## Wagner-Peyser Employment Services

# Wagner-Peyser & Labor Exchange Manual

## Missouri Department of Higher Education and Workforce Development

Office of Workforce Development

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## INTRODUCTION

The Wagner-Peyser Act, as amended by Title III of the WIOA, requires that the State administer a public labor exchange system, and also requires individuals to be provided basic career services, and allows for the provision of individualized career services.

Basic career services are universally accessible and must be made available to all individuals. Examples include provision of labor market information, provision of referrals to community resources, and eligibility determinations.

Individualized career services must be provided to actual participants after a determination has been made that such services are required to retain or obtain employment. Examples include specialized assessments, developing individualized employment plans, and career guidance/counseling.

All WP services can be found in the current OWD Issuance regarding Participant Activity Codes, Durations, & Definitions.

### Initial Job Center Process

When an individual visits the local Job Center (JC) to utilize the labor exchange system, or are scheduled to meet with a staff person, JC staff are required to direct the individual to complete the steps below.

1. Create and/or update MoJobs Individual Profile; and
2. Create and/or update MoJobs résumé.

After these steps have been completed, an individual can continue to use the labor exchange system on their own or move forward to meet with staff, whatever the situation may be.

WP Enrollment

Enrollment into WP must be completed on the following individuals:

- Customers who are in need of staff-directed assistance in finding employment;
- Customers that are eligible for, or reporting for, services through the WIOA programs; Veteran's program (if being case managed), Reemployment Services and Eligibility Assessment (RESEA), Trade Act Assistance (TAA) program, Migrant and Seasonal Farmworkers (MSFW), Missouri Re-entry Process, etc.;
- When processing the TRA-22 for Trade Act (TAA) customers these can be recorded as 145-Unemployment Compensation Assistance once they are co-enrolled in Wagner-Peyser.
- Claimants complying with state or federal Unemployment Insurance (UI) laws or regulations that require registration with the public labor exchange as a condition for continued receipt or eligibility for program benefits.

**NOTE**: individuals reporting to the Job Center for ID verification purposes only **do not** require a WP enrollment.

A WP enrollment must be completed before any staff-assisted services are recorded, including job order referrals and/or services that are set to be tracked using the Events Calendar, with the exception of informational workshops. For this reason, staff are to verify that the customer has an active WP enrollment in place before the customer receives a seated interview with JC staff. All WP participants at the time of enrollment must have a completed active and online resume in the system.

**Registration Requirements**

The System allows individuals to access basic information without a log in. However, if a customer seeks to use the system for specific purposes, a registration must be created within the system. Examples include getting referral information for job openings and entering a job order in to the system.

All customers, job seekers and employers alike, must be registered in MoJobs so that appropriate services and notes can be recorded as they occur.

Staff assisting a job seeker with their registration must not create a username using the individual's social security number for confidentiality and security purposes. Staff cannot prevent an individual from creating an unsecure username, however, staff are required to explain confidentiality and strongly recommend customers use alternate usernames when assisting with user accounts.

**Verifying Accounts**

Job Center (JC) staff are to verify if an account already exists within the MoJobs system before directing any customer to register in the system.

**Duplicate Accounts**

When duplicate accounts are discovered in the system, staff should verify and confirm which account is the correct account. In all cases when a customer has duplicate accounts, the account with the SSN must be used as the primary account. Staff should then contact the OWD Technical Support Unit via email at dwdsupport@dhewd.mo.gov and ask that the accounts be merged.

**Job Seekers - Service Policy**

It is the policy of the OWD to provide services to all individuals legally seeking employment opportunities. It is the goal of the OWD to maintain a quality labor exchange system and to provide the maximum services possible for job-ready applicants. OWD staff and their partner agencies will utilize their experience, expertise, and judgment to provide labor exchange services for these applicants. Additional services will be provided to customers who are not immediately job-ready. Services may include referral to job counseling, referral to training, and other appropriate resources to assist customers in obtaining employment as quickly as possible.

