



# Agricultural and Seasonal Workforce Services Advisory Committee

## Meeting details

**Date:** Wednesday, February 15, 2023

**Time:** 1:00 p.m. – 3:00 p.m.

**Location:** ZOOM Meeting

### Committee members present

- Jon DeVaney
- Michael Gempler
- Delia Peña
- Jeff Perrault
- Rosalinda Guillen

### Committee members absent

- Victoria Ruddy
- Michele Besso
- Edgar Franks

### Non-voting agency representatives

- Ignacio Marquez
- Juan Gamez
- Todd Phillips
- Uriel Iñiguez

### ESD staff

- Dan Zeitlin
- Bertha Clayton
- Vickie Carlson
- Petra Meraz
- Margarito Cabrera

## Summary

### Meeting Recorded

This meeting was recorded and is available on <https://esd.wa.gov/newsroom/Ag-committee>

### Welcome and Introductions

Employment Security Department (ESD) Policy Director, Dan Zeitlin, welcomed everyone and asked Vickie Carlson to take roll. Five voting members were present. Motion to approve the January meeting minutes- Jon DeVaney, 2nd from Rosalinda Guillen. Motion carries.

### Agenda

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

Recording timestamp **00:02:52**

**ASWS Office – Bertha Clayton, Director, ASWS Office, ESD** (See Addendum II.)

FLC Applications – Petra Meraz, Lead FLC Program Coordinator

Recording timestamp **00:06:33**

ASWS Compliance Team Update – Margarito Cabrera, Compliance Supervisor

Recording timestamp **00:16:48**

ASWS Office Update – Bertha Clayton, Director

Recording timestamp 00:26:03

**WA Cares Update – H-2A Worker Exemption** (Addendum III.)

Recording timestamp 0:40:45

Janette Benham, Rules Coordinator, Leav and Care Division, ESD

Jeff Kendall, Service Delivery Manager, Leave and Care Division, ESD

**March 2023 In-Person Planning Discussion – Bertha Clayton, ESD**

Recording timestamp 01:07:51

(Addendum IV.)

**ASWS Charter Discussion – Dan Zeitlin, ESD** (Addendum V.)

Recording timestamp 01:34:57

- Member Meetings – Alternates
- Public Comment

**Public Comments**

None

**Adjourned**

Dan Zeitlin thanked everyone for their continued active participation and for their commitment to this work, then ended the meeting at 3:00 p.m.

### 2022 Meetings

The next Agricultural and Seasonal Workforce Services Advisory Committee meeting is on:

- **March 15, 2023 – 1:00 p.m. to 5:00 p.m. – Zoom Meeting**

### Addendums

**ADDENDUM I.****AGENDA**

Agricultural and Seasonal Workforce Services (ASWS) Advisory Committee  
Wednesday, February 15, 2023 | 1:00 pm – 3:00 pm | Zoom | 212 Maple Park  
Ave SE Olympia WA 98501

TIME	TOPIC
1:00 pm	Welcome – Dan Zeitlin, Director, ESD Employment System Policy & Integrity Division <ul style="list-style-type: none"><li>• Roll Call – Vickie Carlson</li><li>• Agenda Review – Dan Zeitlin</li></ul>
1:10 pm	Approval of Meeting Minutes – Dan Zeitlin <ul style="list-style-type: none"><li>• January 19, 2023</li></ul>
1:20 pm	Update on Charter – Dan Zeitlin
1:30 pm	ASWS Office Update – Bertha Clayton, Director, ASWS Office, ESD <ul style="list-style-type: none"><li>• ASWS Office – Bertha Clayton</li><li>• FLC Applications – Petra Meraz, FLC Lead Program Coordinator</li><li>• ASWS Compliance Update – Margarito Cabrera, Compliance Unit Supervisor</li></ul>
1:40 pm	WA Cares Update – H-2A Worker Exemption <ul style="list-style-type: none"><li>• Janette Benham, Rules Coordinator, Leave and Care Division</li><li>• Jeffery Kendall, Service Delivery Manager, Leave and Care Division</li></ul>
2:10 pm	Break
2:20 pm	March In-Person Agenda Planning & Identification of Committee Priorities – Bertha Clayton
2:50 pm	Public Comment
3:00 pm	Adjourn

