



Unemployment Insurance Advisory Committee

Meeting details

Date: Wednesday, November 9, 2022

Time: 10:00 a.m. to 12:00 p.m.

Location: Zoom

Committee members present

Employee Representatives

- Cindy Richardson, UNITE HERE Local 8
- Joe Kendo, WA State Labor Council (proxy for Josh Swanson first ½ hour)
- Brenda Wiest, Teamsters 117

Employer Representatives

- Bob Battles, Association of Washington Business
- Julia Gorton, Washington Hospitality Association
- Tammie Hetrick, WA Food Industry Association

General Public Representatives

- Anne Paxton, Unemployment Law Project
- Courtney Williams, Community Employment Alliance

ESD staff

- Joy Adams
- Ashlee Delaney
- Joshua Dye
- Wendy Goldmark
- Caitlyn Jekel
- Marypat Meuli
- Scott Michael
- JR Richards
- Nicole Sherman
- Jill Will
- Dan Zeitlin

Committee members absent

- Josh Swanson, Operating Engineers 302
- William Westmoreland, Pacific Mountain Workforce Development Council

Summary

Meeting Recorded

This meeting was [recorded](#) and also [livestreamed](#) by TVW.

Welcome and Opening Remarks

Employment Security Department (ESD) Policy Director, Dan Zeitlin, welcomed everyone and asked Wendy Goldmark to take roll call. All committee members were present except Josh Swanson and William Westmoreland.

Agenda

Dan Zeitlin reviewed the meeting agenda and asked if anyone had any questions. (See Addendum I.)

Opening Discussion

Dan Zeitlin opened the meeting discussion with a slide presentation and highlighted the below topics to be covered.

- I. Open Public Meetings Act
- II. UIAC Charter/Meeting Minutes Approval
- III. Restarting Employer Collections
- IV. EESB 5193 Consultation: Reserve Adjudicator Training
- V. State Quality Service Plan (SQSP) Overview
- VI. December Meeting Topics

Dan Zeitlin handed the meeting over to Lisa Peterson, Section Chief of the Licensing and Administrative Law Division - AGO, to continue the discussion.

Introduction to the OPMA - Washington Open Public Meetings Act, chapter 42.30 RCW

We will cover:

- ▶ Purpose
- ▶ General Requirements
- ▶ Who and what is covered
- ▶ Regular meetings and special meetings
- ▶ Executive sessions
- ▶ Rules on public attendance and conduct
- ▶ Penalties and remedies for violations
- ▶ Remote and hybrid meetings
- ▶ Requirement for public comment at regular meetings

Purpose of the OPMA

- ▶ **“All meetings of the governing body of a public agency shall be open and public.”**
RCW 42.30.030.
- ▶ People of Washington don't yield sovereignty to their government and agencies
- ▶ The people insist on remaining informed
- ▶ Public servants in the state exist to aid in the conduct of the people's business
- ▶ OPMA's intent is that the action of public servants be taken openly and their deliberations be conducted openly

RCW 42.30.010.

Interpreting the OPMA

- ▶ Act is liberally construed.
- ▶ Exceptions are read narrowly and in accordance with the purposes of the Act.

RCW 42.30.910; Miller v. City of Tacoma, 138 Wn.2d 318, 327 (1999).

General requirements of the OPMA

- ▶ All meetings of the governing body must be open to the public
- ▶ No secret (anonymous) voting
- ▶ Decisions on motions, proposals, resolutions, orders, or ordinances (“final action”) must be adopted at a public meeting or they will be invalid

What entities are covered by the act?

“All meetings of the governing body of a public agency shall be open and public.” RCW 42.30.030.

“Public agency”

- ▶ state board, commission, committee, department, educational institution, or other state agency which is created by or pursuant to statute

“Governing body”

- ▶ multimember board, commission, committee, council, or other policy or rule-making body of a public agency, or any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment.

RCW 42.30.020.

What is considered a “meeting” under the OPMA?

- ▶ A “meeting” of a governing body occurs when a majority of its members gathers with the collective intent of taking “action,” a.k.a. transacting the governing body's business.
- ▶ Quorum

RCW 42.30.020 (definitions); Citizens All. for Prop. Rts. Legal Fund v. San Juan Cnty., 184 Wn.2d 428, 444 (2015).

What is “action under the OPMA?

- ▶ “Action” means “the **transaction of the official business of the public agency**” and includes:
 - ▶ Taking public testimony
 - ▶ Deliberations and discussions
 - ▶ Reviews
 - ▶ Evaluations
 - ▶ Final actions – collective positive/negative decision. RCW 42.30.020.

Activities that could be considered a meeting

- ▶ Informal gatherings (e.g., conference, social gathering) during which they discuss or consider official business
- ▶ “Serial” communications in writing (e-mail, text, social media) that discuss or consider official business. Wood v. Battle Ground Sch. Dist., 107 Wn. App. 550, 564 (2001).
 - ▶ Passive receipt of e-mail does not automatically constitute a “meeting”
 - ▶ Collective intent (suggested by active exchange of info and opinions) by a majority to meet and transact business is a “meeting”

Regular meetings under the OPMA

- ▶ Recurring meetings held according to a regular schedule
- ▶ The governing body must establish the date and time of the regular meetings by resolution, order, or rule
- ▶ Limited notice requirements
- ▶ The agenda can be amended and final action can be taken on items on the agenda
 - ▶ **Governing body shall provide an opportunity at or before every regular meeting at which final action is taken for public comment** (new requirement effective June 1, 2022)

RCW 42.30.075.