The following are policies of OWD:

- Give priority in selection and referral to qualified veterans and give disabled veterans priority over other veterans.
- Extend no preference in referral to any applicant or group of applicants (except in accordance with legal requirements).
- Accept an application from any job seeker, legally eligible to work in the U.S., without regard to place of residence, current employment status, or occupational qualifications.
- Obtain from the job seeker only that information which is necessary to determine his or her qualifications for employment and is required to carry out our legal responsibilities.
- Classify a job seeker in terms of all applicable Occupational Information Network (O*NET) codes and assign all appropriate job skills to the individual's record.
- Utilize the applicant's skills, education, training, and interests when referring applicants to job openings.
- Make no referral that will aid, directly or indirectly, in filling a job that is vacant due to the following: the former occupant of the job is on strike, the former occupant of the job is being locked out in the course of a labor dispute, or where the filling of the job is an issue in a labor dispute. With respect to positions not covered by these examples, an individual may be referred to a place of employment in which a labor dispute exists, provided he/she is given written notice of the dispute prior to or at the time of referral.
- Make no referral to a position where the job performed, or the terms or conditions of employment, are contrary to federal, state, or local law.
- Give equitable consideration, based on qualifications, to all registered applicants who have indicated their availability for employment, without regard to their presence in the office at the time of selection.

**Employers**

An account must be entered for all employers wanting to post a job opening on MoJobs. All employer accounts come equipped with a username to MoJobs and require validation of the employer before allowing access to the system. If a new employer is seeking services, they must have a position for which they are seeking applicants before an account can be created.

JC staff may assist with creating accounts for employers. Creation of the employer account, by either party, will have an account status of 'Pending Verification' until the OWD Technical Support Unit validates the employer, which can take up to 48 hours to complete. In the meantime, job orders can still be entered in to the labor exchange system by staff and will be made available online once the account has been validated. Any questions regarding the validation of an employer are to be directed to the OWD Technical Support Unit at dwdsupport@dhewd.mo.gov or (866) 506-0251.

It is the responsibility of all JC staff to ensure employers receive quality services. JC staff are required to review job orders on an ongoing basis, whether or not JC staff assisted in the creation of a job order. Job orders should be reviewed to ensure the employer gets the most out of the system. If edits are needed, the employer should be contacted and services offered. JC staff are required work job orders on an ongoing basis and send out notifications to qualified job seekers. Notifications, or lack thereof, should be case noted on the employer's record upon completion.

**Employer - Policy & Terms of Service**

- Cannot sell or repost Job Seeker information found in the System;
- Must have a bona fide job opening to use the System and cannot post job orders for positions that are (1) not currently open for hiring, (2) used as source of sales leads, or (3) related to network marketing or pyramid schemes.
- Must demonstrate that an employer-employee relationship exists as demonstrated by the direct hiring of the employee, such as paying the required federal taxes and provision of W-2s at the end of the year.

**Job Order Entry Timeline**

All job orders received in the morning must be entered into MoJobs no later than close of business on that same day. Job orders received in the afternoon must be entered into the system no later than the close of business on the following day.

**Obtaining Job Order Information**

When an employer contacts the JC for assistance with job order entry, staff can review previous job orders on the employer's plan or use the Job Order Short Form to obtain the information necessary to enter a new job order.

If using a previously entered job order, the job order should be carefully reviewed with the employer to assure that specifications accurately describe the requirements of the new job opening.

If a previous job order is not found in the job order history, JC staff will obtain a description of the basic structure of the job and proceed with entering a job order. The employer should provide information about the significant tasks of the job and for each job listing:

- The job title and job description;
- The method, including the equipment, tools and technology, and materials used;
- The minimum qualification and hiring requirements;
- The degree of speed, accuracy, and tolerance (if applicable) involved;
- Other significant occupational information, or details, necessary to select and refer applicants; and
- Instructions on how to apply for the position.

JC staff should ask general questions about the structure common to all jobs, or develop specific questions about how a specific job may vary. JC staff should avoid questions that may lead the employer to make requirements that are not specific to the performance of the job.

### Medical Marijuana Job Orders

Under federal law, marijuana is a controlled substance and therefore Missouri Job Centers cannot post job orders on behalf of Medical Marijuana employers nor can staff refer individuals to any medical marijuana job orders. Staff should notify the Customer Support Unit if they discover any job orders related to any drug that is illegal under federal law as these job orders need to be removed from MoJobs.