**ADDENDUM II.**



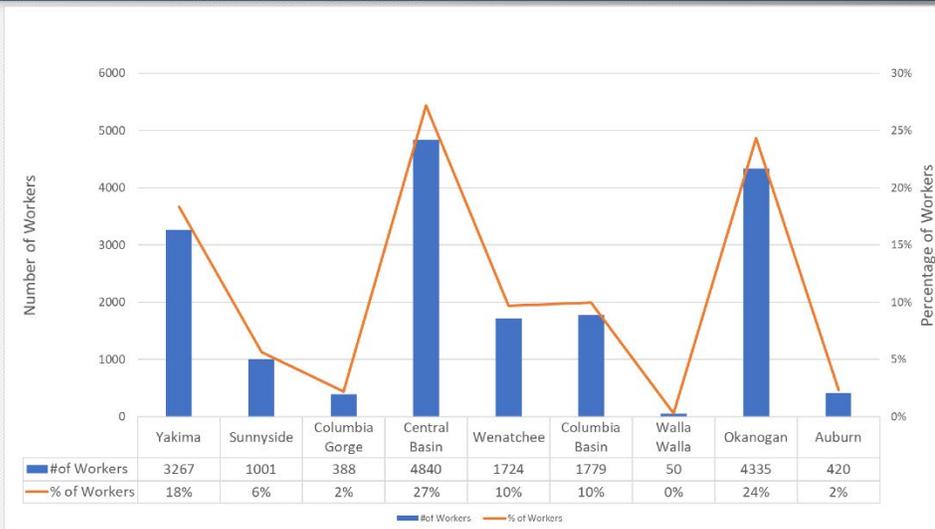
# FLC Applications update

## H-2A Applications & Workers Report

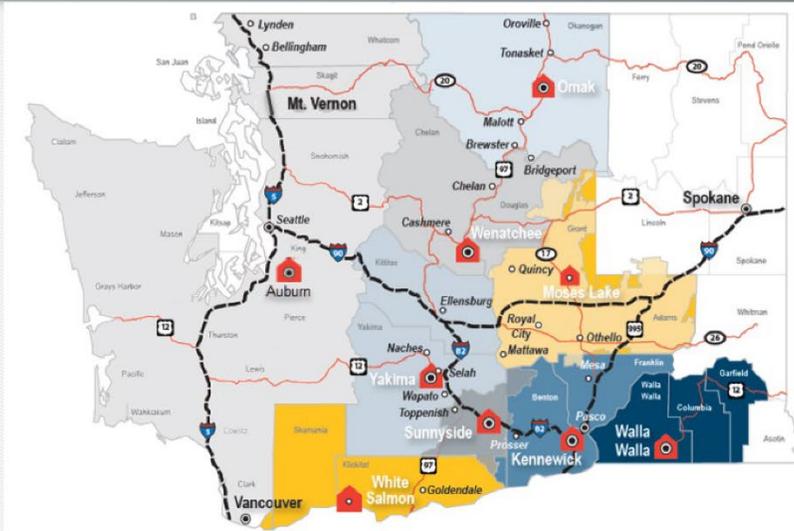
	PY 2023 H-2A Data		PY 2022 H-2A Data	
	10/1/2022	2/10/2023	10/1/2021	2/10/2022
	Applications	Workers requested	Applications	Workers requested
Total processed to date	193	17804	181	14305
Withdrawn/Denied	11	2191	2	525
Contracts Commenced	48	2908	51	3723
Contract Impossibility	0	0	1	210
Active Cases	55	3277	57	3943

\*The numbers reported are not reflective of the number of foreign workers that arrive in Washington State.

