



Montana Department of LABOR & INDUSTRY

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2 **Division: Workforce Services Division**
3 **Category: Wagner-Peyser**
4 **Original Effective Date: 11/20/2017**
5 **Last Revised: October 1, 2019**
6 **Policy No.: 06-17**

7 Discontinuation of Services Policy

8 **Background:** Circumstances at Job Service Montana offices may require discontinuation or termination of
9 services to a job seeker or business.

10 **Scope:** This policy applies to all Job Service Montana staff and other Montana Department of Labor &
11 Industry (MDLI) Workforce Services Division (WSD) staff; and montanaworks.gov users. This policy is effective
12 October 1, 2019.

13 Policy:

14 Job Seekers:

- 15 • Job Service Montana has a Job Service Acceptable Use Policy that identifies the general scope of
16 authorized and acceptable resource use. Reviewed and approved by MDLI's Office of Legal Services,
17 the Job Service Acceptable Use Policy states: "Job Service exists to assist the public in seeking and
18 obtaining employment (MCA 39-51-307). Job Service resources, including computers and landline
19 telephones, are made available to the public to use for activities-related job search, unemployment
20 insurance, career planning, and other related purposes. This policy to be interpreted and enforced by
21 Job Service Montana staff. Enforcement includes periodic monitoring of computer and phone use by
22 individuals." Customers should be expected to follow acceptable use activities outlined in policy. In the
23 case of disruptive, threatening, or illegal activities, calling law enforcement is appropriate. Any action
24 should be undertaken in consultation with the job service supervisor whenever possible. Additionally, all
25 such actions should be formally documented.
 - 26 ○ No further discontinuation of service for a job seeker beyond the terms of the Job Service
27 Acceptable Use Policy is authorized.

28 Businesses:

- 29 • MDLI's Workforce Services Division staff, including central and Job Service Montana local office staff,
30 are not expected to review job orders on a regular basis. The following guidance will be used when
31 issues, complaints, and apparent violations arise. When informal resolution fails, a determination of the
32 need to discontinue services to a business may occur under the following circumstances:
 - 33 ○ The business refuses to alter or withdraw job posting containing specifications that are contrary
34 to employment-related laws;
 - 35 ○ The business refuses to provide assurances that the jobs offered are in compliance with
36 employment-related laws;
 - 37 ○ The business is found by an appropriate enforcement agency's final determination to have
38 violated any employment-related laws and notification of the final determination has been
39 provided to MDLI by that enforcement agency.

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- Foreign Labor businesses:
 - The business is found, through random, unannounced field checks to agricultural worksites conducted by the Monitor Advocate to have either misrepresented the terms or conditions of employment specified on agricultural intra/interstate job postings or failed to comply with assurances made on job postings;
 - The business is found by MDLI's (WSD) to have violated Employment Service (ES) regulations 20 CFR 658.411;
 - The business refuses to accept qualified workers referred through the interstate clearance system;
 - The business refuses to cooperate in agricultural worksite visits (Field Checks) conducted pursuant to 20 CFR 653.503; or
 - If it comes to the attention of the Foreign Labor Certification Officer that a business participating may not have complied with the terms of its temporary labor certification; i.e. the H-2A and H-2B visa programs.
 - MDLI's Office of Legal Services will notify the business in writing that it intends to discontinue the provision of employment services and the reason therefore.
 - Where the decision is based on submittal and refusal to alter or to withdraw job orders containing specifications contrary to employment-related laws, MDLI will specify the date the order was submitted, the MontanaWorks JO# of the job order involved, the specifications of the job order that are contrary to employment-related laws and the laws involved. MDLI will notify the business in writing that all employment services will be terminated in 20 working days unless the business within that time:
 - Provides adequate evidence that the specifications are not contrary to employment-related law; or
 - Withdraws the specifications and resubmits the job order in compliance with all employment-related laws; or
 - If the job is no longer available, makes assurances that all future job orders submitted will be in compliance with all employment-related laws; or
 - Requests a hearing from MDLI pursuant to 20 CFR 658.417.
 - Where the decision is based on submittal of an order and refusal to provide assurances that the job complies with employment-related laws or to withdraw the order, MDLI will specify the date the order was submitted, the order involved, and the assurance involved. The business must be notified that all employment services will be terminated in 20 working days unless the business within that time:
 - Resubmits the order with the appropriate assurances; or
 - If the job is no longer available, makes assurances that all future job orders submitted will be in compliance with all employment-related laws; or
 - Requests a hearing from MDLI pursuant to 20 CFR 658.417.
 - Where the decision is based on a finding that the business has misrepresented the terms or conditions of employment specified on job orders or failed to comply fully with assurances made on job orders, MDLI will specify the basis for the determination. The business will be notified that all employment services will be terminated in 20 working days unless the business within that time:
 - Provides adequate evidence that terms and conditions of employment were not misrepresented; or
 - Provides adequate evidence that there was full compliance with the assurances made on the job order; or
 - Provides resolution of a complaint which is satisfactory to a complainant referred by the One-stop or Job Service Montana office; and

- 140 • If the business does not provide a satisfactory response in accordance with 20 CFR 658.502 within 20
- 141 working days, or has not requested a hearing, MDLI will immediately terminate services to the business.
- 142 • If services are discontinued to a business subject to Federal Contractor Job Listing Requirements, MDLI
- 143 will notify the Employment Training Administration (ETA) regional office immediately.
- 144 • Services may be reinstated to a business after discontinuation under 20 CFR 658.503(a) and (b), if:
- 145 ○ The State is ordered to do so by a Federal ALJ Judge or Regional Administrator; or
- 146 ○ The business provides adequate evidence that any policies, procedures or conditions
- 147 responsible for the previous discontinuation of services have been corrected and that the same
- 148 or similar circumstances are not likely to occur in the future; and
- 149 ○ The business provides adequate evidence that he/she has responded adequately to any
- 150 findings of an enforcement agency, MDLI, or ETA, including restitution to the complainant and
- 151 the payment of any fines, which were the basis of the discontinuation of services.
- 152 • MDLI will notify the business requesting reinstatement within 20 working days whether his/her request
- 153 has been granted. If MDLI denies the request for reinstatement, the basis for the denial will be specified
- 154 and the business must be notified that he/she may request a hearing within 20 working days.
- 155 • If the business makes a timely request for a hearing, MDLI will follow the procedures set forth at 20 CFR
- 156 658.417.
- 157 • MDLI will reinstate services to a business if ordered to do so by a State hearing official, Regional
- 158 Administrator, or Federal ALJ as a result of a hearing.

159 Administrative Requirements:

- 160 • The manager of an office initiating the discontinuation of services must notify the Job Service
- 161 Operations Bureau Chief prior to contacting the MDLI's Office of Legal Services to proceed with the
- 162 required steps necessary for discontinuation.

163 References:

- 164 • [MCA 39-51-307. Department to Create Employment Service](#)
- 165 • [29 U.S.C. 49 - United States Employment Service Established](#)
- 166 • [20 CFR 658.411 Action on Complaints](#)
- 167 • [20 CFR 658.502 Notification to Employers](#)
- 168 • [20 CFR 658.503 Discontinuation of Services](#)
- 169 • [20 CFR 653.503 Field Checks](#)
- 170 • [20 CFR 658.417 State Hearing](#)