Agenda notice requirements for regular meetings

- ▶ Agency must post online the agenda of each regular meeting at least 24 hours in advance.
- ▶ Exception: special purpose districts, cities, or towns that are under a certain aggregate property valuation and population.

RCW 42.30.077.

Special meetings under the OPMA

- ▶ Any meeting other than a regular meeting
- ▶ May be called by the presiding officer or a majority of the members of the governing body
- ▶ Notice requirements
 - ▶ Notice must specify the time and place and specific business to be transacted
 - ▶ Cannot take final action on a topic unless the topic was listed in the notice

- ▶ Exception: No notice required for a special meeting that is called to deal with an emergency
 - ▶ involving injury or damage to persons or property or the likelihood of such injury or damage; and
 - ▶ when the time required of such notice would make notice impractical and increase likelihood of such injury or damage.

RCW 42.30.080.

Who must be given notice of special meetings

- ▶ At least 24 hours' notice to:
 - Governing body members
 - News media that filed request to be notified of special meetings
 - The public, by posting on agency website (unless meets exceptions in RCW 42.30.080) and at main entrance of principal location (unless meeting is fully remote)

Minutes

- ▶ Minutes of all regular and special meetings must be promptly recorded and open to public inspection
- ▶ Law doesn't specify a format; agency has discretion on how detailed minutes must be
- ▶ Minutes of executive sessions aren't required, but agency must enter the announced *purpose* of the executive session in the minutes.

RCW 42.30.035; RCW 42.30.110(2).

Executive Sessions

Part of a regular or special meeting that is closed to the public.

Limited to specific purposes set out in the OPMA, including:

- Real estate selection, sale, lease
- Publicly bid contracts
- Evaluating complaints against a public officer or employee
- Evaluating qualifications of applicant for public employment
- Meet with legal counsel about enforcement actions, litigation, potential litigation

Presiding officer must announce the purpose of executive session and time it will end; may extend time by further announcement.

RCW 42.30.110.

Executive session to discuss agency enforcement actions, litigation, potential litigation

Requirements:

1. Legal counsel must attend
2. Discussion concerns agency enforcement action or litigation or "potential litigation"
3. Public knowledge of the discussion would likely result in adverse legal or financial consequence to the agency (objective standard).

RCW 42.30.030(1)(i); In re Recall of Lakewood City Council Members, 144 Wn.2d 583, 586 (2001). Courts construe “potential litigation” (or any other grounds for an executive session) narrowly and in favor of requiring open meetings. This standard is likely met if an entity has threatened litigation.

Public attendance and conduct during meetings

- Any member of public must be permitted to attend. Agency cannot require any conditions for attendance, such as signing in.
- Governing body can impose “generally applicable conditions ... reasonably necessary to protect the public health or safety, or to protect against interruption of the meeting.” RCW 42.30.050.
 - E.g., remove disruptive attendees; clear meeting room; move meeting to new location.

RCW 42.30.040, .050.

Penalties for violating the OPMA

- ▶ Any person” may bring action for an OPMA violation. Remedies:
 - ▶ Mandamus or injunction to stop or prevent violations ([RCW 42.30.130](#))
 - ▶ Void decisions adopted at meeting that violated OPMA
 - ▶ Costs and reasonable attorney fees
- ▶ Personal liability for members
 - ▶ \$500 civil penalty for first knowing violation
 - ▶ \$1000 civil penalty for successive knowing violations

RCW 42.30.120.

HB 1329: remote/hybrid meetings

- ▶ *On June 1, 2022, the Governor rescinded the Proclamation that had required all meetings to be remote.*
- ▶ Meetings subject to the OPMA must have a physical location. Agencies are encouraged to provide phone or video access to these meetings.
 - ▶ Members of governing body can always attend meetings remotely
- ▶ When are fully remote or limited in-person hearings allowed?
 - ▶ If agency determines that **it cannot hold an in-person public meeting with “reasonable safety” due to a local, state, or federally declared emergency**
 - ▶ As of 10/31/22, Washington State is no longer in a general declared state of emergency under [Proclamation 20-05](#). There may be local or federal declarations of emergency.
 - ▶ If agency wants to continue fully remote meetings, it should document its reasoning for why the emergency prevents it from meeting in person. Agency can coordinate with local health official or board to get supporting facts.
 - ▶ If governing body held some of its regular meetings remotely prior to March 1, 2020, it can continue to hold those meetings remotely with no declared emergency so long as the public may attend remotely.

[HB 1329](#).