## Main Application Holding Offices



# Main Application Holding Offices Map



# Compliance Team Update

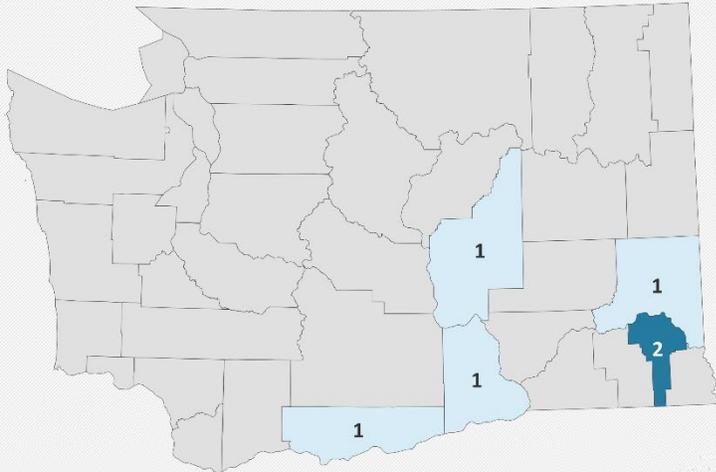


Margarito Cabrera, ASWS Compliance Unit Supervisor, ESD

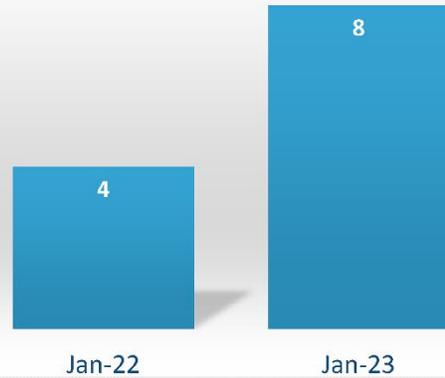
# Site Visits



Site visits by County in Jan-2023



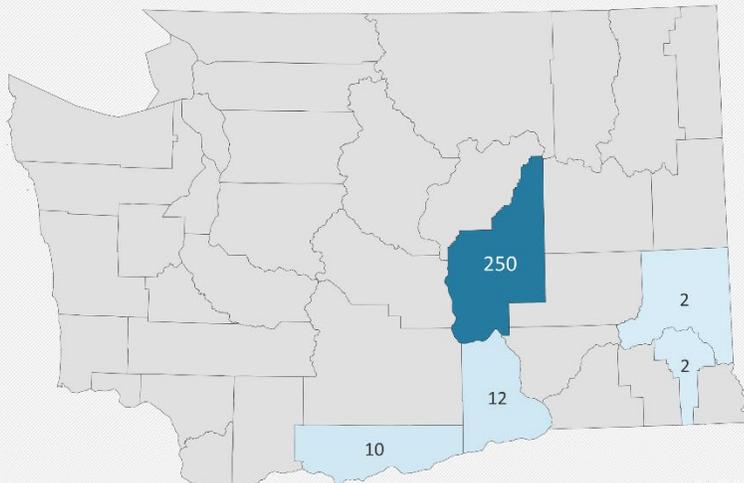
Total Site Visits Jan 22 vs Jan-23



# Workers Contacted



Approximate Workers Contacted by County in Jan-23



Total Workers Contacted Jan-22 vs Jan-23

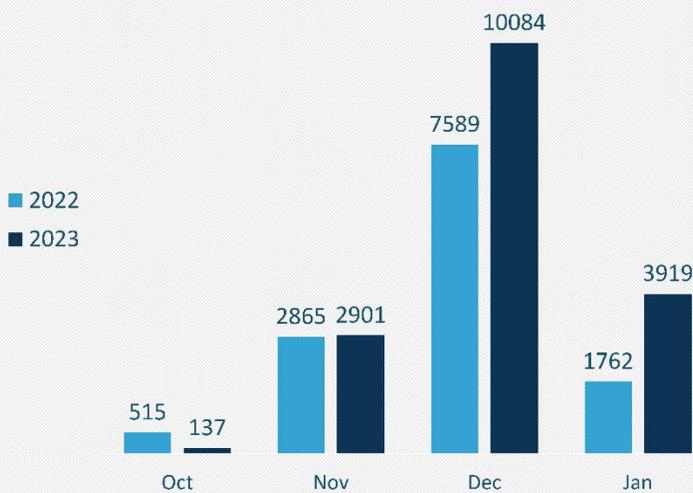


## H-2A Apps Received by Month – PY 2022 vs 2023 October to January



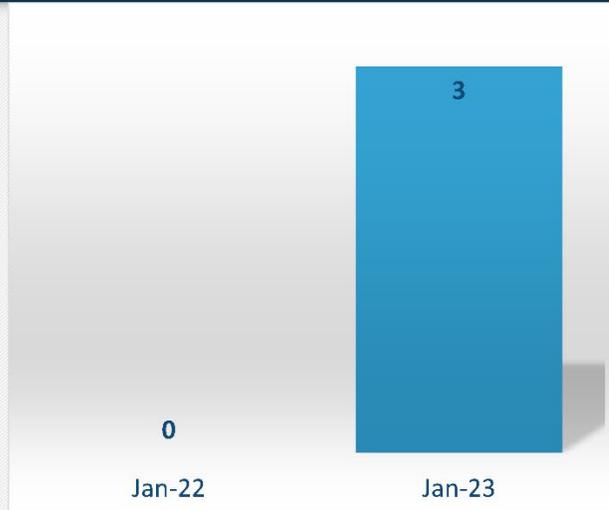
Year	Total Apps
2022	156
2023	174
Increased	10 %

