

# Employment Security Agricultural and Seasonal Workforce Services Advisory Committee

### Meeting details

Date: Thursday, September 18, 2025

**Time:** 9:00 a.m. – 1:00 p.m.

Location: In-person (hybrid) meeting via Zoom

Physical address: Employment Security Department, 212 Maple Park Ave SE, Olympia, WA 98501

### Committee members present

• Jon DeVaney

Michael Gempler

- Elizabeth Strater
- Delia Peña
- Michele Besso
- Diana Lopez Baptista (proxy for Rosalinda Gullien)

### Non-voting agency representatives

- Ignacio Marquez (WSDA)
- Uriel Iñiguez (LNI)
- Juan Gamez Briceno (DOH)

#### Committee members absent

- Edgar Franks
- Jeff Perrault

### ESD presenting staff

- Joy Adams
- Vickie Carlson
- Dan Zeitlin
- Bertha J. Clayton
- Petra Meraz
- Susana Rodriguez
- Maria Maravilla
- Alberto Isiordia
- Arturo Espinoza

### Summary

### Meeting Recorded

This meeting was recorded and is available on <u>Agricultural and Seasonal Workforce Services Advisory</u> <u>Committee meetings</u>

#### Welcome and Agenda Review

Employment Security Department (ESD) Director, Joy Adams, welcomed everyone, reviewed the meeting agenda and asked if anyone had any questions.

#### Quorum Established

Recording timestamp 00:04:38

Mike Gempler motions to approve meeting minutes, Delia Peña seconded this motion. All in favor, none opposed. 6 voting members were present at the time of roll call. (Quorum)

**Minutes** 

**ASWS Office Update** 

Recording timestamp 00:08:59

Bertha J. Clayton, Director, ASWS Office, ESD

FLC Recording timestamp <u>00:31:43</u>

Olivia Gutierrez, Coordinator, Foreign Labor Certification Program, ASWS Office, ESD

Compliance Recording timestamp 00:37:11

Susana Rodriguez, Supervisor, Compliance Unit, ASWS Office, ESD

Workforce Services Division Update

Recording timestamp 01:00:42

Alberto Isiordia, Assistant Director Operations, Workforce Services Division, ESD Maria Maravilla, Wagner Peyser/MAFW Program support, WSD, ESD

Overview of federal rule changes

Recording timestamp 01:19:45

Bertha J. Clayton, Director, ASWS Office, ESD

Petra Meraz, Supervisor, Foreign Labor Certification Program, ASWS Office, ESD

Committee information and feedback:

Recording timestamp 02:40:12

• HB 2226 data collection & reporting

• Update: H-2A Temporary Worker Housing Inspections

Bertha J. Clayton, Director, ASWS Office, ESD

Potential changes to Field Checks

Recording timestamp 03:06:45

Arturo Espinoza, MSFW Monitor, Executive Programs Division, ESD

Public Comment Recording timestamp 03:25:02

None

**Good of the Order –** Joy Adams

Recording timestamp 03:25:48

### Adjourned

Joy Adams thanked everyone for their continued active participation and for their commitment to this work, reviewed the next meeting date/time. Public meeting adjourned: 12:56 PM.

### 2025 Meetings

 The next Agricultural and Seasonal Workforce Services Advisory Committee meeting: Thursday, November 20<sup>th</sup>, 2025 from 9:00 AM – 12:00 PM, Zoom

### **Meeting Slides**



### **ASWS Advisory Committee Meeting**

Thursday, September 18, 2025 9:00 am - 1:00 pm

# Housekeeping



#### **RECORDING ANNOUNCEMENT:**

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# Agenda



#### AGENDA

Agricultural and Seasonal Workforce Services (ASWS) Advisory Committee Thursday, September 18, 2025 | 9 am - 1 pm | 4th Floor - Perkins Conference Room, 212 Maple Park Ave SE Olympia, WA 98501