HB 1329: new public comment requirement

- ▶ Effective 6/9/22, governing body must provide an opportunity for public comment at or before every **regular** meeting at which final action is taken (not special meetings)
- ▶ Must allow public to comment orally at the meeting, or by written comment before the meeting
 - ▶ Agency can limit comments to written comments
 - ▶ Agency can put limitations on time available or how public comment is accepted

OPMA Resources

- ▶ AGO's Open Government page
 - ▶ Open Government Training (<https://www.atg.wa.gov/open-government-training>)
 - ▶ Open Government Resource Manual (<https://www.atg.wa.gov/open-government-internet-manual>)
 - ▶ AGO opinions about the OPMA ([Indices \(agportal-s3bucket.s3.amazonaws.com\)](Indices(agportal-s3bucket.s3.amazonaws.com)))
- ▶ Municipal Research and Services Center
 - ▶ One page guides on OPMA topics (<https://mrsc.org/Home/Explore-Topics/Legal/Open-Government/Open-Public-Meetings-Act/Open-Public-Meetings-Act-Basics.aspx>)

Julia Gorton: *I was wondering if you think we should pay any special attention to any area as we have moved to virtual, or if you think there's anything specific we should pay attention to as the OMPA applies as we move to virtual meetings?*

Lisa Petersen: *I think virtual remote hybrid meetings opens even more opportunity for the public to attend and observe. I think it's a good thing. I think prior to the pandemic there was a concern about holding completely remote meetings, because I think when folks meet in person, especially committee members, its discussion can be more robust and people participate more. I have been part of committees that did not want to allow remote participation, because they thought that people would take a back seat, not turn on their camera, participate in discussion and/or the discussion wouldn't be as robust, but I think what's happened during the pandemic is we've had to adjust to these platforms and I'm seeing robust discussion from committee members and the public. So, I think with hybrid meetings it is just about being careful that you're providing that in person location for members of the public who may not have the technological capacity to attend. What I'm finding in the telephonic participation, zoom participation, in person and opportunity to provide comment through email on all these platforms is just increasing transparency and I think it is a positive thing for public purposes and open meetings.*

Dan Zeitlin: *One thing I'll add to Lisa's comment, and I think you're aware, but I'll restate it again here is that when the new requirements came in about meeting structure and virtual versus in person and hybrid, we put the notice on our agenda that we have an in-person location. We've got an address in Olympia and several of us are here should any members of the public wish to join the meeting from here. Thus far, everyone's joined virtually, but we are here. At our December meeting, we'll want to schedule our 2023 meetings and we're happy to have more discussion around virtual, in-person and hybrid options.*

Bob Battles: *I'm wondering what your thoughts are on the appearance of folks anonymously, and I know that you're allowed to go to a meeting anonymously, but it's one thing to be anonymous and sit in the audience and be seen. It's another thing to be behind no camera with no name and then be allowed to write comments. So how does the open public meetings look at that, especially if you're in rulemaking hearings where there's a need to respond, but you do not even know who you're responding to and that can present a challenge for those who are supporting the meeting to elevate folks who want to provide oral testimony or oral comment.*

Lisa Petersen: *So, the way the law is written, the committees and agencies can put some parameters around public comment to conduct an orderly meeting, especially on platforms to elevate into speaking status. You can put parameters around that and ask folks for information to do that. As long as you have a mechanism where someone could attend and choose to attend anonymously, and that can be by either. If you're doing it remotely, you can log in as an observer. When you attend in person,*

you can choose not to sign in and sit and observe or you can attend telephonically. TVW also provides that for you if your regular meetings are broadcast.

Bob Battles: I fully agree with you about attending meetings. It's the public comment – making comments with the anonymous chat. It's much more difficult to respond to legitimate concerns and to others when they're just throwing things out there. So, it sounds like there is allowance for at least some parameters when it comes to the actual comments being made.

Lisa Petersen: If the chat function is problematic, you can think about other options. Have people send an email with their comments, but I understand chat is valuable because it's real time. If it becomes problematic, you can speak with your legal advisor about some other options.

Lisa Petersen handed the meeting back to Dan Zeitlin to continue the discussion.

UIAC Charter: Decision Making Structure

UIAC Charter: The members agree to use the *Robert's Rules of Order Newly Revised*. Advisory recommendations to policy makers of the committee shall be made on a consensus basis (consensus allows the majority of members to vote in favor of a recommendation while others abstain). (See Addendum II.)

Dan Zeitlin reviewed the new UIAC Charter decision making structure and then put adoption of the new UIAC Charter to a vote. Brenda Wiest made a motion to approve and Cindy Richardson seconded the motion. Dan asked for all members in favor to say, "Aye." All members responded, "Aye". Dan asked members that oppose to say, "Nay." No one responded. The new UIAC Charter was approved.

Meeting Minutes

Dan Zeitlin requested that everyone review the [October 19, 2022 meeting minutes](#) and provide their feedback. Brenda Wiest made a motion to approve the minutes and Bob Battles seconded the motion. Dan asked for all members in favor to say, "Aye." All members responded, "Aye". Dan asked members that oppose to say, "Nay." No one responded. The October 19, 2022 meeting minutes were approved.

Dan Zeitlin suggested it was a good time to take a break and asked everyone to return to the meeting at 11:10 a.m.