## JOB ORDERS

### H-2A and H-2B Job Orders

The Foreign Labor Certification (FLC) Coordinator will enter all H-2A and H-2B job orders from Central Office. Any employer, agent, or attorney that contacts the JC inquiring about entering this type of job order must be instructed to contact the FLC Coordinator. The FLC Coordinator may be reached by email at moswa@dhewd.mo.gov or by phone at (855) 859-2950.

JC staff are expected to issue referrals to these job orders as they would any other job order in the labor exchange system.

H-2A job orders require JC staff to screen all applicants and send approved applications, resumes', profiles directly to the employer. If the JC needs more information other than what is listed on the job order they may contact the FLC Coordinator for that information.

H-2B job orders can be written using any of the available application methods within the labor exchange system. Each job order will have the instructions on how to apply, which are to be followed accordingly.

### Agricultural Employment Services (AES) Job Orders

JCs will receive agricultural-related job orders that are not H-2A or H-2B orders. It is the responsibility of the JC staff to enter these job orders into the System and work these orders just as they would any other job order.

The agricultural employer will need and must receive the same services offered any other employer, including hiring events, referrals of qualified applicants, and other job center opportunities.

All agriculture-related job orders are to be identified with ‘AES’ in the job title and recorded as AES under the special category section during the job order entry process.

Examples of agriculture-related job orders will include job orders for the following positions:

- Agri-Construction (barns, buildings, grain storage, or concrete completed on the farm)
- Agri-Harvesting (hand or equipment harvesting for grain, vegetables, nuts, or fruits)
- Agri-Manufacturing (meat and poultry processing)
- Agri-Business (agricultural sales for equipment and retail products)
- Agri-Tourism (corn mazes, pumpkin patches)
- Agri-Farm Labor (any form of farm labor, livestock feeding, animal care, equipment operator, hand planting/harvesting, etc.)

**Job Special Categories**

The System allows staff to indicate if a job order has been written for a special program. These special categories include Summer Youth Program, Summer Parks Youth Corp (SPYC), Summer Job League, On-the-Job Training, Green Job, Show Me Heroes, Alien Labor Certification, AES, and Federal Contract Job Listings (FCJL). Staff are to record these categories as instructed per their applicable program guidance.

**Job Orders in Violation of the Law**

If a job order is received and the services to be performed, and/or the terms or conditions of employment are contrary to federal, state, or local law, the JC staff should explain to the person who placed the order why the job order is contrary to the law. JC staff should inform the employer that the job order could not be acted upon by the local JC. If the employer modifies the job where the services to be performed and/or the terms or conditions of employment meet all legal requirements, the job order is accepted. If there is no such modification, the job order is voided and cannot be entered into the system.

**Job Orders with Union or Non-Union Specifications**

Under the National Labor Relations Act (NLRA), it is an unfair labor practice for an employer to refuse to hire an applicant, if the refusal is motivated by the membership of an applicant in a labor organization.

Job orders specifying membership or non-membership in a labor organization as a condition of employment are in violation of the law, and are not accepted by JCs. Further, an applicant's union or nonunion affiliation is regarded as confidential information and is not disclosed to employers.

**Orders from Labor Organizations**

JC staff will ascertain the following:

- The labor organization has specific job openings with the employer corresponding to the openings on the job order;
- The specifications on the job order correspond to the employer's specification for filling the opening; and

- The information on the job order is adequate for selection and referral.

When the job order is acted upon, workers are directed to the labor organization or to the employer in accordance with the referral arrangements that have been worked out between the labor organization and the JC.

### Job Orders and Labor Disputes[1]

When a job order is received from an employer reportedly involved in a labor dispute involving a work stoppage, the Regional Manager must 1) verify the existence of the labor dispute and determine its significance with respect to the vacancy involved in the job order, and 2) notify all potentially affected staff concerning the labor dispute, which must include the Wagner-Peyser Coordinator.

JC staff may not make a job referral on job orders which will aid directly or indirectly in the filling of a job opening that is vacant because the former occupant is on strike, or is being locked out in the course of a labor dispute, or the filling of which is otherwise an issue in a labor dispute involving a work stoppage. For this reason, all job orders received to which the Regional Manager has determined the position is involved in a labor dispute cannot be entered into the System. If a job order currently exists online, these job orders must be placed on hold. A note regarding the denial of job order entry, or status change, should be made in case notes on the employer's record.