TIME	TOPIC	SPEAKER
9:00 am	Call to Order; Welcome	Dan Zeitlin, Chief of Staff, Executive Programs, ESD
9:10 am	Roll call of committee members	Vickie Carlson, Management Analyst, ASWS Office, ESD
9:15 am	Agenda review, meeting minute approval	Dan Zeitlin, Chief of Staff, Executive Programs, ESD
9:25 am	ASWS Office update	Bertha J. Clayton, Director, ASWS Office, ESD Petra Meraz, Supervisor, Foreign Labor Certification Program, ASWS Office, ESD Susana Rodriguez, Supervisor, Compliance Team, ASWS
9:50 am	Workforce Services Division update	Office, ESD  Alberto Isiordia, Assistant Director, WSD, ESD  Maria Maravilla, Wagner Peyser/MSFW Program
10:20 am	Overview of federal rule changes	Support, WSD, ESD  Bertha J, Clayton, Director, ASWS Office, ESD
		Petra Meraz, Supervisor, FLC Program, ASWS Office, ESD
11:15 am	Bi	vak
11:30 am	Committee information & feedback:  HB 2226 data collection and reporting  Update: H-2A Temporary Worker Housing inspections	Bertha J. Clayton, Director, ASWS Office, ESD
12:15 pm	Potential changes to Field Checks	Arturo Espinoza, MSFW Monitor, Executive Programs, ESD
12:30 pm	Public Comment	Dan Zeitlin, Chief of Staff, Executive Programs, ESD
12:50 pm	Good of the Order Adjournment	Dan Zeitlin, Chief of Staff, Executive Programs, ESD
1:00 pm	Next meeting: Thursday, November 20, 202	25, 9 am - 12 pm, Virtually held on Zoom

#### GROUND RULE

No side comensations | Phones on sleat | Let people speak without interruption | Respect the opinion of others | Strike for understanding | Speak your mini-Strike for common ground | Assume good intent | Stay focused on task at hand and be willing to come back to the topic | Malie sure averyons understands

# ASWS Office Update – September 2025



Bertha J. Clayton, ASWS Director, ESD

# Discontinuation of Services



Discontinuation of Services – 20 CFR 658, Subpart F, initiated from 10/1/24-9/1/25

2

# Interagency Coordination



Inter-agency agreement	Agencies	Status
ESD & National Farmworker Jobs Program Grantee	ESD SMA, ESD WSD – Opportunities Industrialization Center of WA (OIC)	Complete (03/2025)
Field Check Coordination	ESD-LNI-DOH-WSDA	Complete (09/2025)
H-2A Temporary Worker Housing Inspections, Licensing & Certification	ESD-DOH-LNI	Paused- Pending operational changes
H-2A Complaint Data Sharing Agreement (Statement of Work)	ESD-LNI	ESD SOW Complete (04/2025)

# H-2A litigation & federal rule changes



#### **FUJ litigation\***

June 19, 2025:

- Washington state's updated prevailing piece rates wages published.
- Updated prevailing piece rate wages available on WorkSource's agricultural services webpage.

  Pears, Harvesting

  Source: Agricultural Online Wage Library | U.S. Department of Labor webpage.

уре	Prevailing Piece Rate
Cherries, Bing, Harvesting	\$0.24 Per Pound
Cherries, Dark Red, Harvesting	\$0.27 Per Pound
Pears, Bartlett, Harvesting	\$25.90 per bin (47"x47"x24.5")
Pears, Harvesting	\$26.42 per bin (47"x47"x24.5")

As a result of *FUJ* litigation, Washington State employers must offer and pay the prevailing piece rates on AEWR only job orders as of the date they are published. This order precludes the employer from paying hourly for these crops and tasks. The current prevailing piece rates are above and were published on 6/19/25.

## Update on "old business"



- ASWS webpage status
- Written resources for employers and workers
- ASWS "in the news":
  - Immigration policies and labor: A look at the growing reliance on H-2A workers in the Pacific NW (9/7/25, NWPB)
- USDOL WHD coordination

<sup>\*</sup>ESD is not a party to FUJ litigation.