Upon return from break, Dan Zeitlin handed the meeting over to JR Richards, Unemployment Insurance Customer Support Director, ESD to continue the discussion.

Restarting Employer Collections

- During the pandemic ESD paused collections of overdue taxes or benefit charges owed by employers
- On December 1, 2022, ESD will resume active collection efforts for delinquent unemployment insurance taxes
- Around 17,000 employers, 6.4% of active accounts, have overdue UI tax and benefit charge accounts
- Employers in arrears will receive two notifications:

- The November 9, 2022, GovDelivery communication will inform employers that collections will resume (See Addendum III.)
- The November 28, 2022, communication will be a second notice that collections have resumed
- Employer accounts in arrears have payment plan options

Bob Battles: *I understand the ones that become eligible to reach out to are the ones that have a \$100 or more overdue. I'm kind of curious to get my head around that 17,000 and what does that mean? We want them all to succeed and get rid of the arrears but is this something that's doable or are some of these like so far behind. At what point do we say, "You know, we can't even keep occurring these costs."*

JR Richards: *Maybe it's helpful to also talk about what percentage of these that are in active collections are pre-pandemic versus pandemic, because that might be helpful to think about too. So, about 30% of that 17,000 is pre-pandemic, about 43% occurred during the pandemic and about 17% is post-pandemic. There are allowances in statute that if it becomes more costly to continue collection than is the amount we're collecting for, there's allowances for us to make business decisions on that. Some of those employers are going to be closed. If they're open, there's additional steps that we can take to collect.*

Bob Battles: *Then you become one of the collectors. Basically, at what point in the process of that closing as they either wind down or whatever the reasons for their business closure, some of those become collectible debts - some may be entitled to some sort of percentage.*

JR Richards: *I'm not sure of the specifics of that tool, so I don't want to say the wrong thing, but I am going capture that so we can follow up. We can certify the account as uncollectible, but the debt remains on the books, so if they reopen we would reinstate that account.*

Julia Gorton: *Do you know what dollar amount the 17,000 represents?*

JR Richards: *All that is owed by employers is \$76.2 million.*

Julia Gorton: *I know that we have a delinquency rate or surcharge, so I wanted a refresher on that and when it kicks in, and how that's handled.*

Scott Michael: *For the delinquent tax rate, what generally happens is that employers have to be either paid up by September 30th of the year or they need to be on what's called a deferred payment contract. So basically, a payment plan with agreement that they'll make monthly installments towards their debt. They need to accomplish that by September 30th. If neither of those things happen, then they can get charged a delinquent tax rate for the following year. So, some things to be aware of that won't apply to is somebody who is only \$100 or less. So, there's a \$100 threshold. Also, there's opportunities to get that waved if the employer can show that they're making good faith efforts to get paid up and that application of delinquent tax rate would be against equity and good conscience. Another big thing to be aware of is that normally the delinquent tax rate is a full 1% for the first year they're delinquent and a full 2% for the second year they're delinquent, but if they can either pay up or get on a deferred payment contract within 30 days of us sending them their first tax rate notice then we can knock off half a percent of that. A lot of employers who owe us money are past September 30th, so they're probably going to end up with some level of delinquent tax rate notice. But if they still work with us we can end up knocking off a full half percent off that delinquent tax rate notice. So, we encourage anybody out in the employer community to still work with our collectors to avoid that delinquent tax rate, or at least minimize it.*

Bob Battles: *I would say everybody that had this happen either probably the 37%, 39%, and the 43% are over a year or two. Are you starting from scratch on the surcharge? How do you approach that?*

Scott Michael: *The delinquent tax rate is a piece of statute that was not modified at all during the pandemic. The governor didn't wave it and there was no statute made by the legislature to change that or alter that in any way. So that is something that the agency had to continue to do as it normally did during those years. And there have been some folks who did receive the delinquent tax rate during 2021 and into 2022. So that has happened at the same time for employers that haven't gotten out of business, but are still struggling to make do, the best tactic for them is to work with us to get on that payment plan – to get on a deferred payment contract – because once that happens then the majority of that delinquent tax rate does go away. Yes, they may be in arrears, but as long as they're continuing to work with us to make payments towards it, then we can lessen and eliminate the delinquent tax rates.*

JR Richards: To follow up, RCW50.24.200 allows for charge off of uncollectible accounts if the Commissioner is satisfied that there are no cost-effective means of collecting the debt. So, this is the mechanism to designate a certified uncollectible account. At what threshold we implement that, because I know we do, I don't have that answer for you today, but it is something that's allowable in law.

Julia Gorton: So, I think my takeaway will be just that – knowing that charge-offs of uncollectable accounts is allowable in law is providing some clarity. What is standard practice for when we institute that? Will you have some sort of a communication that goes out to employers?

JR Richards: If you're referencing the communication that we're putting together that will go out via GovDelivery we can absolutely share it with the Committee.

Julia Gorton: If an employer wants to engage with the Department on putting together a payment plan, how do you want them to go about that? So, the communication that's going out outlines all that so they'll have paths forward and know what their next steps would be. And are you appropriately staffed to handle those incoming requests?