The Regional Manager must follow up on the labor dispute and notify all parties when the labor dispute has been terminated. Once it has been verified with the employer and workers' representative(s) that the labor dispute has been terminated, full referral services must résumé.

Should a position be available with an employer involved in a labor dispute, job orders and job referrals can only be processed when the position itself is not at issue in the dispute. In these situations, a written notification must be provided to all applicants referred to such positions that a labor dispute exists at the employing establishment and that the job they are being referred to is not at issue in the dispute. Such a statement can be provided in the job description and must state the minimum information:

*"A labor dispute currently exists at this employing establishment. This notice serves as written notification that the position you are being referred to is not at issue in the dispute."*

### Job Orders from Employers with a Work Site Located in Another JC's Administrative Area

All job orders must be tied to the Region and JC entering the job order. In order to effectively serve employers and collect accurate data for the Effectiveness in Serving Employers performance indicator, as required by WIOA, staff must coordinate with the correct local JC for job order entry.

[1] 20 CFR §652.9, "Labor Disputes."

At times, a JC will receive a request to recruit workers from another JC's administrative area. Due to how employer information is set up, the location information of a job order must reflect the actual worksite location. To assist with these requests, JCs should coordinate recruitment activities with other JCs instead. Suggestions include holding hiring events, distributing flyers, or hosting an employer spotlight event. Duplicate job orders when only one opening exists are prohibited.

### Job Order from Employer Requesting Confidentiality

An employer may request confidentiality when placing a job order. Job order confidentiality should not be solicited, however, if the employer requests that company name, address and telephone number be withheld from the applicant, the confidentiality of that employer must be maintained. Under no circumstances will the employer name, address or telephone number be given to an applicant when the employer requests confidentiality. Through discussion with the employer, the staff person taking the job order determines the need for confidentiality, and that an opening does in fact exist. These job orders must be handled as follows:

- The order should be accepted and entered into the System as usual. On the 'Job Order Information to be Displayed Online' section of the job order, answer "No" when asked to display company name.
- Referrals to this job order must be coordinated through the JC holding the job order and by the JC staff working with that employer. All potential referrals from other JCs for this job order must be coordinated in the same manner.
- Only the individual having job order responsibility should make contact with the employer. Referrals are to be made according to the instructions provided by the employer.
- Follow-up with the employer is the responsibility of the JC holding the job order and the staff person responsible for the job order.

NOTE: This procedure is to be strictly implemented in order to maintain OWD's integrity when accepting and referring on all job orders where the employer has requested confidentiality. Any deviation from these procedures without prior approval will be referred for appropriate disciplinary action.

## DISCRIMINATORY JOB ORDERS & OTHER JOB ORDER VIOLATIONS

JCs are prohibited from providing any employment services to employers who are known by OWD to discriminate in employment on the basis of race, color, religion, national origin, ancestry, sex, disability, or age (applicable to the age group 40 through 69).

Various laws prohibit OWD from accepting discriminatory job orders, as well as job orders that violate other employment-related laws. Some of these laws are the Civil Rights Act of 1964 as Amended, Age Discrimination Act of 1967 as Amended, Rehabilitation Act of 1973, Vietnam Era Veterans Readjustment Assistance Act of 1974, Missouri Human Rights Act, and The Americans with Disabilities Act of 1990.

### Job Orders Requiring a Criminal Record Exclusion

Job orders requiring a criminal background check are allowable. Under previous versions of this manual, staff were required to provide notice of equal opportunity rights following guidance listed in TEGL 31-11. This TEGL has since been rescinded and is no longer in effect.

Staff are still required to indicate which hiring requirements will be completed during the hiring process, such as a background check or drug screen, under the 'Hiring Requirements' section of the job order entry screens.

### Substandard Orders

If a job order is received that specifies wages that are below the minimum established by federal or state law, and the job order is subject to the minimum wage law, JC staff will explain to the employer that the job order cannot be entered in MoJobs because the wages specified are below the legal minimum. If the employer does not change the order, JC staff will call the job order to the attention of his/her supervisor, manager, or functional leader, for a decision on the proper course of action.

