



Agricultural and Seasonal Workforce Services Advisory Committee

Meeting details

Date: Wednesday, July 19, 2023

Time: 1:00 p.m. – 3:00 p.m.

Location: Zoom

Committee members present

- Delia Peña
- Jon Devaney
- Jeff Perrault
- Michele Besso
- Areli Artega (proxy for Victoria Ruddy)
- Rosalinda Guillen

Committee members absent

- Michael Gempler
- Edgar Franks

Non-voting agency representatives

- Uriel Iniguez

- Ignacio Marquez
- Juan Briceno-Gamez

ESD Staff

- Joy Adams
- Bertha Clayton
- Vickie Carlson
- Olga Kondratjeva
- Olivia Gutierrez
- Margarito Cabrera

Other

- Steve Yunker (LNI DOSH)
- Ryan Allen (LNI)

Summary

Welcome and Introductions

Employment Security Department (ESD) Deputy Policy Director, Joy Adams, welcomed everyone, roll call was taken. A quorum was established following the Customer Experience Study update, six voting members were present. Motion to approve June meeting minutes: Jeff Perrault; second; Jon DeVaney. Motion carried unanimously.

Agenda

Joy Adams reviewed the agenda for the meeting and asked if anyone had any questions. (Addendum I.)

Customer Experience Study – (Addendum II.)

Recording timestamp **00:06:50**

Olga Kondratjeva, Program Evaluation Research and Analysis Manager, DATA Division, ESD

Lacey Jacoby, User Experience Research, Anthro-Tech

Questions & Answers / Comments:

Rosalinda: What is the definition being used for “non-financial benefits”?

Olga: Examples are housing, transportation, day care, health benefits, etc.

Jon: I noticed that many of the questions ask about image or perception of ESD; this is interesting and helpful. It informs committee on what ESD needs to adjust. Committee needs to know what factors are driving perceptions of ESD so that committee can recommend actions.

Lacey: A-T has lots of flexibility to design Phase II – customize types of activities and questions to ask.

Olga: Once research questions make it into guide – it becomes script. Sets strategic direction of the project. Time for feedback is now (this week). Please email any feedback by early next week to Vickie. Next week the kick-off and planning of Phase II starts.

Rosalinda: Will ASWS committee be engaged in internal conversations?

Olga: no, time for feedback is now.

Michele: How will ESD use this feedback? It will be a long time until the final report. The final report may come after the ASWS Committee has written its 2024 legislative report. What was the thinking around the phases and schedules?

Olga: Factors that impacted phase structure and study schedules were study funding sources (ASWS vacancy funds and USDA Specialty Block Grant) and when those had to be spent. The scheduling determined the types of crops that would be studied.

Rosalinda: How were the counties selected for the study?

Olga: Based on crop activity and capacity that A-T has to conduct study.

Action Item (Committee):

- Please email any feedback by early next week to Vickie Carlson at Vickie.Carlson@esd.wa.gov. Next week the kick-off and planning of Phase II starts.

ASWS Office – Bertha Clayton, Director, ASWS Office, ESD (Addendum III.)

Recording timestamp 00:36:53

Questions & Answers / Comments:

Bertha: We need MSFW advocate and industry volunteers willing to be interviewed by NMA office as part of 8/21 visit.

Jon: Send out an email to committee explaining visit and asking for volunteers.

Volunteers: Jon, Rosalinda, Edgar (suggested by Rosalinda)

Jon: Will monitoring impact ASWS operations?

Bertha: Likely not. The FLC team will work from Columbia Basin WorkSource office the week of August 21st.

Joy: ESD is accustomed to monitoring. Work will be priority – DOL understands this.

FLC Applications – Olivia Gutierrez, Foreign Labor Certification Coordinator

Recording timestamp 00:51:25

Compliance Team update – Margarito Cabrera, Compliance Supervisor

Recording timestamp 00:54:57

Questions & Answers / Comments:

Michele: Why is there a “Supervisor Misconduct/Wage Related” category?

Rosalinda: Clarity needed if allegations involve both subjects.

Margarito: This is likely a labeling error. I will confirm data.

Complaint Scenarios presented:

Michele: Very helpful to see how issues are resolved.

Rosalinda: How do you ensure that photo confirmation of fixes are real?

Margarito: Compliance specialists are in touch with the workers.

Ignacio: How does ASWS decide to refer to an enforcement agency – how does ASWS manage continued employer misconduct by the same employer?