JR Richards: If 17,000 employers all call us on the same day? No, but we'll have multiple paths forward and we're also engaging with our partners that we know employers connect with. For example, we know that many of our employers have personal relationships and partner with Employment Connections. So we're making sure that other areas where employers are likely to have questions and there might be a different path in also know what's going on, so that there's multiple ways to support.

JR Richards handed the meeting back to Dan Zeitlin, who then handed the meeting over to Jill Will, Policy & Legislative Implementation Manager, ESD to continue the discussion.

ESSB 5193 Consultation: Reserve Adjudicator Training

ESSB 5913 requires ESD to consult with UIAC regarding the frequency of the initial and continuing training of a reserve force of skilled UI claim adjudicators who can be available quickly when claims volume demands.

Initial National Association of State Workforce Agencies (NASWA) Training

- New UI Staff Training
- UI Operations Integrity Certification
- Fact-Finding and Adjudication Certification

Frequency

- Total of 449 certified pool members as of July 2022
- 50 additional pool HCA pool members added FY23 and ongoing
- Target – maintain a minimum of 100 active pool members, confirm via quarterly survey and contact updates
- Offer new initial training if pool drops below 100

NASWA Adjudication Pool Continuing Education Requirements

- 12 hours of continuing online education per calendar quarter through NASWA
- UI operations integrity and fact-finding refreshers must be completed yearly
- Other courses completed at the pool member's option
 - Cultural awareness and language sensitivity
 - Disaster unemployment insurance
 - UI integrity fundamentals for tax
 - UI tax operations overview
 - Identifying signs of truth and deception
 - Handling difficult personalities

Bob Battles: So, I understand this is to have folks available and ready to go. Because, we had the situation with the pandemic and you had to ramp up immediately. What keeps those 100 people engaged and continue to take the training if they choose to even on a quarterly basis?

Jill Will: We have not considered this pool as potential recruitment, but I think that's a very fruitful discussion. Right now, it's touch points by administering the quarterly survey to check in with people. But we do not have, at this point, an incentive structure, built to incentivize people to work, to remain engaged. And I think your question triggers something else that we can certainly take a look at – what is it that we can do to more actively incentivize people to maintain their contact?

Bob Battles: I have some questions about the training and kinds of formats it is directed towards. I assume the training has been conducted remotely, correct?

Jill Will: Yes, so the initial training is offered via the NASWA learning center and that is remote. If a person is called up for active service for lack of a better word, that training could be either in person or remote.

Anne Paxton: Are there potential adjudicators being trained to conduct the interviews of claimants? Principally over the telephone, as I assume they are done now.

Jill Will: Yes, all our adjudication interviews are over the phone, unless it's an extraordinary circumstance.

Anne Paxton: Is use of interpreters included in the training? I am wondering what the nature of the provisions are for adjudicators to interview limited English proficiency claimants.

Jill Will: I will have to get back with you about whether or not the interpreters are included in this training. In general, we do have that as part of the training. For now, any staff member uses our online language link services. So, for those that are unfamiliar with that, if a person identifies that they need interpretation assistance, we can immediately access that through a vendor with phone call interpreter services. Then there is an ongoing 3-way phone call with the adjudicator, interpreter and the claimant. It's a straightforward process. We have desk aides for that – I just don't know that it's in the initial training. But that's a very good point. I can double check on that.

Anne Paxton: And is it possible for ULAC members and or the public to get a more detailed look at this specific question that's being utilized for the adjudicators?

Jill Will: Yes, I have provided some overview information and it's also possible, I believe, to access the NASWA training, because it is open to the public. So, are you interested in actually trying to see what the courses online look like?

Anne Paxton: It would be helpful to know a little bit more detail in particular the training in identifying science of truth and deception over the telephone. And that would be something that would be a flag and is potentially very difficult to bring off, especially for people with a limited English proficiency, and maybe some people with disabilities. So that's my initial reason why I'm interested in more details about the curriculum.

Jill Will: I will specifically follow up on that segment and provide some additional information.

Jill Will handed the meeting back to Dan Zeitlin, who then handed the meeting over to Joy Adams, ESPI Deputy Director, ESD and Nicole Sherman, UI Quality Assurance Manager, ESD to continue the discussion.

State Quality Service Plan (SQSP)

SQSP Overview

1. Report performance to the US Department of Labor (USDOL) using a variety of data sources
2. Address failure to meet USDOL Acceptable Levels of Performance (ALPs)
3. Write Corrective Action Plans (CAPs) when ALPs are not met
4. Develop and track milestones required to meet CAPs
5. Report progress on CAPs and ALPs using milestones
6. Enter progress on SQSP workbook and send to USDOL quarterly

How does SQSP work?