### Suspected Violations in the Job Order

If JC staff observes or has reason to believe that an employer or employer representative is attempting to enter a discriminatory requirement or information that goes against other employment-related laws into the job description, the staff person must stop the process immediately, document the suspected violation and refer to the local JC supervisor.

At this point, the following steps should occur:

1. If the employer has filed a job order within the last 12 months, the supervisor must attempt informal resolution.
2. If the employer has not filed a job order within the last 12 months, the suspected violation of the employment-related law must be referred to the appropriate enforcement agency in writing.

Questions regarding the apparent violations process are to be directed to the State Monitor Advocate.

### Job Orders Involving a Charge

Job orders that indicate that a charge, fee, or that costs will be incurred in order to bring the worker and employer together, are not allowable. When a job order is placed which would result in a charge being made, JC staff will inform the employer or the agent recruiting for an employer that no action may be taken by the JC to select or refer workers to the job opening. No action may be taken on orders that require the purchase of demonstration kits or products in order to be offered employment.

Orders requiring a license, safety equipment, police reports, physicals, etc., prior to hire, may be taken and served.

### Job Orders Involving Youth

JC staff will inform the employer that such referrals of Youth are made only in accordance with local, state, and federal laws concerning school attendance and child labor standards.

### Employer Request for Workers without Placing Bona Fide Job Orders

JCs must exercise care to ensure that job seekers are provided referrals to legitimate job openings. When an employer requests referral of applicants under circumstances that do not constitute a bona fide job order, referral services are withheld on the request. The JC's order-taking and applicant-referral procedures are explained to the employer. Such employer requests may include:

- Requests to build up lists for future use: When a request to enter a job order for a position that is not actually available has been made, the JC should explain that such job orders cannot be entered. Job orders can only be entered into the labor exchange system when the position actually exists, not to supply the employer with an applicant pool for future use.
- Illegitimate offers: When requests for workers are received from employers who are unknown to the JC, reasonable care should be exercised to ensure that these requests are from genuine employers and represent actual job opportunities. For example, referrals to domestic jobs, application and/or interview instructions which indicate unusual methods, or job orders from unknown employers. Such requests are to be received with caution.
- Self-Employment Opportunities (Independent Contractor): When job order information is obtained for a self-employment opportunity (a job opening in which the employee functions independently from the employer) the information will not be entered into MoJobs. The firm requesting applicants is informed that the JC will assist in every way possible through the following procedures:

  □ Information provided by the firm describing the job duties, specifications, requirements, contracting information, and other pertinent details will be posted in or near the applicant waiting area in the JC for up to sixty (60) days. The information posted must be occupationally specific, to the extent possible, so as not to mislead job seekers who may wish to apply.

  □ It is important that any potential applicant understand self-employment (independent contractor) responsibilities are different from one working for wages or salary. Accordingly, a self-employment (independent contractor) notice will be posted either on the solicitation itself or near the job postings. At minimum, the self-employment (independent contractor) notice must clearly state the following:

  *"Earnings and wages are subject to taxes. As a self-employed individual (independent contractor), certain benefits, and tax payments normally handled*

*through withholding and/or employer payments may not be paid by companies offering self-employment. As a self-employed (independent contractor) individual, you may be liable for your own payment of certain federal, state, and local taxes; and so forth. Be sure you understand how all taxes, contributions, and benefits will be paid."*

□ All self-employment (independent contractors) notices posted by the JC supervisor, manager, or functional leader must be initialed and dated prior to posting.

□ Applicants expressing an interest in self-employment (independent contractor) will be provided information necessary to contact the firm for additional information or to schedule an interview.

□ Any activity generated by this type of solicitation, will not be recorded as a referral or placement by JCs, but will be considered as a public service to firms seeking individuals and to applicants interested in such opportunities.

**Suspected Fraudulent Job Orders**

At times, staff may encounter a job order in the system that appears to be fraudulent. Typically, these job orders will consist of unusual application methods, misspelled words or poor grammar, or offers a way to get rich fast. Some ways to identify these job orders will include details that 1) request the applicant meet at a hotel or other address that is not a business address, 2) indicate the individual will be sent a cashier's check, or even 3) request an interview over an online chat system.

