](#), and who will assist the complainant in the completion of the Client Discrimination Complaint form, when requested. The trained Complaint System Representative must:
 - a. Refer all discrimination complaints that are Non-ES related to the appropriate enforcement agency.
 - b. Record all discrimination complaints received by the office on the Complaints and Apparent Violations Management Log and ensure that the log is updated quarterly.
 - d. Upon receipt of a complaint alleging discrimination, submit the complaint to the DES Office of Equal Opportunity (OEO). [29 CFR 38 \(d\)](#).
 - e. Immediately advise complainants, who have alleged a violation of the nondiscrimination provisions of the [WIOA Sec. 188](#) or [29 CFR 38](#), of the right to file a complaint directly with the DOL Civil Rights Center, and provide the complainant with instructions on how to do so. [How to File a Discrimination Complaint](#).
2. The OEO will address complaints of discrimination if the complaint is based on at least one protected basis covered by law, and if the complainant(s) are applying for, receiving, or have been denied benefits or services administered by DES or a DES-approved contractor.

H. ADDRESSING APPARENT VIOLATIONS

The trained Complaint System Representative must document the apparent violation and refer it to their supervisor, who must ensure that the apparent violation is documented in the Complaints and Apparent Violations Management Log.

- a. When the employer has placed a job order with DERS in the past 12 months, the trained Complaint System Representative must attempt to resolve the violation informally. The appropriate ARIZONA@WORK Complaint System Representative must investigate and attempt to resolve the complaint immediately upon receipt.
 - i. If resolution has not been achieved to the satisfaction of the complainant within 15 working days after receipt of the complaint, the Complaint System Representative must

escalate the complaint to DERS Executive Leadership for resolution or further action according to the established procedures. Written notice of this referral must be provided to the complainant and the respondent.

- b. When the employer has not placed a job order with DERS in the past 12 months, the trained Complaint System Representative must refer the violation to the appropriate enforcement agency.
- c. Apparent violations of nondiscrimination laws must be processed according to the procedures described in [20 CFR 658.411 \(c\)](#).

I. COMPLAINT RESOLUTION

1. Within 20 business days of a determination, the trained Complaint System Representative will send a written notice to the complainant.
2. Complaints will be considered resolved when one of the following occurs:
 - a. The complainant or the complainant's authorized representative fails to respond to a request for information within 20 business days or, in cases where the complainant is an MSFW, 40 business days of a written request by the appropriate ARIZONA@WORK Job Center;
 - b. The complainant indicates satisfaction with the outcome via written correspondence;
 - c. The complainant fails to elevate the complaint to the next level of review;
 - d. The complainant exhausts the final level of review; or
 - e. The final determination of an enforcement agency is received by DES.
3. Reopening of the case after resolution. If the complainant or the complainant's authorized representative fails to respond, the complainant or the complainant's authorized representative may request to reopen the case within 12 months after DES has closed the case. [20 CFR 658.411](#).

J. BASIS FOR DISCONTINUATION OF SERVICES

1. Pursuant to [20 CFR 658.501](#), DERS Executive Leadership, who are designated by the DERS Assistant Director to act on their behalf, must initiate procedures for the discontinuation of services, only after all efforts

have been exhausted, to employers who: Submit, and refuse to alter or withdraw job orders containing specifications that do not comply with employment-related laws;

- a. Refuse to provide assurances that the jobs offered comply with employment-related laws;
 - b. Misrepresent the terms and conditions of employment specified in job orders or fail to comply fully with assurances made in job orders;
 - c. Violate any employment-related law, as determined by an appropriate enforcement agency in a final determination and provided to ES by the enforcement agency, including those who are currently debarred from participating in the H-2A or H-2B foreign labor certification programs pursuant to [20 CFR 655.73](#) and [29 CFR 501.20](#);
 - d. Violate regulations pursuant to [20 CFR 658.411](#) and [20 CFR 658.419](#);
 - e. Refuse to accept qualified workers referred through AJC; and/or
 - f. Refuse to cooperate in the conduct of field checks pursuant to [20 CFR 653.503](#).
2. When an ARIZONA@WORK Job Center, DES, or an authorized enforcement agency has information that an employer participating with ES may have committed fraud or misrepresentation in connection with its current or prior temporary labor certification, or may not have complied with the terms of such certification, under the H-2A and H-2B visa programs, DERS Executive Leadership must notify the OFLC National Processing Center and the Wage and Hour Division of the alleged noncompliance, as applicable under [20 CFR 655.185](#) and [29 CFR 501.2](#), [501.6](#), [503.3](#), and [503.7](#). If the circumstances occurred within the previous three years, DERS Executive Leadership must determine whether there is a basis under [20 CFR 658.501](#) for which DERS Executive Leadership must initiate procedures for the discontinuation of services.