## Workers Requested by Month, PY 2022 vs 2023



Year	Total Workers
2022	12731
2023	17041
Increased	34 %

## Complaints / Apparent Violations – Jan 2022 vs Jan 2023



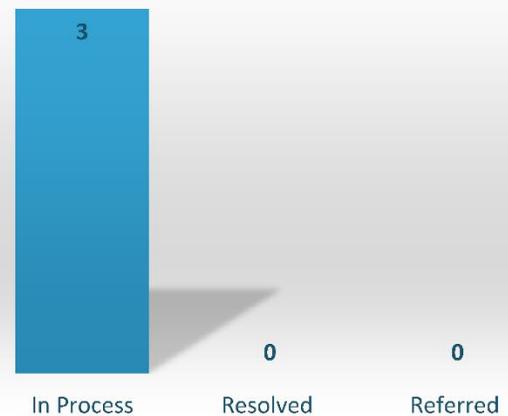
## Complaints / Apparent Violations – Jan 2023



Type of Allegations



Status of Complaints



## ASWS Office Update



Bertha J. Clayton, ASWS Director, ESD

## Office update – February 2023



- Site Visits
  - Site Visits underway
  - Update to site visit letter – include U.S. based workers in site visits
- Training
  - Ag. Labor Law Academy (G.S. Long)
  - LNI Labor Standards – Farm Labor Contractor licensing
  - FLC – internal process improvements
  - WAFLA (1/12/23), Washington Grower’s League (1/19/23-1/12/23)

## USDOL WHD H-2A Employer Roundtable Forum



**April 13, 2023**  
**8 AM – 3 PM**

- **Red Lion Hotel and Conference Center, Pasco, WA**  
**2525 N. 20<sup>th</sup> Avenue, Pasco, WA 99301**

**Registration Process TBA**

## USDOL WHD H2A Employer Roundtable Forum



### 2022 ASWS Advisory Committee Report – Recommendation #6

- **April 13, 2023, Red Lion Hotel and Conference Center, Pasco, WA, 8:00 AM – 3:00 PM**
- Topics will include:
  - ASWS – Introduction and common compliance issues in 2022
  - DOL Office of Foreign Labor Certification: Best practices with H-2A certification
  - DOL WHD – National/Regional – New Rules and Common Violations
  - USCIS – Guidance and best practices for visa approval
  - U.S. Consulate – Mexico – Guidelines for best practices for issuing visas in Mexico
  - Federal and State agency panel

ADDENDUM III.

WA Cares Update – H-2A Worker  
Exemption



Janette Benham, Rules Coordinator, Leave and Care Division, ESD  
Jeff Kendall, Service Delivery Manager, Leave and Care Division, ESD



# WA Cares Fund

## Overview and Exemption Application Process

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JANETTE BENHAM | RULES COORDINATOR  
LEAVE AND CARE PROGRAMS

JEFF KENDALL | SERVICE DELIVERY MANAGER  
LEAVE AND CARE DIVISION

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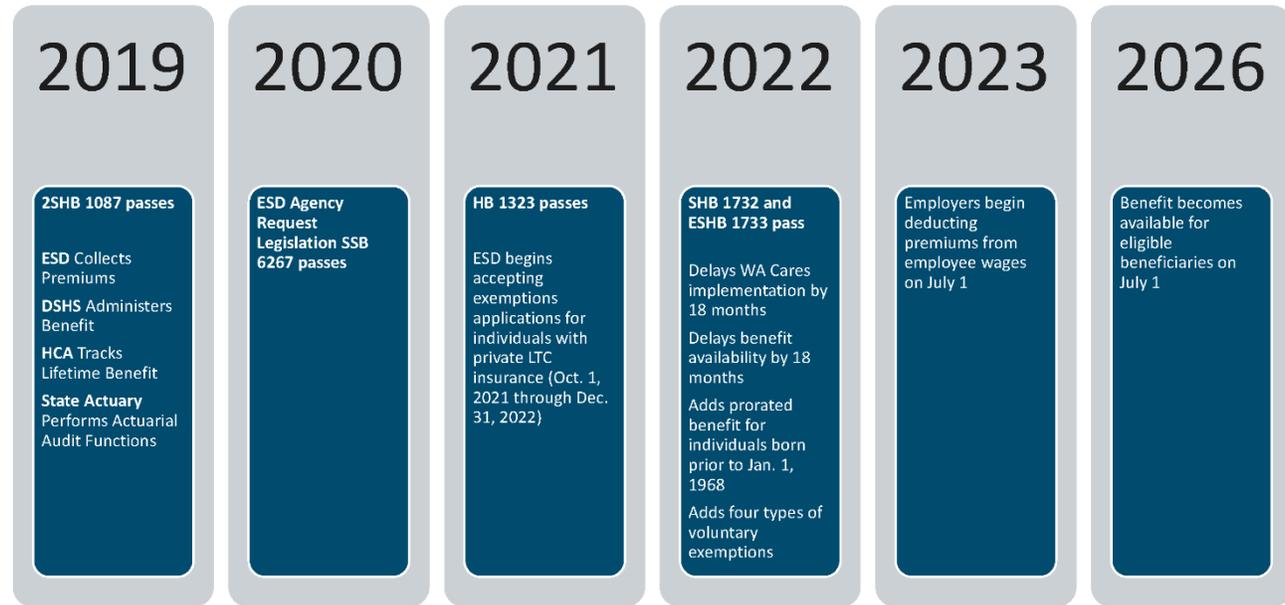
## The WA Cares Fund benefit