- USDOL provides ESD with the SQSP workbook that includes ALPs ESD is not meeting identified by area of performance.
- ESD then establishes CAPs and MILESTONES by area of performance.
- Quarterly, ESD sends the SQSP workbook back to USDOL with progress information.
- Half-way through the plan year, USDOL reevaluates the SQSP based on more current performance data and provides a revised plan (SQSP Alternate Year Plan (AYP)).
- SQSP CAPs are set using data from quarter ending 3/31 for both Biennial Year Plan (BYP) and AYP

What is included as part of SQSP?**Materials Shared With UIAC:**

1. Narrative: Provides a high-level overview of program areas that are not currently meeting USDOL ALPs, including background on what caused the program to fall short of the ALPs and the steps ESD plans to take to meet performance expectations.
2. Workbook: Used to provide quarterly updates to USDOL, includes an in-depth look at each program area not currently meeting ALPs. Each program tab contains quarterly ALP tracking compared to federal expectations, a full CAP summary, and agency-directed milestones.
3. Integrity Action Plan (IAP): Ties directly to agency performance with improper payments, detection of overpayments, and services ESD provides claimants. The plan includes seven national priority topics that are required to be addressed in relation to fraud detection, prevention, and recovery efforts. Each state was directed to specify which areas are being addressed and to include details of processes, partnerships, and use of USDOL and NASWA resources.

SQSP Key Points

The SQSP broadly captures all UI quality assurance needs and, as such, is an opportunity for UIAC to get a general sense of how the program is performing and the agency's activities in this realm:

1. During this review period, WA failed to reach the ALP in most areas, consistent with performance across the nation in response to the pandemic and related recovery efforts.
2. USDOL is particularly focused on fraud prevention, detection, and recovery. The Integrity Action Plan addresses the 7 topics identified by USDOL and what they consider to be national priorities relating to fraud detection, prevention and recovery.
3. Many topics that were discussed during a June 2022 USDOL site visit are referenced throughout the SQSP narrative and workbook. These topics include Division portfolios, the Report and Data Validation project, the Letters Project, which is a result of SB5193, and the Adjudication Quality Assurance project.
4. ESD has a structure for monitoring the milestones included in the SQSP, tracking progress, and working through planning and project timelines. Relevant staff, including leadership, meet monthly to provide updates, gather information, and collaborate on milestone completion.
5. The SQSP is a living document that will continue to be shared regularly with UIAC and other partners to obtain their feedback and collaboration on progress moving forward.

BYP 2023 Washington Overview

Washington						
MEASURES/PROGRAMS TO BE ADDRESSED FOR BIENNIAL SQSP FISCAL YEAR (FY) 2023						
	Measures/Programs to be Addressed (Each Measure Below is Hyperlinked to the CAP Worksheet)	Acceptable Level of Performance (ALP)	Corrective Action Plan (CAP)		Narrative Required (In Word Doc.)	SQSP 2023 Performance Year Data
			N	E		
B E N E F I T S	First Payment Promptness	≥ 87%		X		62.51%
	First Payment Promptness (IntraState 14/21 Days)	≥ 87%		X		61.79%
	First Payment Promptness (InterState 14/21 Days)	≥ 70%		X		53.52%
	First Payment Promptness (IntraState 35 Days)	≥ 93%		X		72.77%
	First Payment Promptness (InterState 35 Days)	≥ 78%		X		67.32%
	Nonmonetary Determination Timeliness	≥ 80%		X		57.30%
	Nonmonetary Determination Quality - Separations	≥ 75%		X		52.94%
	Nonmonetary Determination Quality - Nonseps	≥ 75%				80.21%
A P P E A L S	Lower Authority Appeals (30 Days)	≥ 60%		X		1.90%
	Lower Authority Appeals (45 Days)	≥ 80%		X		2.54%
	Average Age of Pending Lower Authority Appeals	≤ 30 days		X		109.2
	Average Age of Pending Higher Authority Appeals	≤ 40 days				11.3
	Lower Authority Appeals Quality	≥ 80%				96.91%
T A X	New Employer Status Determinations Timelapse	≥ 70%				84.90%
	Tax Quality (Part A)	No more than 3 tax functions failing TPS in a year				Pass
	Tax Quality (Part B)	The same tax function cannot fail for 3 consecutive years		X		Fail: Collections Debits-reimb
	TPS Sample Reviews	Pass		X		Fail: Collections Debits-reimb
	Effective Audit Measure	Pass 4 factors/score ≥ 7			X	Factor 1: 0.9
I N T E G R I T Y	Improper Payments Measure	< 10%				7.83%
	Detection of Overpayments - 3 Year Measure	≥ 50% & ≤ 95%		X		448.64%
	Overpayment Recovery Measure	≥ 68%		X		19.15%
	Data Validation - Benefits (All Submitted & Passing)	All Benefit Pops Submitted & Passing		X		Not Submitted: Populations 3-5, 12, 13, 15; BTQ 2 & 3
	Data Validation - Tax (All Submitted & Passing)	All Tax Pops Submitted & Passing		X		Fail: TPS 1 Not Submitted: Tax 5
B A M	NDNH BAM Compliance	Pass				Pass
	BAM Operations Compliant	Pass All M&P		X		Fail: 60-day Paid Timeliness: 46.90% 90-day Paid Timeliness: 64.05% Paid Comparison Reports: -38.29%
	Incorrect Recording of Issue Detection Date	95%			X	Fail
	Incorrect Recording of Determination Date	95%			X	Fail
	UI Reporting Requirements	Pass			X	Fail
G P R A	Percent of Intrastate Payments Made Timely	87%				61.79%
	Detection of Recoverable Overpayments	57.5%				300.03%
	Percent of Employer Tax Liability Determinations Made Timely	90%				82.68%