Bertha:

(1) when allegation is ineligible for informal resolution; (2) when informal resolution fails; (3) case by case based on employer history, etc.

Action Item (ESD):

- Margarito Cabrera will confirm the Complaint/Apparent Violation data with in the Supervisor Misconduct and Wage Related categories

Agency Updates – LNI and DOH (Addendum IV.)

Recording timestamp **01:16:30**

Uriel Iñiguez, Director of Community Relations, Government Affairs and Policy, LNI

Juan Briceno-Gamez, Director, Environmental Health and Safety Office, Department of Health

Questions & Answers / Comments:

Uriel Iñiguez (LNI):

Recording timestamp **01:17:10**

We have a new Spanish webpage. The updates were made based on stakeholder input.

<https://www.lni.wa.gov/>

Ryan Allen (LNI):

Recording timestamp **01:19:06**

Heat Stress Rule: Permanent rule 6/27/2023; enforcement started 07/17/2023. All info is on LNI website, including fact sheets.

Wildfire Smoke and Housing: LNI and DOH are holding public meetings, reviewing comments and looking to file permanent rule in Fall 2023.

Wildfire Smoke Rule: LNI is currently holding public hearings. Last hearing (virtual) is on 7/31/2023 after hours. Written comments due on 8/4/2023 by 5:00 PM.

Steve Yunker (LNI DOSH):

The Rulemaking page has all of our rulemaking activity including Ambient heat, wildfire smoke and Temporary Worker Housing: <https://lni.wa.gov/safety-health/safety-rules/rulemaking-stakeholder-information>

Juan Briceno-Gamez (DOH):

Recording timestamp **01:22:45**

ANNOUNCEMENT:

DOH will require all Transient Accommodation (TA) facilities housing Temporary Workers to have a TWH housing license – will be considered a TWH operator. DOH is still analyzing how it will roll this out, but plans to roll out before 2024 growing season, date TBA. DOH will work with current TAs housing temporary workers to get licensed right away. DOH does not anticipate any displacement of workers. Juan thanked the committee for patience for a long process.

Rosalinda: Pleased to hear this. Will state be providing subsidies to TA operators to bring TA into TWH housing compliance? Taxpayer money should not be used for this purpose.

Juan: No, DOH has no funding for this. DOH in recruitment for additional lodging staff. Hope to be fully staffed, soon.

Joy: In light of this development, does committee still think letter draft (sent with meeting materials) to DOH secretary from ASWS Committee is necessary?

Michele: Will written documentation be coming out from DOH regarding this change?

Juan: Yes, DOH is working on this. Will be sending out a communication, likely through Gov Delivery and will be connecting with WA State Hospitality Association. DOH will be seeking guidance from legal counsel about how to proceed. DOH wants to approach potential impacts proactively.

Rosalinda: Feels that letter from committee acknowledging DOH's action and expressing appreciation is necessary. Also, letter should acknowledge that this has been needed for a very long time.

Michele: What do other committee members think?

Jon: Committee should discuss letter at August meeting. Feels it is important for committee to go on the record recognizing DOH's progress, emphasizing that there is a great need for this change, that there is agreement among the committee and that a regulatory framework is necessary consistent with the change.

Rosalinda: Thank you to Juan. DOH has listened to the need and responded. Appreciative of work.

Public Comment

Recording timestamp **01:34:59**

None

Good of the Order, Committee Priorities – Joy Adams

Recording timestamp **01:37:04**

Joy: What does the committee want to prioritize for discussion in upcoming meetings?

Rosalinda/Michele: Need to spend additional time around Domestic Recruitment. The CE Study does not substitute for committee discussion.

Rosalinda: Domestic improvement could improve from these discussions. The numbers are not showing significant improvement. We need to keep the discussion going until we see results.

Jon: Domestic recruitment - Phase I findings were not formatted as actionable and in the way that was expected. We need to talk more about where ESD is now.

Joy: Domestic Recruitment will be added as topic for discussion for August meeting. We will also revisit housing for any updates

Adjourned

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

2023 Meetings

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

- **August 16, 2023 – 1:00 p.m. to 3:00 p.m. – Zoom Meeting**

Addendums

ADDENDUM I.