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### **What is the benefit and how is it funded?**

The fund was created to support working Washingtonians with affordable long-term care and peace of mind that long-term care coverage is there when we need it. Individuals who have contributed and worked for the required period of time may be eligible for up to \$36,500 of a lifetime benefit that can be used on a variety of long-term care services.

Employees contribute .58% of wages. Premiums are collected by employers and go into a dedicated trust fund that can only be used for this program.



## Comparison of exemption types

Exemption type	Application Dates	Permanent or Conditional
Employees with private long-term care insurance	October 1, 2021 through December 31, 2022	Permanent
Veterans with 70% or greater service-connected disability	January 1, 2023 – ongoing	Permanent
Spouses or registered domestic partners of active-duty service members	January 1, 2023 – ongoing	Conditional
Employees who hold nonimmigrant work visas	January 1, 2023 – ongoing	Conditional
Employees whose primary residence is outside of Washington	January 1, 2023 – ongoing	Conditional

## Conditional exemptions

Three exemption types are required to be cancelled if the conditions qualifying the employee for the exemption no longer exist.

Exemption type	Conditions for cancelling an exemption
Spouses or registered domestic partners of active-duty service members	<ol style="list-style-type: none"> <li>1. Discharge or separation from military service of the employee's spouse or registered domestic partner; or</li> <li>2. Upon the dissolution of the employee's marriage or domestic partnership with the active-duty service member</li> </ol>
Employees who hold nonimmigrant work visas	Becoming a permanent resident or citizen
Employees whose primary residence is outside of Washington	Establishing a primary residence in Washington

## Requirements for all exemption types

### Employees:

Must apply for the exemption (don't need to reapply every year or when changing jobs)

Must provide notification of their exemption (a copy of their approved exemption letter) to all current and future employers

### Employers:

Must maintain a copy of the employee's approved exemption letter

Should not collect premiums from exempt employees who have provided the approved exemption letter

Employees are not entitled to a refund of premiums that were assessed before their exemption was approved or before the approved exemption letter was provided to their employer

## Requirements for cancelling conditional exemptions

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Within 90 days of the event that no longer qualifies the employee for an exemption, the employee must:

- Notify ESD that the exemption must be discontinued; and
- Notify their employer(s) that they are no longer exempt and that the employer must begin collecting premiums.

If the employee fails to pay premiums within 90 days of the exemption cancellation event, the employee is required to pay any unpaid premiums, with interest of one percent per month, directly to ESD.

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## WA Cares Data (1/1/2023 – 1/13/2023)

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### Non-immigrant Work Visa Exemptions

- **1,038** exemption requests submitted
- **808** exemptions requests processed
- **752** exemptions Approved

### Out-of-State Exemptions

- **1,512** exemptions submitted
  - **1,448** exemptions processed
  - **1,272** exemptions Approved
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## Application Process

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### 2 Ways to Apply

- Online through SAW account
    - Preferred method as it is the quickest and allows customers to retrieve Approval letter at any time
  - Paper Benefit Application
    - Available for individuals that do not have access or means to apply online and for employers that want to include it as part of their onboarding process
    - Employers can assist employee with application, gather supporting documentation and mail into us for processing
    - All correspondence will be mailed to the address provided on application and the employee will need to contact us if they ever need a copy of approval letter or other correspondence.
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## WA Cares Comms & Outreach

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### ■ Priority Audiences

- Employers
    - Businesses with workers localized in WA
    - Small businesses/Self Employed
    - Third Party administrators
    - Professional organizations
  - Groups affected by program changes
    - Workers on non-immigrant visas
    - Workers who live out of state and work in Washington
    - Military Spouses
    - Near Retirees
    - Veterans with 70% or higher service-connected disabilities
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## WA Cares Comms & Outreach (Cont.)