Bob Battles: *What happens if we don't hit those deadlines? Is there a compliance mechanism here? Do we come out of conformity? What are the general ramifications of hitting or not hitting these benchmarks?*

Nicole Sherman: *If you look at the workbook and you look at each of those specific tabs that directly correlate to those performance measures, we have our identified goals. Those are what we have set internally to be at 75% of a measure, where we should be at 85%. The goal is internal – to be able to meet all of those expectations by and then maintain them throughout the rest of the plan. It's to show that we're making the progress – we are making the effort, and we're doing everything that we can. If we run into any problems or if they have any concerns, there's a lot of back and forth with them to get either technical assistance or additional guidance on any of the programs with which we may need help. So those are all the avenues that we're taking.*

Bob Battles: *Does ESD set those benchmarks or is that being set by DOL?*

Nicole Sherman: *They have their acceptable levels of performance, and those are what you see here. And then we set our own internal goals for each quarter.*

Joy Adams: *Adding a little bit of context to that, it's a constant back and forth with us and DOL and that's where we also bring in our partners at NASWA to assist with technical assistance. I have yet to see a state that is entirely green across the board on the acceptable levels of performance in any given year. Coming out of a pandemic or not, there's almost always something that we need to be working on. So, these are known to be works in progress at all times.*

Joy Adams and Nicole Sherman handed the meeting back to Dan Zeitlin to continue the discussion.

December Meeting Topics

- Continue SQSP Discussion
- Agency Request Legislation
- November Trust Fund Report
- Overpayments Update
- Rulemaking Update/Benefit Charge Report
- 2023 Committee Meeting Schedule

Action Items

- At what threshold do we designate a certified uncollectable account?
- More details about the reserve adjudication training curriculum – specifically, training in identifying science of truth and deception over the telephone and use of interpreters.

Public Comments

Lexy Reyelts Salas – Campaign Organizer, Working Washington

At the last ULAC meeting, we were told that overpayment waiver updates would be given at today's meeting. Dan mentioned today that there may be updates available for next month's ULAC meeting. When can claimants expect to hear about overpayment blanket waiver implementation? Are claimants being identified, and is this still a priority for ESD? Will there be general communication on ESD's behalf regarding blanket waiver progress?

Overpayment waivers are still a pressing issue for many of the claimants I have spoken with. For claimants who have made payments on their overpayment, receiving back that money they paid would be very beneficial financially to them if they qualify for any waivers.

Adjourned

Dan Zeitlin thanked everyone for their continued active participation and for their commitment to this work, then ended the meeting at 12:05 p.m.

Next meeting

December 14, 2022 from 10:00 a.m. to noon via Zoom.

Addendum I

Agenda

Unemployment Insurance Advisory Committee (UIAC)

Wednesday, November 9, 2022 | 10:00 am - 12:00 pm | Via Zoom | 212 Maple Park Ave SE, Olympia, WA 98501

Time	Topic
10:00 am	Welcome from Dan Zeitlin, Employment System Policy and Integrity (ESPI) Director, Employment Security Department (ESD) <ul style="list-style-type: none"> o Agenda Overview
10:05 am	Open Public Meetings Act Training <ul style="list-style-type: none"> o Lisa Petersen, Section Chief, Licensing and Administrative Law Div., AGO
11:00 am	Break
11:10 am	General Administration <ul style="list-style-type: none"> -Dan Zeitlin, ESPI Director, ESD o UIAC Charter o Approval of October 19, 2022 Meeting Minutes
11:15 am	Restarting Employer Collections <ul style="list-style-type: none"> -JR Richards, Unemployment Insurance Customer Support Director, ESD
11:25 am	ESSB 5193 Consultation on Adjudication Training <ul style="list-style-type: none"> -Jill Will, UICS Policy & Legislative Implementation Manger, ESD
11:35 am	State Quality Service Plan (SQSP) Overview <ul style="list-style-type: none"> -Nicole Sherman, Quality Assurance Manager, ESD
11:50 am	Future Agenda Topics
11:55 am	Public Comment
12:00 pm	Adjourn

For more information, please visit the UIAC website at <https://esd.wa.gov/newsroom/UIAC>

RECORDING DISCLAIMER:

This meeting is being recorded and will be live streamed by TVW. Please be advised that your image and voice will be captured and recorded during the videoconference. Your participation in this videoconference equals consent to be recorded as required by law.

Addendum II

UNEMPLOYMENT INSURANCE ADVISORY COMMITTEE CHARTER

PURPOSE

The Unemployment Insurance Advisory Committee (UIAC) shall aid the commissioner in formulating policies and discussing problems related to the administration of the Unemployment Insurance (UI) program and assuring impartiality and freedom from political influence in the solution of such problems: RCW 50.12.200. In doing so, the Committee will provide comment on unemployment insurance policy, operations, and performance management, as well as other issues the Committee determines to require its consideration. The Committee will provide a forum for listening to concerns of stakeholders and seeking input to improve the program to best serve workers and business.

