race, color, religion, national origin, sex, age, or physical or mental status unrelated to job performance (handicap), shall be assigned to a Regional Director for Equal Opportunity and Special Review (RDEOSR) and, where appropriate, handled in accordance with procedures at 29 CFR part 31.

(2) The handling of all JS-related complaints other than those described in paragraphs (b)(1) of this section, shall be assigned to a regional office official designated by the Regional Administrator, provided that the regional office official designated to handle MSFW complaints shall be the Regional MSFW Monitor Advocate.

(c) The Regional Administrator shall designate DOL officials to handle non-JS-related complaints in accordance with § 658.422: *Provided*, That the regional official designated to handle MSFW non-JS-related complaints shall be the Regional MSFW Monitor Advocate.

(d) The Regional Administrator shall assure that all JS-related complaints and all correspondence relating thereto are logged, with a notation of the nature of each item.

§ 658.421 Handling of JS-related complaints.

(a) No JS-related complaint shall be handled at the ETA regional office level until the complainant has exhausted the State agency administrative remedies set forth at §§ 658.410 through 658.418. Therefore, if the Regional Administrator determines that any complainant, who has filed a JS-related complaint with the regional office, has not yet exhausted the administrative remedies at the State agency level, the Regional Administrator shall inform the complainant within 10 working days in writing that the complainant must first exhaust those remedies before the complaint may be filed in the regional office. A copy of this letter shall be sent to the State Administrator. However, nothing in this provision shall prevent an ETA regional office from accepting and handling to resolution a JS-related complaint pursuant to § 658.423 or § 658.702(c).

(b) The ETA regional office shall be responsible for handling appeals of determinations made on complaints at the State level. An ''appeal'' shall include any letter or other writing requesting review if it is received by the regional office and signed by a party to the complaint. Upon receipt of an appeal by the Regional Administrator after the exhaustion of State agency administrative remedies, the Regional Administrator immediately shall send for the complete State agency file, including the original JS Complaint/Referral Form.

(c) The Regional Administrator shall review the file in the case and shall determine within ten (10) days whether any further investigation or action is appropriate, provided however that the Regional Administrator shall have twenty (20) working days to make this determination if legal advice is necessary.

(d) If the Regional Administrator determines that no further action is warranted, the Regional Administrator shall send this determination in writing by certified mail to the appellant within five (5) days of his/her determination and may, in the Regional Administrator's discretion, offer the appellant a hearing before a DOL Administrative Law Judge, provided the appellant requests such a hearing in writing from the Regional Administrator within 20 working days of the certified date of receipt of the Regional Administrator's offer of hearing.

(e) If the Regional Administrator determines that further investigation or other action is warranted, the Regional Administrator immediately shall undertake such an investigation, informal resolution or other action.

(f) If the Regional Administrator determines to reverse or modify the decision of the State hearing official or the State Administrator, the Regional Administrator shall offer in writing by certified mail each party to the State hearing official's hearing or to whom the State office determination was sent, the opportunity for a hearing before a DOL Administrative Law Judge, provided the party requests such a hearing in writing within 20 working days of the certified date of the Regional Administrator's offer of hearing.

(g) If the Regional Administrator finds reason to believe that a State agency or one of its local offices has

violated JS regulations, the Regional Administrator shall follow the procedures set forth at subpart H of this part.

(h) If the appeal is not resolved, pursuant to paragraph (e) of this section, to the appellant's satisfaction, the Regional Administrator may, in the Regional Administrator's discretion, offer the appellant in writing by certified mail a hearing before a DOL Administrative Law Judge provided the appellant requests such a hearing in writing from the Regional Administrator within 20 working days of the certified date of receipt of the Regional Administrator's offer of hearing.

§ 658.422 Handling of non-JS-related complaints by the Regional Administrator.

(a) Each non-JS-related complaint filed by an MSFW alleging violations of employment related laws enforced by ESA or OSHA shall be taken in writing, and referrred to ESA or OSHA for prompt action pursuant to 29 CFR part 42.

(b) Upon referring the complaint in accordance with paragraph (a) of this section, the regional official shall inform the complainant of the enforcement agency (and individual, if known) to which the complaint was referred and shall also refer the complainant to the enforcement agency, another public agency, an attorney, a consumer advocate and/or other appropriate assistance.

(c) All other non-JS-related complaints alleging violations of employment related laws shall be logged. The complainant shall be referred to the appropriate agency for assistance.

(d) For all non-JS-related complaints received and/or referred, the appropriate regional official shall record the referral of the complainant (or complaint filed on behalf of an MSFW), and the agency or agencies (and individual(s) if known) to which the complainant (or complaint) was referred on a complaint log, similar to the one described in § 658.410(c)(1). The appropriate regional official shall also prepare and keep the file specified in § 658.410(c)(3).

§ 658.423 Handling of other complaints by the Regional Administrator.

Whenever the regional office receives a JS-related complaint and the appropriate official determines that the nature and scope of the complaint are such that the time required to exhaust the administrative procedures at the State level would adversely affect a significant number of applicants, he/she shall take the complaint and follow up on the complaint as follows: for a complaint against an employer, the regional office shall handle the complaint in a manner consistent with the requirements imposed upon State agencies by §§ 658.413 and 658.416 of this part. A hearing shall be offered to the parties once the Regional Administrator makes a determination on the complaint. For a complaint against a State agency, the regional office shall follow procedures established at § 658.702(c).

§ 658.424 Federal hearings.

(a) If a party requests a hearing pursuant to § 658.421 (d), (f), or (h) or § 658.423, the Regional Administrator shall:

(1) Send the party requesting the hearing and all other parties to the prior State agency hearing, a written notice containing the statements set forth at § 658.416(e);

(2) Compile four hearing files containing copies of all documents relevant to the case, indexed and compiled chronologically;

(3) Send simultaneously one hearing file to the DOL Chief Administrative Law Judge, 800 K Street, NW., suite 400, Washington, DC 20001-8002, one hearing file to the Administrator, and one hearing file to the Solicitor of Labor, Attn: Associate Solicitor for Employment and Training Legal Services, and retain one hearing file.

(b) Upon the receipt of a hearing file, the DOL Administrative Law Judge designated by the Chief Administrative Law Judge shall notify the party requesting the hearing, all parties to the prior State hearing official hearing (if any), the State agency, the Regional Administrator, the Administrator, and the Solicitor of the receipt of the case. The DOL Administrative Law Judge shall afford the non-Federal parties 20