AGENDA

Agricultural and Seasonal Workforce Services (ASWS) Advisory Committee
 Wednesday, July 19, 2023 | 1:00 pm – 3:00 pm | Zoom | 212 Maple Park Ave SE
 Olympia WA 98501

TIME	TOPIC
1:00 pm	Welcome – Joy Adams, Interim Director, ESD Employment System Policy & Integrity Division <ul style="list-style-type: none"> • Roll Call – Vickie Carlson • Agenda Review – Joy Adams
1:10 PM	Approval of Meeting Minutes – Joy Adams <ul style="list-style-type: none"> • June Meeting
1:15 PM	Customer Experience Study – Olga Kondratjeva, Program Evaluation Research and Analysis Manager, ESD DATA <ul style="list-style-type: none"> • Discussion of Committee Feedback & Phase II
1:50 PM	Break
2:00 PM	ASWS Office Updates <ul style="list-style-type: none"> • ASWS Office – Bertha Clayton, Director, ASWS • FLC Applications – Olivia Gutierrez, FLC Program Coordinator • ASWS Compliance Update – Margarito Cabrera, Compliance Unit Supervisor
2:25 PM	Agency Updates <ul style="list-style-type: none"> • LNI – Heat Stress Rules • DOH – Temporary Worker Housing and Discussion of Letter from ASWS Committee to DOH Leadership
2:45 PM	Public Comment
2:50 PM	Good of the Order & Discussion of Future Agenda Topics
3:00 PM	Adjourn

GROUND RULES

No side conversations | Phones on silent | Let people speak without interruption | Respect the opinion of others | Strive for understanding | Speak your mind | Strive for common ground | Assume good intent | Stay focused on task at hand and be willing to come back to the topic | Make sure everyone understands | Look out for each other | Take care of your own comfort | Ask for what you need

ADDENDUM II

Customer Experience Study update



Olga Kondratjeva, Program Evaluation, Research, and Analysis Manager, ESD
Lacey Jacoby, User Experience Researcher, Anthro-Tech

Customer Experience Study



Phase I study:

- Anthro-Tech has submitted the final report to ESD and the Advisory Committee.
- ESD will hold a series of internal meetings to discuss the findings.

Phase II study overview:

- Address any gaps, including aligning the research recruitment and timing.
- Explore new research questions based on findings from Phase I.
- Understand the potential impact of any recommended improvements.

Customer Experience Study



1. Address existing gaps:

- Recruitment (e.g., recruitment of migrant workers, community-based recruitment)
- Timing with the harvest seasons for five specialty crops: cherries, berries, apples, pears, and grapes.

2. Explore new research questions:

- Incorporate feedback from the internal research team, advisory committee members, and ESD staff (in progress).
- Possible extensions may further explore:
 - The improvements in the recruitment and hiring processes
 - The needs of farmworkers and employers
 - ESD's resources
 - Employer resources and practices

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Customer Experience Study



Explore the improvements in the recruitment and hiring processes

- Identify "specific WorkSource processes or procedures that could be modified to improve outcomes."
- Explore further the "changes in the recruitment and hiring processes [that] would make a difference for workers and employers."
- Explore "the ideal recruitment and hiring system from [the worker's] perspective."

Explore the needs of farmworkers and employers:

- Explore the topic of farm labor contracting and their incentives.
- More information on local workers (e.g., where they travel from; where they work; fears; whether they feel protected by state agencies)

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Customer Experience Study



Explore ESD's resources:

- Understand the image of ESD.
- What materials outside of ESD may farmworkers be using? What benefits do farmworkers see in ESD?
- In what ways do employers use ESD/WorkSource resources?
- Explore how "the state agencies [can] do a better job at protecting farmworkers."

Explore employer resources and practices:

- Understand more about the transportation and housing support; how it does or does not make the jobs more attractive; and how employers provide these supports.
- Explore employer practices and efforts in place to retain workers (e.g., different wage structures, non-financial benefits).

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Customer Experience Study



3. Understand the potential impact of any recommended improvements.

- Internally, ESD needs to evaluate their agricultural recruitment system to allocate resources accordingly.
- ESD will hold a series of internal meetings to discuss the findings.

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Customer Experience Study



Phase II study timeline:

- July 24, 2023: Phase II kick-off meeting.
- August – October 2023: Research activities with apple, pear, and grape farmworkers and farms.
- End of 2023: Initial report of findings.
- May – July 2024: Research activities with cherry and berry farmworkers and farms.
- July 31, 2024: Final report of findings.

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Customer Experience Study



Potential Phase II study geographic regions may be selected from:

- Grant county (Central Basin WS)
- Yakima county (Yakima/Sunnyside WS)
- Okanogan county (Okanogan WS)
- Benton county (Columbia Basin WS)
- Chelan/Douglas county (Wenatchee WS)
- Whatcom/Skagit (Whatcom/Skagit WS)

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ADDENDUM III.