If staff have reason to believe that a job order is fraudulent, the JC supervisor or Functional Leader should put the job order on a temporary hold and then contact CSU for an appropriate investigation.

**DISCONTINUATION OF SERVICES**

There are various reasons the discontinuation of services to employers must occur:

- An employer refuses to alter or withdraw a job order containing specifications which are contrary to employment related laws;
- An employer is found by a final determination by an appropriate enforcement agency to have violated employment-related laws;
- Employer has repeatedly caused the initiation of discontinuation of services; or
- Employer has violated rules associated with the H-2A or H-2B process.

Discontinuation of services are to be directed to the State Monitor Advocate.

**CASE NOTES & SERVICES**

Case notes are to be entered on to the customer's record upon interaction. All case notes should follow OWD's most recent Issuance regarding case notes.

Activities, also referred to as services, are to be recorded on the customer's record and should be entered the day received. The recording of services is imperative, as these services are necessary for federal reporting purposes and are part of the One-Stop Certification process. Refer to the correct OWD Issuance regarding Participant Activity Codes & Definitions for a complete list of participant service codes.

### Employer Case Notes & Services

WIOA established a new performance measure, referred to as 'Effectiveness in Serving Employers'. This measure is a shared indicator across all WIOA core programs (Adult, Dislocated Worker, Youth, Wagner-Peyser, Adult Education and Literacy, and Vocational Rehabilitation). The purpose of this performance indicator is to gauge how well the workforce development system meets three workforce needs of the business community:

1. Providing employers with skilled workers;
2. Building ongoing, productive relationships with employers and industry sectors extending over time; and
3. Providing quality engagement and services to all employers and sectors within State and local economies.

As staff deliver employer services as part of labor exchange services, they must ensure that all appropriate employer activity codes are entered. The recording of these services are imperative to reporting performance to the USDOL.

Likewise, staff must also enter case notes to support the delivery of these services to assist with local, state, and federal monitoring. When entering a case note on an employer record that involves a participant, staff should enter State IDs or participant initials versus full names for confidentiality purposes.

For a list of all employer services, please see the most recent OWD Issuance regarding Participant Activity Codes & Definitions.

## MOJOBS MISCELLANEOUS

### MoJobs Statuses

All new employers registered in MoJobs will be validated through the OWD's Customer Support Unit. Employers awaiting validation will have an Employer Access Right status of Pending Verification. If staff assist in the creation of a new employer account, contact CSU and provide the employer name to complete verification process.

Upon entry into MoJobs, all job orders will display a System Status of Veteran Hold. Job orders with a system status of Veteran Hold are only viewable to Veterans registered in the MoJobs system. The Veteran Hold status remains in effect for approximately 24-48 hours and will automatically update to Open and Available after it expires.

## Manage Labor Exchange Tools

The MoJobs system has a variety of tools that must be used to ensure the uniform delivery of services statewide.

Referrals Pending Review is a tool that is to be used daily by a designated staff person from each Center. This tool holds all job orders that must be screened by staff before issuing a referral to a job seeker. If a job seeker meets all the minimum requirements set forth in the job order, the designated staff person must provide the referral. If the job seeker does not meet the minimum requirements, a referral should not be issued. Job Seekers without an active WP enrollment cannot be issued a job order referral until the WP enrollment has been completed. Staff should never issue a referral unless the job seeker is present or verbally indicates by phone a desire to apply for that specific job and gives approval for staff to issue that referral. If a job seeker is not available then they must be sent a notification.

Notifications are a way to inform job seekers that they are qualified for a job opening that currently exists in the labor exchange system. This notification will be sent in the method the job seeker selected during registration. This will allow the job seeker to review the job order and make a self-referral should they choose. Notifications are to be sent to qualified job seekers after a job order has been entered into MoJobs.

## Job Orders & Job Matching

MoJobs has an exceptional matching capability that compares an individual's background information to a job order to determine how well of a fit the individual is. This matching process includes three distinct areas: General Requirements, Specialized Requirements, and Skills Match. Staff should review how well an individual meets the qualifications of a job order before providing a referral.