# Winding up PY 2025 and looking forward to 2026



- ASWS PY 2025 ends 9/30/25.
- Data "round-up" at November 2025 meeting
- PY 2026 begins 2026. As of 10/1/25:
  - Improved data collection and reporting
  - Changes to field checks (compliance team)

- 2026 ASWS Focus Areas
  - Intra-agency domestic recruitment processes
  - Inter-agency coordination and alignment regarding H-2A TWH inspections and housing certification
  - Employer education and technical assistance regarding federal rule changes
  - Employer supervisor training
  - Improving HB2226 data collection and reporting processes

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# Processing and adjudicating Foreign Labor Certification applications

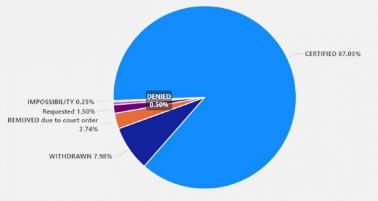


Petra Meraz, Foreign Labor Certification Program Supervisor, ASWS, ESD

### Application status report October 1, 2024 – August 31, 2025



Status	Applications	Workers
CERTIFIED	397	34186
DENIED	2	9
IMPOSSIBILITY	1	100
REMOVED due to court order	17	1346
Requested	13	526
WITHDRAWN	38	2540
Total	468	38707



 $\textbf{Status} \bullet \textbf{CERTIFIED} \bullet \textbf{WITHDRAWN} \bullet \textbf{REMOVED due to court order} \bullet \textbf{Requested} \bullet \textbf{DENIED} \bullet \textbf{IMPOSSIBILITY}$ 

# Number of active contracts & workers Started by and ended after August 31, 2025.



### Active contracts & number of workers

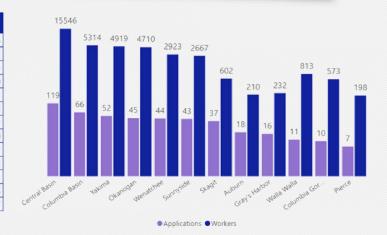
Started by and ended after August 31, 2025.

349 31275 Contracts Workers

### Number of applications & workers requested by AHO



AHO	Applications	Workers
Central Basin	119	15546
Columbia Basin	66	5314
Yakima	52	4919
Okanogan	45	4710
Wenatchee	44	2923
Sunnyside	43	2667
Skagit	37	602
Auburn	18	210
Gray's Harbor	16	232
Walla Walla	11	813
Columbia Gorge	10	573
Pierce	7	198
Total	468	38707

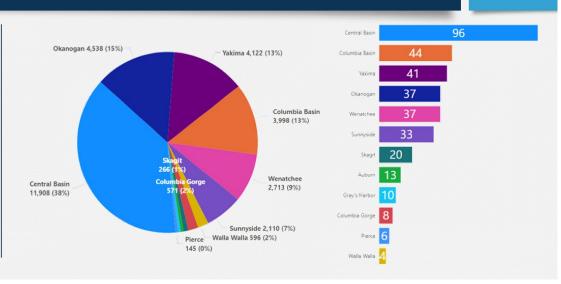


Number of active contracts & workers; by AHO Started by and ended after August 31, 2025.



349 Contracts

**31275** Workers



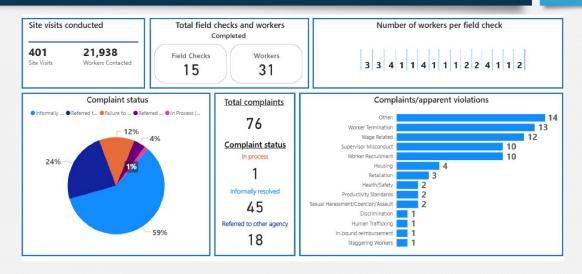
## Compliance Reporting: Site visits (field visits), field checks & complaints



Susana Rodriguez, Compliance Unit Supervisor, ASWS, ESD

# ASWS Compliance updates





# ASWS quarterly report – 3<sup>rd</sup> Qtr. PY2025





## Workforce Services Division Updates September 2025



Alberto Isiordia, Assistant Director of Operations, ESD Maria Maravilla, Wagner-Peyser Program Support Specialist, ESD

## MSFW Outreach Performance



Workforce Services Divisi October 1, 2024, through August 31		)
Program Year	2023	2024
Total FTEs *	11	11
Total Outreach Days	1,470	1,455
Total Number of MSFWs Contacted	25,564	24,644

<sup>\*9</sup> dedicated FTEs (MSFW Staff) and 2 FTEs allocated to non-Ag. significant areas. MSFW staffing changes to be reflected in PY 2025.