GOALS

The UI program provides critical financial support for workers while bolstering the broader economy. Identifying avenues to improve the UI program so that it better supports workers and businesses, including in times of economic crisis, is a vital endeavor.

The Committee will play a critical role in considering and providing recommendations to the Employment Security Department (ESD) to aid the department in meeting two agency strategic goals:

- Our most complex processes (pertaining to the UI program) are made simple and easy for staff and customers (workers and employers).
- People receive accessible, safe, and equitable services (UI) at the right time in the way they need it.

In aiding ESD in meeting these goals, the Committee will advise the department on improvements to the unemployment benefits and tax system by deliberating and providing recommendations on:

- Policy matters, including changes to state law and rules.
- Operational issues, including communications and direct interactions with customers.
- Performance management, including ensuring quality and timely benefits and tax services.

The Committee also maintains goals to:

- Foster community and stakeholder engagement in considering improvements.
- Commit to timely, robust, and open communication to the public, and to engaged stakeholder communities.

MEMBERSHIP

The Committee is made up of nine individuals appointed by the Commissioner. Three members appointed to represent employers. Three members appointed to represent employees. Three members appointed to represent the general public: RCW 50.12.200. The Commissioner also delegates a

representative from ESD to serve as Chair of the Committee. At the time of this Charter's creation, the following members have been appointed by the Commissioner:

Employer Representative: Bob Battles, Association of Washington Business

Employer Representative: Julia Gorton, Washington Hospitality Association

Employer Representative: Tammie Hetrick, WA Food Industry Association

Employee Representative: Cindy Richardson, UNITE HERE Local 8

Employee Representative: Josh Swanson, Operating Engineers 302

Employee Representative: Brenda Wiest, Teamsters 117

General Public: Anne Paxton, Unemployment Law Project

General Public: William Westmoreland, Pacific Mountain Workforce Development Council

General Public: Courtney Williams, Community Employment Alliance

MEMBER APPOINTMENT

TERMS

Members are appointed by the Commissioner to serve an initial term through the end of calendar year 2023. Following the initial term, the Commissioner will determine future terms for the Committee.

MEMBER REPLACEMENT

Should a member resign from the Committee during their term, the Commissioner will appoint a replacement member.

MEMBER EXPECTATIONS

MEMBER COMMUNICATIONS WITH ONE ANOTHER OUTSIDE OF MEETINGS

Members may communicate outside of the Committee meetings. Member communications outside of the Committee are not on *behalf* of the advisory committee and individual members are not authorized by the Committee to make decisions for the Committee.

MEMBERS COMPENSATION

The members shall serve without compensation but are entitled to reimbursement for travel expenses as provided in RCW 43.03.050 and 43.03.060. The committee may utilize such personnel and facilities of the department as it needs, without charge.

COUNCIL MEETINGS

MEMBER MEETINGS- CADENCE

Members will meet once a month or as otherwise needed through the end of calendar year 2022 and will determine the meeting schedule thereafter.

MEMBER MEETINGS- PROXY

Members may, after giving notice via email or telephone of at least 24 hours to the Chair, send a proxy member to the meeting. The proxy member will have full authority to act on behalf of the appointed member. If a proxy member attends and participates in the meeting as a member, the appointed member for whom a proxy was sent may not attend the meeting in his or her capacity as an appointed member.

MEMBER MEETINGS- QUORUM

The members agree that a quorum constitutes a simple majority of the total number of members excluding the Chair.

MEMBER MEETINGS- DISCUSSION

The Chair may, with consent from a majority of Committee members, allow individuals that do not serve on the Committee to participate in Committee discussions. Such individuals shall not vote on matters in front of the Committee members. The public shall have the opportunity to provide comment at all Committee meetings.

MEMBER MEETINGS- PROCESS

The members agree to use the Robert's Rules of Order Newly Revised. Advisory recommendations to policy makers of the committee shall be made on a consensus basis (consensus allows the majority of members to vote in favor of a recommendation while others abstain).

Addendum III



Unemployment tax collection resumes Dec. 1, 2022

The Employment Security Department will restart active collection of delinquent unemployment taxes on Dec. 1, 2022. We paused collections during the height of the COVID-19 public health emergency so that we could focus on getting benefits to people who needed them. Now we need to resume collection work.

Our records show that you have an outstanding balance. You must start making payments, and we will do what we can to make the process as easy as possible.

Submit payments

You can submit payments online using:

- Employer Account Management System (EAMS).
 - If you have not yet upgraded to the new EAMS, go to wa.gov/esd/eams/NewUser.aspx.
 - If you have upgraded to the new EAMS, go to esd.wa.gov.
- ePay at wa.gov/esd/epay.

Payment plans are possible

Are you concerned about being able to make payments? We are here to help. We can talk with you about setting up a payment plan called a Deferred Payment Contract. To begin the conversation, please:

- Email us at esctax@esd.wa.gov.
or
- Call us at 866-697-4831.

Learn more

- Taxes, payments and collections: wa.gov/about-employees/general-employers-FAQ
- Your options for paying taxes: wa.gov/employer-taxes
- ePay: wa.gov/employer-taxes/about-ePay