ASWS Office update



Bertha J. Clayton, ASWS Director, ESD

Office update –July 2023



ASWS Staffing

- New Compliance Specialist (Central Basin): Jorge Garcia

Monitoring of ASWS Programs

- **USDOL Office of Foreign Labor Certification: August 21-25, 2023**
 - Objective: Assess progress in meeting terms and conditions of the grant agreement, document that funds are being spent in the most effective manner to accomplish FLC program activities, review program performance information, and offer technical assistance designed to continuously improve service delivery.
- **USDOL Employment Training Administration (ETA): 20 CFR 658.602 (National Monitor Advocate, during harvest season) must visit four states with highest level of MSFW activity during the prior fiscal year) - August 21, 2023**
 - Objective: (1) Meet with SMA and ES staff to discuss MSFW Service Delivery and (2) Contact representatives of MSFW organizations and interested employer organizations to obtain information concerning ES delivery and coordination with other agencies.
- **USDOL Employment Training Administration (ETA): Regional Monitor Advocate (September 2023, Date TBD)**
 - Routine monitoring visit (1-day) – meet with ES Administrator to discuss ES delivery.
- **Joint Legislative Review Committee (JLARC) – Legislative Audit**
 - Currently in process.

FLC Applications update



Olivia Gutierrez, Foreign Labor Certification Coordinator, ESD

FLC Applications update



H-2A Applications & Workers Report

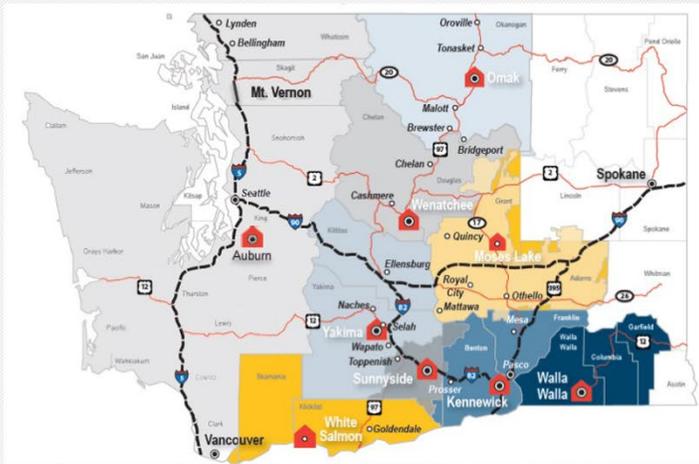
	PY 2023 H-2A Data		PY 2022 H-2A Data	
	10/1/2022	7/10/2023	10/1/2021	7/10/2022
	Applications	Workers requested	Applications	Workers requested
Total processed to date	410	37558	379	33976
Withdrawn/Denied	27	2556	25	2404
Contracts Commenced	318	29847	298	26966
Contract Impossibility	0	0	4	299
Active Cases	294	28470	268	28124