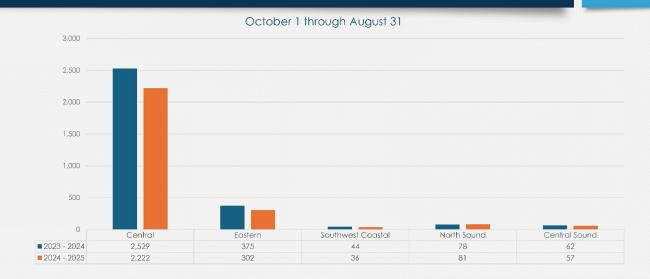
# Complaints and Apparent Violations



Workforce Services Division (W October 1, 2024, through August 31, 2025	(SD)
Total Number of Complaints	45
Total Number of Apparent Violations	3
Total Referred (14 H-2A related)	44
Total Resolved (at local level)	4

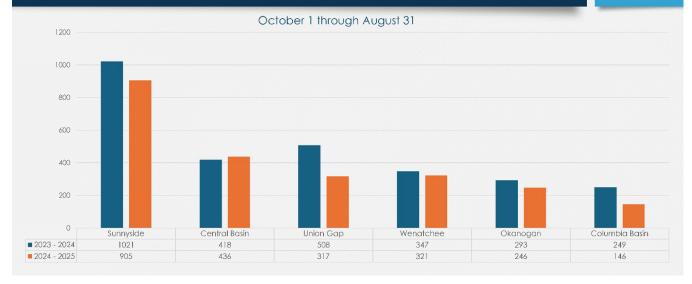
# MSFWs Served by Region





# MSFWs Served by Significant Office





## Ag Clearance Order Waiver Update



▶ Submitted: Clearance Order Waiver to Department of Labor

### Request:

On August 18, 2025, the Employment Security Department (ESD) submitted a request to waive subsection (b)(2) of the Wagner-Peyser Act regulation at 20 CFR 653.50.

"(if) the job order for the ES office incorporates offices beyond the local office commuting area, the ES Office **must suppress the employer information** in order to facilitate the orderly movement of workers within the ES."

### Change:

If approved, this waiver would allow ESD to disclose the employer's name and location—while continuing to withhold direct contact information—to facilitate a more informed and orderly referral process.

# Overview of selected federal rule changes



Bertha J. Clayton, ASWS Director, ESD Petra Meraz, Foreign Labor Certification Program Supervisor, ASWS, ESD

July 8, 2025. Department of Labor Publishes Notice of Proposed Rulemaking to Rescind the Final Rule, *Improving Protections for Workers in Temporary Agricultural Employment in the United States* 



July 11, 2025. Office of Foreign Labor Certification Provides Additional Information on New 2025 H-2A Hourly Adverse Effect Wage Rates (AEWR) for Non-Range Occupations Using the Occupational Employment and Statistics Survey (OEWS)

August 25, 2025. Office of Foreign Labor Certification Announces Rescission of 2011 Frequently Asked Question Prohibiting the Staggered Entry of H-2A Workers

August 28, 2025. OFLC Announces Update to Implementation of the 2023 H-2A AEWR Final Rule; District Court's Order Vacating the Final Rule

September 10, 2025. Office of Foreign Labor Certification Announces 60-Day Public Comment Period on Proposed Revisions to H-2A Temporary Agricultural Labor Certification Program (OMB 1205-0466)

July 8, 2025. Department of Labor Publishes Notice of Proposed Rulemaking to Rescind the Final Rule, *Improving Protections for Workers in Temporary Agricultural Employment in the United States* 



- Multiple suits in numerous states asking to enjoin parts or all of 2024 Worker Protection rule
- 6/20/25: USDOL announces it will no longer enforce the 2024 Worker Protection Rule
- 7/8/25: USDOL rescinds final rule and gives NPRM
- 8/27/25: ESD submits comments to USDOL

### **ASWS** Response

- Awaiting final outcome from USDOL
- Staff training
- Technical guidance to employers
- Shift from presenting rule as "requirements" to "best practices"

26

August 28, 2025. OFLC Announces Update to Implementation of the 2023 H-2A AEWR Final Rule; District Court's Order Vacating the Final Rule



## 2023 AEWR Rule No longer in effect

2023 AEWR Rule required:

- Bifurcating certain job codes out of traditional "Big 6" farmworker SOCs which are paid at AEWR
- 2. Filing separate applications to separate higher paying duties
- 3. Example: Farmworker + Shuttle driver duties.
  - 1. <u>Farmworker</u> (45-2092): \$19.82
  - 2. <u>Shuttle Driver</u> (53-3053): \$22.20

Employer obligated to pay the higher SOC to all workers in the job order, even when those duties were not being performed.