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### ■ Priority Media

- WA Cares website
  - Employer and exemption specific pages
  - Employer toolkit
  - FAQ's
  - Contact page
  - Special alerts
- ESD Employer Newsletter
- Postal Mail
- Outreach to stakeholder groups
  - Including multi-language printed info and exemption applications
  - We attended the WAFLA summit and Agriculture Safety Day events in Yakima and Wenatchee
  - We have done, and will continue to do, Employer presentations (both in person and virtually)
  - We have done presentations for WorkSource offices and other ESD work streams

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## Thank You

Janette Benham  
Rules Coordinator  
Leave and Care Programs  
[janette.benham@esd.wa.gov](mailto:janette.benham@esd.wa.gov)

Jeff Kendall  
Service Delivery Manager  
Leave and Care Division  
[jeffery.kendall@esd.wa.gov](mailto:jeffery.kendall@esd.wa.gov)

To learn more, please visit:  
[wacaresfund.wa.gov](http://wacaresfund.wa.gov)

ADDENDUM IV.

March 2023  
In person meeting planning



Bertha J. Clayton, ASWS Director

March ASWS Advisory Committee Meeting



- In-person
- March 15, 2023
- 1:00 PM – 5:00 PM
- Radio KDNA Community Center
  - 121 Sunnyside Ave., Granger, WA 98932
- June and September 2023 in person meetings will be at:
  - Cosecha Court II. Community Room
    - 416 E. 5<sup>th</sup> St., Granger, WA 98932

## 16 Focus areas identified by ASWS Committee October 2019



- Retaliation
- Worksite Inspections
- Housing
- Oversight
- Health and Injuries
- Public Notice – Regional community outreach & education
- Worker Complaints
- Perception
- Worker Rights Information
- Domestic Recruitment
- Employer Outreach
- Accurate Data - # of workers
- Enforcement agency coordination
- Foreign Recruitment
- Human Trafficking - monitoring
- Budget – define appropriate budget structure

## Overview of Progress since 2019



See Document emailed in advance of meeting

## Committee Discussion – Selection of (2) focus areas for March 2023 meeting discussion



- The March 2023 committee meeting will be a four-hour, in-person meeting in Granger, WA
- To focus the committee’s discussion time, the committee should select two priorities to focus their discussion and provide recommendations to ESD about advancing work in the selected areas.
- Roundtable committee member input: Name your two choices or “pass”

### ADDENDUM V.

## ASWS Charter Discussion



Dan Zeitlin, Policy Director, ESD

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## Member Meetings-Alternates



### **New Language:**

*Any Board member may designate a regular alternate to serve on the board in his or her place with the same authority as the member when he or she is unable to attend a meeting.*

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## Public Comment



### **Current Language:**

*A person initiating public comment will have a maximum of 5 minutes to present. Comments made by additional citizens on the same topic will be limited to 3 minutes per person and each person is allowed to speak once. A maximum of 30 minutes is allowed for public comment at the beginning of each meeting.*

### **New Language:**

*A person initiating public comment will have a maximum of 2 minutes to present. Comments made by additional citizens on the same topic will be limited to 1 minute per person and each person is allowed to speak once. A maximum of 30 minutes is allowed for public comment at the end of each meeting.*

## In Closing



- Future Agenda Items
- Public Comment



### Agricultural and Seasonal Workforce Services ADVISORY COMMITTEE



Employment Security Department  
WASHINGTON STATE

### Next ASWS Advisory Committee Meeting

In-Person

Wednesday, March 15, 2023

KDNA

121 Sunnyside Ave., Granger, WA 98932

1:00 p.m. – 5:00 p.m.

#### Contact information

Dan Zeitlin, Director of Employment System Policy & Integrity Division [DZeitlin@ESD.WA.GOV](mailto:DZeitlin@ESD.WA.GOV)

*Employment Security Department • Policy, Data, Performance and Integrity*