K. NOTIFYING THE EMPLOYER OF DES INTENTIONS TO DISCONTINUE SERVICES

1. When an ARIZONA@WORK Job Center, DES, or an authorized enforcement agency determines that an employer has violated Wagner-Peyser administrative regulations or employment-related laws, they must notify the trained Complaint System Representative so that the

trained staff completes the Complaint/Apparent Violation Form. The Complaint/Apparent Violation Form will be forwarded to DERS Executive Leadership, defined according to established procedures, to determine whether a Notice of Discontinuation of Services Letter should be sent to the employer and that it intends to discontinue the provision of ES services in accordance with [20 CFR 658.502](#).

2. When the decision to discontinue services is based on [20 CFR 658.501 \(1\)](#) (refusal to correct or withdraw job orders containing terms and conditions that are contrary to employment-related laws), DERS Executive Leadership must specify the date the order was submitted, the job order involved, and the terms and conditions contrary to employment-related laws and other laws involved. DERS Executive Leadership must notify the employer in writing that all ES services will be terminated unless the employer complies within 20 working days:
 - a. Providing adequate evidence that the terms and conditions are not contrary to employment-related laws;
 - b. Withdrawing the contrary terms and conditions and resubmitting the job order in compliance with all employment-related laws; or
 - c. If the job is no longer available, making assurances that all future job orders submitted will be in compliance with all employment-related laws.
3. When the decision to discontinue services is based on [20 CFR 658.501 \(2\)](#) (refusal to provide assurances, or refusal to withdraw job orders that do not contain assurances), DERS Executive Leadership must specify the date the order was submitted, the job order involved, the assurances involved, and explain how the employer refused to provide the assurances. DERS Executive Leadership must notify the employer that all ES services will be terminated unless the employer complies within 20 working days:
 - a. Resubmitting the order with the required assurances; or
 - b. If the job is no longer available, making assurances that all future job orders submitted will contain all assurances required pursuant to the Agricultural Recruitment System for U.S. Workers.
4. When the decision is based on [20 CFR 658.501 \(3\)](#) (either misrepresenting the terms or conditions of employment specified in job orders or failing to comply fully with assurances made on the job order), DERS Executive Leadership must specify the terms and conditions the employer misrepresented or the assurances with which the employer did

not fully comply, and explain how the employer misrepresented the terms or conditions or failed to comply with assurances on the job order. DERS Executive Leadership must notify the employer that all ES services will be terminated unless the employer, within 20 working days;

- a. Provides adequate evidence that the terms and conditions of employment were not misrepresented;
 - b. Provides adequate evidence that there was full compliance with the assurances made on the job orders; or
 - c. Provides adequate evidence that it has resolved the misrepresentation of terms and conditions of employment or noncompliance with assurances, that specifications on future orders will accurately represent the terms and conditions of employment, and that there will be full compliance with all job order assurances.
5. When the decision is based on [20 CFR 658.501 \(4\)](#) (violating any employment-related laws and notifications of this final determination), DERS Executive Leadership must provide evidence of the final determination, including debarment. For final determinations, DERS Executive Leadership must specify the enforcement agency's findings of facts and conclusions of law as to the employment-related law violation(s). For final debarment orders, DERS Executive Leadership must specify the time period for which the employer is debarred from participating in one of the Department's foreign labor certification programs. DERS Executive Leadership must notify the employer that all ES services will be terminated unless the employer, within 20 working days:
- a. Provides adequate evidence that the enforcement agency's determination is not final because, for example, it has been stayed pending appeal, overturned, or reversed; or
 - b. Provides adequate evidence that, as applicable:
 - i. The Department's debarment is no longer in effect; and
 - ii. The employer has completed all required actions imposed by the enforcement agency as a consequence of the violation, including payment of any fines or restitution to remediate the violation; and
 - c. Provides assurances that any policies, procedures, or conditions responsible for the violation have been corrected and the same or

similar violations are not likely to occur in the future. When the decision is based on [20 CFR 658.501 \(5\)](#) (violating ES regulations), DERS Executive Leadership must specify which ES regulation was violated, as defined in [20 CFR 651.10](#), and must provide basic facts to explain the violation. DERS Executive Leadership must notify the employer that all ES services will be terminated unless the employer, within 20 working days:

- a. Provides adequate evidence that the employer did not violate ES regulations; or
 - b. Provides adequate evidence that appropriate restitution has been made or that the appropriate remedial action has been taken; and
 - c. Provides assurances that any policies, procedures, or conditions responsible for the violation have been corrected and that the same or similar violations are not likely to occur in the future.
7. When the decision is based on [20 CFR 658.501 \(6\)](#) (refusal to accept qualified workers referred through the clearance system for criteria clearance orders), DERS Executive Leadership must indicate that the employer filed the job order pursuant to [20 CFR 655 \(b\)](#) and specify the name of each DERS Executive Leadership-referred worker the employer did not accept. DERS Executive Leadership must notify the employer that all ES services will be terminated unless the employer, within 20 working days:
- a. Provides adequate evidence that the workers were accepted; or
 - b. Provides adequate evidence that the workers were not available to accept the job; or
 - c. Provides adequate evidence that the workers were not qualified; or
 - d. Provides adequate evidence that the workers were referred after the time period elapsed; or
 - e. Provides adequate evidence that:
 - i. After refusal, the employer accepted the qualified workers referred; or
 - ii. Appropriate restitution has been made or other remedial action taken; and
 - f. Provides assurances that qualified workers referred in the future will be accepted or, if the time period described in [20 CFR 655.135 \(d\)](#) has lapsed, provides assurances that qualified workers

referred on all future clearance orders will be accepted. When the decision is based on [20 CFR 658.501\(7\)](#) (refusal to cooperate in field checks), DERS Executive Leadership must explain how the employer did not cooperate in the field check. DERS Executive Leadership must notify the employer that all ES services will be terminated unless the employer, within 20 working days:

- a. Provides adequate evidence that it did cooperate in the field check; or
 - b. Immediately cooperates in the conduct of field checks; and
 - c. Provides assurances that it will cooperate in future field checks.
9. When the decision is based on [20 CFR 658.501\(8\)](#) (repeatedly causing the initiation of discontinuation of services procedures), DERS Executive Leadership must list and provide basic facts explaining the prior instances where the employer has repeatedly caused the initiation of discontinuation proceedings. DERS Executive Leadership must notify the employer that all ES services will be terminated unless the employer, within 20 working days, provides adequate evidence that the DERS' initiation of discontinuation in prior proceedings was unfounded.
10. Throughout the discontinuation of services process, DERS must make every effort to bring the violating employer into compliance and to prevent the actual discontinuation of services, and must thoroughly document all actions taken to assist the employer in this process. A discontinuation of services should only be considered as a last resort. Only after every effort to bring the violating employer into compliance has been both exhausted and thoroughly documented, may an actual discontinuation of services be initiated.
11. DERS Executive Leadership must discontinue services immediately, in accordance with [20 CFR 658.503](#), without providing the notice described in this section, when an employer has met any of the bases for discontinuation of services under [20 CFR 658.501\(A\)](#) and, in the judgment of the State Administrator, exhaustion of the administrative procedures set forth in this section would cause substantial harm to workers.

L. DISCONTINUATION OF SERVICES

1. When DERS Executive Leadership determines that the employer did not provide a satisfactory response in accordance with [20 CFR 658.502\(A\)](#), the DERS Executive Leadership notification must specify the reasons for

its determination and state that the discontinuation of services is effective 20 working days from the date of the notification. The notification must also state that the employer may request reinstatement or appeal the determination by requesting a hearing pursuant to [20 CFR 658.504](#), and that a request for a hearing states the discontinuation of service is pending the outcome of the hearing. If the employer does not request a hearing, the DERS Executive Leadership must also notify the ETA Office of Workforce Investment of any final determination to discontinue ES services within 10 working days of the date the determination becomes effective.

2. If DERS Executive Leadership discontinues services to an employer that is subject to Federal Contractor Job Listing Requirements, DERS Executive Leadership must notify the ETA regional office immediately, pursuant to [20 CFR 658.503](#).
3. If discontinuing services to an employer based on a complaint filed, DERS Executive Leadership must notify the complainant of the employer's discontinuation of services.
4. If DERS discontinues services to an employer, the employer cannot participate in or receive Wagner-Peyser Act ES Services provided by the ES or by any other SWA. The SWA that issued the determination must remove the employer's active job orders from the clearance system. No SWA may process any future job orders from the employer or provide any other services, unless services have been reinstated under [20 CFR 658.504](#).
5. DERS must continue to provide the full range of ES and other appropriate services to workers whose employers experience a discontinuation of services.