#### USDOL implements the District Court's vacation of rule in all states

#### Impact:

- USDOL can no longer require employers to separate out job duties and offer and pay the higher rate:
- All farmwork tasks described can be paid the AEWR (or applicable prevailing wage (WA)).
- Employers can include all job duties in one application and pay the highest applicable wage.
- 4. Description of duties does not as critical to determine wage.

#### **Applicability**

- Does <u>not</u> apply to contracts certified before 8/28/25 and employers must still pay the wages certified in the job order.
- New job orders filed SWA must process according to pre-2023 AEWR rule.

What doesn't change:
Employer still must pay the highest
of the AEWR, the prevailing hourly
wage rate, the prevailing piece rate,
the agreed-upon collective bargaining
rate, or the Federal or State
minimum wage rate.

August 25, 2025. Office of Foreign Labor Certification Announces Rescission of 2011 Frequently Asked Question Prohibiting the Staggered Entry of H-2A Workers



- USDOL FAQ guidance rescinded. <u>Federal Register</u> :: <u>Notification of</u> Rescission of Frequently Asked Question Issued on July 22, 2011
- Action: Rescinds informal guidance requiring a separate application(s) when the only difference among positions was the start "date of need" (same crops, duties, areas of intended employment).
- Impact: Employers can file <u>one</u> application indicating different dates of need and stagger worker arrival dates.

OMB Approval: 1205-0466 Expiration Date: 08/31/2022

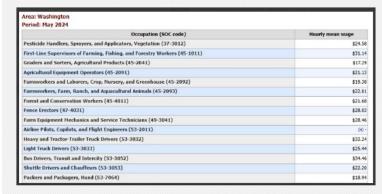
Agricultural Clearance Order Form ETA-790 U.S. Department of Labor



IMPORTANT: In accordance with 20 CFR 653.500, all employers seeking U.S. workers to perform agricultural services or labor on a temporary, less than year-rour basis through the Agricultural Recruitment Systems for U.S. Workers, must submit a completele job desearance order (Form ETA-179) to the State Workforce Agent of the Company of

I. Clearance Order Information

F	OR STATE WORKFORCE AGENCY (SWA Questions 1 through 17	A) USE ONLY
Clearance Order Number *	Clearance Order Issue Date *	Clearance Order Expiration Date
SOC Occupation Code *	SOC Occupation Title *	



Example of how rule changes impact ETA-790 processing:

- 1. Vacation of 2023 AEWR Rule
- 2. "Staggering" of worker arrivals



. Job Offer Ir	formation							
1. Job Title *								
2. Workers Needed *	a. Total	b. H-2A	3. Begin	Date !		4. End Da	ata *	
			to be on-call 2	4 hours a day and			Total I	□ No
and the second second	days and hours	all the second second	100000000000000000000000000000000000000	tions 6 and 7 below			5-0.00	work schedu
	a. Total Hours		. Monday	e. Wednesda	,	g. Friday	a:	O A
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### On Break until 11:15 am

# Housekeeping



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# Committee information & feedback:



Bertha J. Clayton, ASWS Director, ESD

### Committee information & feedback:

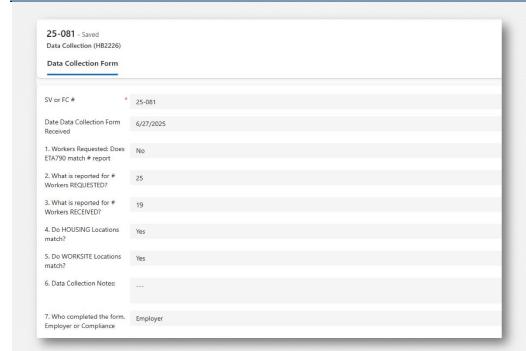


### HB 2226 data collection and reporting

- RCW 50.75.060
- Using standard form developed by ESD ASWS and Communications
- Quarterly reporting obligation to ASWS Committee
  - Number of workers arrived on farm their worker location and housing location as of date of site visit or field check

<u>Issues</u>: Inconsistency in capturing data for multiple visits to one job order.

- ☐ How we "count" site visits/how many forms are required
- ☐ How does committee want to see this data?





