

Monitor Advocate System and Foreign Labor Certification in Nebraska: Addressing the Needs of an Essential Workforce

Monitor Advocate System

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State Monitor Advocate

NEBRASKA

Good Life. Great Connections.

What is the Monitor Advocate System?

- The Monitor Advocate System is a federal/state monitoring system that ensures that migrant and seasonal farmworkers (MSFWs) in Nebraska have equitable access to career services, skill development, and workforce protections offered by American Job Centers (AJCs).
- Services offered are “qualitatively equivalent and quantitatively proportionate” to the services provided to other job seekers.
- Migrant and seasonal farmworkers (MSFWs) receive all workforce development services, benefits, and protections on an equitable and non-discriminatory basis.

Eligibility

SEASONAL FARMWORKER A person who, during the past 12 months:

- Worked, or is working, in farmwork (as defined in [20 CFR 651.10](#)) of a seasonal or other temporary nature, and
- Is not required to be absent overnight from their permanent place of residence
- Non-migrant individuals who are full-time students are excluded.

MIGRANT FARMWORKER A seasonal farmworker who had to travel to do the farmwork and was unable to return to their permanent residence within the same day

As defined at [20 CFR 651.10](#)

Nebraska's Workforce System

Workforce Innovation & Opportunity Act

- A stronger alignment of the workforce, education, and economic development system; and
- Improving the structure and delivery in the system to assist America's workers in achieving a family-sustain wage while providing America's employers with the skilled workers they need to compete on a global level.

American Job Centers

- Nationwide network that is a State and locally-driven system that reflects the long-standing and ongoing work of dedicated workforce professionals to align a wide range of publicly or privately-funded education, employment, and training programs.

One-Stop Delivery System

- A system under which entities responsible for administering separate workforce investment, educational, and other human resource programs and funding streams (referred to as One-Stop partners) Collaborate to create a seamless system of services and improve long-term employment outcomes for individuals receiving assistance

Outreach Purpose

Purpose:

To locate and contact MSFWs who are not being reached by normal intake activities conducted by Employment Service (ES) offices.

Main Three Responsibilities:

What is your role as an outreach worker?

1. Locate and contact MSFWs
2. Educate MSFWs about their rights and the complaint system
3. Offer Full range of services

Outreach

- Designed to contact MSFWs who are not being reached by normal intake activities conducted by the local offices.
- This is the single most important way to reach workers who otherwise would not speak with anyone else about their employment conditions.
- Includes provision of information about services available at the local one-stop center, such as the availability of referrals to training, supportive services, and career services, as well as specific employment opportunities, and information about farmworker rights and complaint system.

Services Provided

- Serves jobseekers and employers through Wagner-Peyser Act Employment Service, includes:
 - NEworks Registration Assistance
 - Resume Development
 - Job Application Assistance
 - Computer Assistance
 - Training Opportunities
 - Job Search Assistance
 - Job Referrals
 - Referrals to Partner Resources
 - Complaint Resolution
 - Agricultural Recruitment System
- Per [20 CFR 653.101](#)

Complaint System

- The complaint system handles complaints against an employer about the specific job referred to; OR
- Employment Service regulations under the Wagner-Peyser Act. Services of the W-P Act to MSFWs, to include 651 general provisions, 653 employment service system, and 654 Housing for Farmworkers.
- The Complaint System also accepts, refers, and under certain circumstances, tracks complaints involving employment-related laws as defined in 651.10.

Complaint System (cont'd)

- All MSFW complaints or apparent violations must be recorded on the official ETA 8429 DOL Complaint/Apparent Violation form.
- Most recent official version available at: <https://www.dol.gov/agencies/eta/agriculture/monitor-advocate-system/resources>

 U.S. Department of Labor Employment and Training Administration		OMB Approval No. 1205-0039 Expiration Date: 07/31/2023
For Official Use Only Complaint/Apparent Violation Form ¹		
Complainant/Apparent Violation No. _____		Date Received _____
Part I. Contact Information²		Respondent's Information³
1. Name of Complainant (Last, First, Middle Initial) ⁴ _____		4. Name of Person, Company, or Agency the Complaint is Made Against _____
2a. Permanent Address (No., St., City, State, ZIP Code) _____		5. Name of Employer (if different from Part I #4 above) (One-Stop Office) _____
b. Temporary Address (if Appropriate) _____		6. Address of Employer/One-Stop Office _____
3a. Permanent Telephone () - () - _____	b. Temporary Telephone () - () - _____	7. Telephone Number of Employer/One-Stop Office () - () - _____
8a. Description of Complaint or Apparent Violation (If additional space is needed, use separate sheets) of paper and attach to this form _____		
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What kind of information about violations do customers share?