*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

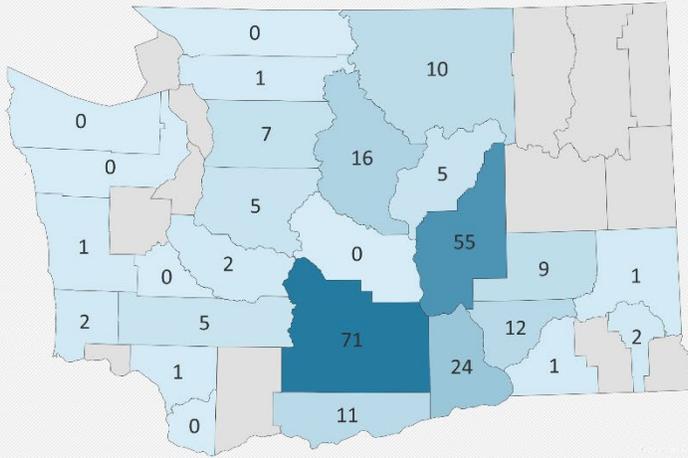


Margarito Cabrera, ASWS Compliance Unit Supervisor, ESD

Site Visits



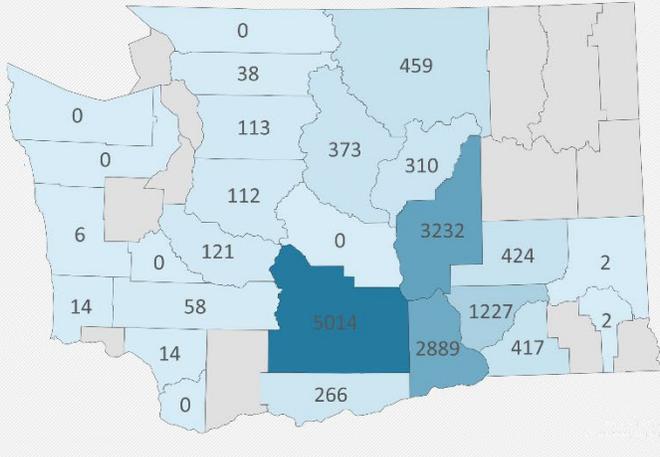
Site Visits By County from Jan-June 2023



Approximate Workers Contacted



By County from Jan-June 2023



Field Checks – 2023



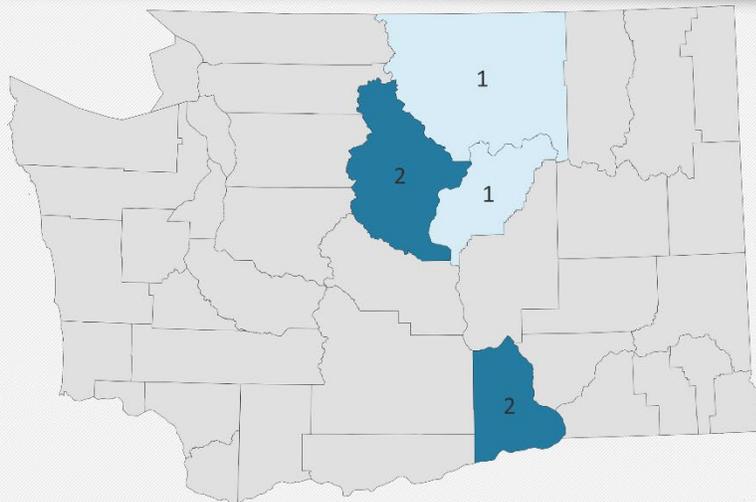
20 CFR 653.503 Field Checks

(a) If a worker is placed on a clearance order, the SWA must notify the employer in writing that the SWA, through its ES offices, and/or Federal staff, must conduct random, unannounced field checks to determine and document whether wages, hours, and working and housing conditions are being provided as specified in the clearance order.

(c) Field checks must include visit(s) to the worksite at a time when workers are present. When conducting field checks, ES staff must consult both the employees and the employer to ensure compliance with the full terms and conditions of employment.

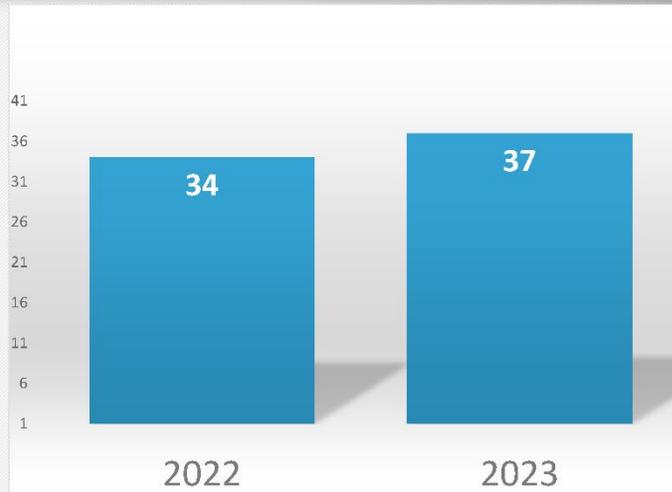
Number of Placements <i>(seeker referred and started working)</i>	12
Number of Field Checks Performed by ASWS	6
Number of Field Checks currently pending	5