### **Prior Reporting Example:**

Quarterly Report of HB2226 Data: 2<sup>nd</sup> Qtr. Jan 1, 2025 - March 31, 2025





### RCW 50.75.060 Data collection



- (1) Whenever the department conducts a field check or field visit of an employer, the department must collect the following information:
  - (a) The number of H-2A workers the employer has at each work site; and
  - (b) The actual geographic location of where the H-2A workers are living during their employment with the employer.
- (2) The department must compile the information and compare the number of workers sought by an employer on the employer's H-2A application with the number of H-2A workers actually working for the employer.
- (3) The department must make the information available to the advisory committee appointed under RCW **50.75.040** on a quarterly basis.
- 1. Does the data as presented by ESD answer the committee's questions?
- 2. Does it meet the legislative intent of HB2226?

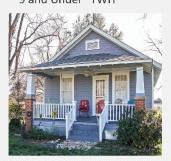
### H-2A Temporary Worker Housing



Mobile Range (herders, beekeepers)



"9 and Under" TWH



Temporary Worker Housing (10+ occupants)



## Changes to H-2A TWH



- "9 and under", <60
  - As of 2024, L&I no longer performing pre-occupancy inspections for purpose of ESD housing certification
  - DOH assumed these (H-2A TWH, only) inspections for purpose of ESD's housing certification
  - ESD will require all H-2A TWH to have a DOH TWH license to certify (approve to USDOL) "9 and under" H-2A TWH housing
    - State regulations do not require DOH to inspect "9 and under" H-2A TWH
    - · DOH licensing processes
      - ☐ Application/Fee
      - ☐ Construction Review Services (CRS) approval
      - ☐ DOH license pre-occupancy inspections
      - ☐ DOH Grace period for CRS approval letter: 2/28/2026
- Exception: Mobile range housing (herders); <15</li>
  - ESD will inspect according to federal mobile range housing standards.

### H-2A Temporary Worker Housing 2026 inspecting agencies



Mobile Range (herders, beekeepers)



H-2A Inspection: ESD (federal range housing standards) License: None

"9 and Under" TWH



H-2A Inspection: DOH

Temporary Worker Housing (10+ occupants)



Inspection: DOH License: DOH TWH (req. By ESD) License: DOH TWH (Req. By RCW)

# H-2A Temporary Worker Housing information for TWH operators and H-2A employers





 Department of Health Temporary Worker Housing webpage

# Potential changes to field checks:



Arturo Espinoza, MSFW Monitor, Executive Programs, ESD

# What is happening?



- Why Art and not Bertha?
- Change in field check process concern.

### Possible result



If placement is not working as of the date of field check, USDOL suggests ESD may lose the connection to the employer

# Potential Impact - less field checks conducted:

- Contract abandonment
- Turn around time

### **Next Steps:**

- ESD plans to send a letter seeking to confirm whether we could still perform the field check
- We may know more next week after our NMA office meeting

44

### **Public Comment**



#### **PUBLIC COMMENT:**

If you would like to make public comment, including any suggested future agenda items, please state your name and spell it so we can capture it correctly for the minutes, as well as the organization you represent if any. Your comments are being recorded. However, if you would like your comments to be included in the meeting minutes, please submit them in writing via email to Vickie Carlson at Vickie.Carlson@esd.wa.gov. Please limit your comments to two minutes.

#### **COMENTARIO PUBLICO:**

Si desea hacer un cometario público, incluyendo temas ó elementos de segurencia para agendas futuras, por favor indique su nombre y deletréelo para poder capturarlo correctamente en los apuntes de la junta, también indique la organización a la que representa si hay alguna. Sus comentarios estan siendo grabados. Sin embargo, si desea que sus comentarios sean incluidos en los apuntes de la junta, por favor envielos por escrito por correo electrónico a Vickie Carlson a vickie.carlson@esd.wa.gov. Por favor limite sus comentarios a dos minutos.

### Good of the Order



- Future Agenda Items
- Adjournment



ASWS Advisory Committee Meeting
Thursday, November 20, 2025
9:00 am – 12:00 pm

Zoom

### Contact information

Joy Adams, Director of Employment System Policy & Integrity Division joy.adams@esd.wa.gov

Employment Security Department • Employment System Policy & Integrity