- Discrimination
- Employment Terms and Conditions
- Wrongful Termination
- Wage Payment
- Language Access
- Abuse
- Harassment/Coercion/Assault

NDOL Job Centers

- <https://dol.nebraska.gov/ContactUs>

Official Nebraska Government Website AA AA

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Department of Labor

REEMPLOYMENT SERVICES UNEMPLOYMENT LABOR DATA BUSINESSES LABOR STANDARDS WORKPLACE SAFETY CONTACT US NEWS

Our Job Centers Our Programs Contact Us

Find Our Job Centers

Click on a City Name to view location details.



** Have veteran representatives available * Limited office hours. Call ahead for availability.

The Agricultural Recruitment System (ARS)

- Employer determines need for workers.
- Employers then place a job order at a local State Workforce Agency (SWA).
- Local SWA prepares job order and recruits locally.
- If labor needs are not met through a local job order, employer should be advised of the option to clear the order to other local offices within the State (**Intrastate Clearance Order**).
- If labor needs are not met statewide, the SWA, with employer authorization, will submit the Intrastate Job Order to the U.S. DOL ETA, Regional Office for their review as an **Interstate Clearance Order (ICO)**.
- The ETA Regional office reviews and approves or disapproves the ICO and determines the areas of supply to which the order shall be extended if it is approved.
- The SWA then sends the approved Clearance Order to ETA designated States where qualified workers may be available.

NEBRASKA DEPARTMENT OF LABOR

Foreign Labor Certification Program



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What is the Foreign Labor Certification Program?

- Foreign labor certification programs permit U.S. employers to hire foreign workers on a temporary or permanent basis to fill jobs essential to the U.S. economy
- H-2A and H-2B, and other Specialty (Professional) Workers

H-2A Temporary Agricultural Program

The H-2A temporary agricultural program allows agricultural employers who anticipate a shortage of domestic workers to bring nonimmigrant foreign workers to the U.S. to perform agricultural labor or services of a temporary or seasonal nature.

Eligibility

A U.S. employer or an association of agricultural producers who has full-time work that needs to be performed on a temporary or seasonal basis may apply to the Office of Foreign Labor Certification (OFLC) for an H-2A temporary labor certification. The general guidelines below will help you understand whether you are eligible to participate in the H-2A Program

- **You must be an employer** with a place of business physically located in the United States, possess a valid Federal Employer Identification Number (FEIN); and the ability to hire, pay, fire, supervise, or otherwise control the work of the workers you employ

Eligibility

- **The work to be performed must consist of agricultural labor or services**, such as the planting, raising, cultivating, harvesting, or production of any agricultural or horticultural commodity;
- **The work must be full-time**, at least 35 hours (or more) per work week; and,
- **The need for the work must be seasonal or temporary in nature** and tied to a certain time of the year by a recurring event or pattern, such as an annual growing cycle, normally lasting 10 months or less.

H-2A Housing Inspections

- Employers are obligated and must provide housing at no cost to the H-2A workers and U.S. workers in corresponding employment who are not reasonably able to return to their residence within the same day
- Nebraska SWA provide evidence of compliance with the applicable local, State or Federal safety and health standards by conducting housing inspections

Job Orders Compliance

- Employers must submit the job orders with the Nebraska SWA serving the area of the intended employment
- Nebraska SWA review the agricultural job orders for compliance with all regulatory requirements and notify employers in writing of any deficiencies

Referral of U.S. Workers for H-2A Job Orders

- Nebraska SWA places a copy of the job orders in its clearance system and begin recruitment of U.S. workers
- Employers are expected to cooperate with the SWA by accepting referrals of eligible U.S. workers who apply for the job
- SWA may only refer individuals who have been apprised of all the material terms and conditions of employment and who are qualified and will be available for employment

Advantages and benefits for U.S. Workers

- Creates competition for employment
- Prevailing wage for all workers-\$16.47
- Housing availability
- Transportation expense reimbursement

Resources

- U.S. Department of Labor Foreign Labor Certification:
<https://www.dol.gov/agencies/eta/foreign-labor>
- Nebraska Department of Labor Foreign Labor Certification:
<https://dol.nebraska.gov/ReemploymentServices/EmployerResources/ForeignLaborCertification>
- Questions related to Foreign Labor Certification Program should be emailed to: NDOL.FLC@nebraska.gov

Questions?

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Greater Nebraska

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Thank You!

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