M. REINSTATEMENT OF SERVICES

1. DERS may reinstate services to an employer, after the discontinuation of services has occurred, when ordered to do so by a federal Administrative Law Judge, an ETA Regional Administrator, or a State Hearing Officer, or when the employer provides adequate evidence to DERS that:
 - a. Any policies, procedures, or conditions responsible for the previous discontinuation of services have been corrected;
 - b. The same or similar difficulties are not likely to occur in the future; and

- c. They have responded satisfactorily to any findings, including restitution to the complainant and the payment of any fines, which were the basis of the discontinuation of services. DERS will notify the employer of the reinstatement determination within 20 business days of receiving the written request from the employer. When DERS denies the employer's request for reinstatement, the basis for the denial must be specified and DERS must notify the employer of their right to a hearing and that the request must be submitted within 20 business days of the denial, pursuant to [20 CFR 658.504](#).
3. When the employer submits a request for a hearing within 20 business days of the denial:
 - a. DERS must follow the procedures set forth in [20 CFR 658.417](#);
 - b. DERS must reinstate services to the employer if ordered to do so by a State hearing official, Regional Administrator, or federal Administrative Law Judge as a result of a hearing offered;
 - c. Within 10 business days of the date of issuance, DERS must notify the ETA Regional Office of any determination to reinstate ES services, or any decision on appeal upholding DERS' determination to discontinue services.

N. HEARING

1. A request for a hearing can be made by either a complainant who is not satisfied with the outcome of their complaint of a violation of ES regulations or by an employer who has had, or is in danger of having, an ES discontinuation of services. The request must be submitted, in writing, within 20 business days of receiving a *Notice of Determination* (ESA-1312A), and must contain the complainant or employer's signature.
2. The hearing will be conducted by the DES Office of Appeals, following the established procedures and requirements pursuant to [20 CFR 658.411\(d\)\(5\)\(iii\)](#).
3. All hearings and appeals are handled by the DES Office of Appeals. The State-designated Staff responsible for the complaint will be responsible for coordinating hearing activity with the Office of Appeals, as the office dictates.

ARIZONA DEPARTMENT OF ECONOMIC SECURITY

Program: Employment Service (ES)

Policy Number: DES

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Glossary

- I. This chapter contains acronyms and definitions used throughout the ES Program Policy Manual.

A. Acronyms

Acronym	Definition
ACP	Arizona Confidentiality Program
ADA	Americans with Disabilities Act
DERS	DES Division of Employment and Rehabilitation Services
DES	Arizona Department of Economic Security
DOL	U.S. Department of Labor
DOLEW	Department of Labor Employment Workshop
DVOP	Disabled Veterans Outreach Program
ELL	English Language Learner
EO	Equal Opportunity
ES	Employment Service
ETA	Employment and Training Administration
FFR	Federal Financial Report
FY	Fiscal Year
JVSG	Jobs for Veterans State Grant
LWDA	Local Workforce Development Area
MSFW	Migrant and Seasonal Farmworker
OEO	Office of Equal Opportunity

Acronym	Definition
OIG	Office of Inspector General
SMA	State Monitor Advocate
SWA	State Workforce Agency
WIOA	Workforce Innovation and Opportunity Act

B. Definitions

Term	Definition
Complaints and Apparent Violations Management Log	Developed for recording complaints filed with the State Employment Service agency. This log must be completed for ES-related complaints and Discrimination complaints received by the Complaint System Representative.
Complaint/Apparent Violation Form	ETA Form 8429 - Developed for recording complaints filed with the State Employment Service agency. This form must be completed for ES-related complaints or Non-ES related complaints, filed by or on behalf of an MSFW, alleging Employment Standards Administration (ESA) or Occupational Safety and Health Administration (OSHA) violations for consideration and processing by State agency officials.
Job Center Memorandum of Understanding	An agreement between the Local Workforce Development Board (LWDB) and one-stop partners that defines how the American Job Center network will deliver program services.
Trained Complaint System Representative	A trained ES staff individual who is responsible for processing complaints.
State designated staff	Refers to employees of a state agency who have been specifically chosen or assigned to fulfill particular roles or responsibilities. These individuals are often identified as having the authority or expertise to carry out specific tasks or functions. This may include Supervisor, Program

	Coordinators or Administrators.
Wagner Peyser Act	A federal law that established a nationwide system of public employment offices, now known as the Employment Service (ES).