ASWS Field Checks by County in 2023

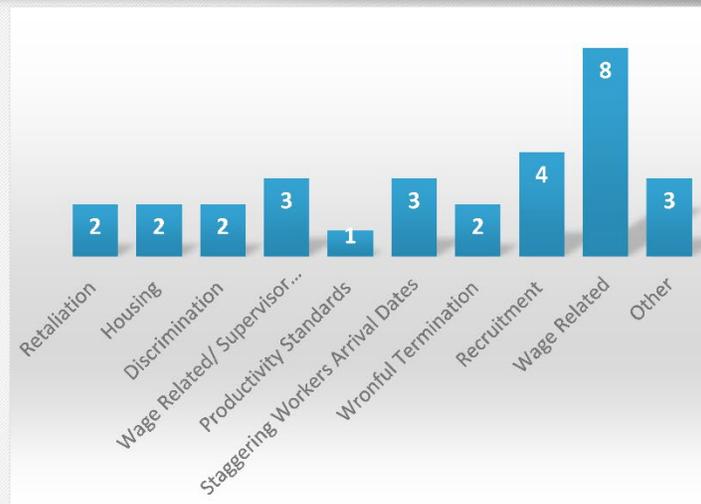


Total
Field Checks
6

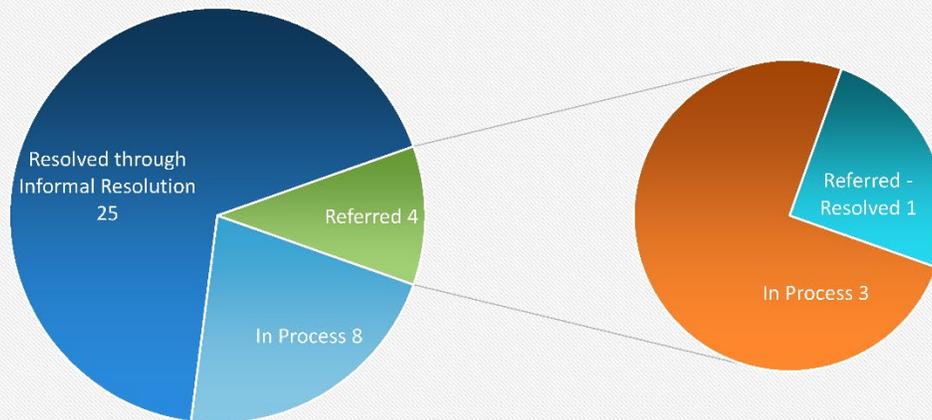
Complaints / Apparent Violations – 2022 vs 2023



Type of Allegations On Complaints / Apparent Violations Jan - June 23



Status of Complaints / Apparent Violations Jan - June 23



Scenario 1



Scenario 1 C23-32 Art

During a visit, a group of workers told the Compliance Specialist that they were not paid for travel reimbursement. They also told the compliance specialist that they didn't get one last year either.

Compliance Specialist spoke with General Manager about this, and he looked surprised that this was happening. Employer recognized the mistake and instructed their staff to pay the workers.

Employer paid all workers their travel reimbursement for this year and last year.

Scenario 2



Scenario 1 C23-32 Mireya

The employee called CS and told them that he and 4 other workers were fired because they arrived at the camp late Saturday night.

CS called employer and he stated that workers were drinking in the housing.

The employer decided to suspend the workers for 2 days and not terminate.

Scenario 3



Scenario 1 C23-32 Carlos

During a site visit workers expressed concerns about field sanitation. Company is not routinely or as necessary – maintaining the porta potties (mobile restrooms). When the workers use this handwashing station, the water has a foul odor.

CS called employer, the employer said he was aware of the field sanitation concerns and had already made arrangements to have the porta potties replaced for new ones.

The employer sent CS via email - images demonstrating the issues were remedied.

ADDENDUM IV.

Agency updates



Uriel Iñiguez, Director of Community Relations, Government Affairs and Policy, LNI
Juan Gamez, Director, Environmental Health and Safety Office, Department of Health

Agency Updates - LNI



- Heat Stress Rules

Agency Updates - DOH



- Temporary Worker Housing
- Discussion of Letter from ASWS Committee to DOH Leadership

Public Comment



- Public Comment

Closing



- Summary of Meeting
- Good of the Order
- Future Agenda Items

Committee Priorities



2023 Priorities	
Domestic Recruitment	6
Housing	3
Foreign Recruitment	3
Enforcement agency coordination	2
Retaliation	1
Perception of the H-2A program	1
Accurate Data- # of workers	1
Employer Outreach	1



Agricultural and Seasonal Workforce Services ADVISORY COMMITTEE



Employment Security Department
WASHINGTON STATE

Next ASWS Advisory Committee Meeting Zoom

Wednesday, August 16, 2023

1:00 p.m. – 3:00 p.m.

Contact information

Joy Adams, Deputy Director of Employment System Policy & Integrity Division

Employment Security Department • Employment System Policy & Integrity