Collecting race and ethnicity data of Washington workers

Employment Security Department
WASHINGTON STATE

Contact

Dan Zeitlin
Chief of Staff
Daniel.Zeitlin@esd.wa.gov| 360-522-3736

Learn more at esd.wa.gov

Contents

Executive summary

During the 2024 session, the Legislature passed Engrossed Substitute Senate Bill 5950[1] to fund a study by the Employment Security Department (Employment Security). The study is on how to collect race and ethnicity information from entities reporting into both the:

- Paid Family and Medical Leave (Paid Leave) program.
- Unemployment Insurance (UI) program.

The report needs to include:

- Cost and timeline estimates to include collection of race and ethnicity information using existing systems and updating reporting requirements.
- Recommendations on any exclusions from the requirements.
- Any statutory changes needed to collect race and ethnicity information.
- Consultation with the Office of Equity (EQUITY). This is to make sure data collection is consistent with other statewide efforts.

Key insights

- It would take Employment Security roughly eight months to amend current quarterly wage reports for the Paid Leave and UI programs. This would cost between $1.15 and $1.7 million per program.
- Employment Security would require employers to submit race and ethnicity data when filing wage reports.
- Employees would voluntarily give race and ethnicity data to their employers. Employers would only be responsible for reporting information given by employees.
- Combining the race and ethnicity questions into a single question would match current statewide and federal demographic collection methodologies. The Paid Leave benefit application process already does this.
- There is no statewide method for collecting race and ethnicity data, but EQUITY is developing standards in the collection of disaggregated demographic data.

---

[1] The reference to the proviso funding can be found starting on page 188, line 5, of ESSB 5950.

- Collecting this data would create a comprehensive database of Washington workers' race and ethnicity. Other state and non-state organizations could use this data to measure equity impacts.
- Employment Security would have no ability to validate or audit data employees voluntarily submit. This could lead to inaccuracies and concerns when measuring equity impacts.

Implementation

Current data collection

Employment Security would use either the Paid Leave or the UI reporting system currently in place. Table 1 shows the number of unique employers that filed quarterly wage reports in 2024 with the Paid Leave and UI programs. It also shows the total number of unique employees reported. This shows an estimate of how many people would be directly affected by any proposed changes to wage reports.

Table 1: Count of reporting employers and employees in 2024

2024 program reporting	Employers	Employees
Paid Family and Medical Leave[2]	206,889	4,212,074
Unemployment Insurance[3]	199,216	4,222,213

Wage reporting

Employers must file quarterly wage reports for both the Paid Leave and UI programs. They need to file their reports by the last day of the month following each calendar quarter. Employment Security uses these reports to assess premiums. Table 2 shows the quarterly reporting timeline.

---

[2] Definition of employer and employee for Paid Leave can be found in RCW 50A.05.010.
[3] Definition of employer and employment in UI can be found in subsections of RCW 50.04.

Table 2: Quarterly reporting timeline

Reporting quarter	Report due date
Q1: January, February and March	April 30
Q2: April, May and June	July 31
Q3: July, August and September	October 31
Q4: October, November and December	January 31

Employers file wage records for each employee they employed during the given reporting period. These quarterly reports do show statewide estimates of worker and firm characteristics, but they do not show the race and ethnicity of employees. Table 3 shows the worker and firm characteristics collected using current wage reports. It also shows for which program the data is available.

Table 3: Statewide worker and firm characteristics using current wage reports

Characteristic	Program
SSN or ITIN	Paid Leave and UI
First and last name	Paid Leave and UI
Wages paid	Paid Leave and UI
Hours worked	Paid Leave and UI
Employee date of birth	Paid Leave only
Employer industry	Paid Leave and UI
Employer size	Paid Leave and UI
Employer location	Paid Leave and UI
Employee occupation	UI only

Benefit applications

There is no statewide race and ethnicity data for workers in Paid Leave or UI wage reports. However, Employment Security asks those seeking Paid Leave or UI benefits to voluntarily submit their race and ethnicity during the benefit application process. In 2024, about 4.5% of those applying for Paid Leave benefits noted they preferred not to state their race or ethnicity. As this is asked slightly differently during the UI benefit application process, 9% of those applying for UI did not indicate ethnicity and 14% did not submit race when voluntarily responding to these questions. To estimate statewide impacts, such as program utilization by race or ethnicity, Employment Security relies on the American Community Survey[4]. This data

[4] American Community Survey 1-Year Public Use Microdata found here.

source has race and ethnicity estimates for workers by the United States Census Bureau (Census Bureau) based on survey data.

During the benefit application process, each program asks these questions in different ways. These variations are shown in the following sections.

Unemployment insurance race and ethnicity questions

UI splits the questions about race and ethnicity into two separate questions. It also follows an older methodology used by the Census Bureau. This information is voluntarily submitted by individuals seeking UI benefits but is not required to access benefits. Below is how the agency asks customers about race and ethnicity during the UI benefit application process.

What is your ethnic background?

- Not Hispanic or Latino
- Hispanic or Latino
- Unknown
- Do not want to answer

What is your race? Select all that apply.

- African American/Black
- American Indian/Alaska Native
- Asian
- Native Hawaiian/Pacific Islander
- Caucasian/White
- Do not want to answer

Paid Leave race and ethnicity questions

Paid Leave originally used the same questions as UI, as listed above. However, in 2023, Paid Leave revised this series of questions. They now follow the Census Bureau's guidance and new methodology proposed in 2024. These will also be used in the 2027[5] American Community Survey and the 2030 census. This combined the race and ethnicity questions into a single question. It also changed the naming convention of some of the race and ethnicity categories. Each category has information boxes that show who is included. For example, East Asian notes

---

[5] U.S. Census revisions on race/ethnicity can be found [here](#).

it would include racial or ethnic identities like Chinese, Japanese and Korean. Below is how the agency asks customers about race and ethnicity during the Paid Leave benefit application process.

Which of the following best describes your ethnicity and/or race? Select all that apply.

- American Indian or Alaskan Native
- Black or African American
- Hispanic or Latino/Latina
- Middle Eastern or North African
- Native Hawaiian or Other Pacific Islander
- East Asian
- South Asian
- Southeast Asian
- White
- Prefer not to say
- Ethnicity and/or race not listed
    - If selected, this would launch a required text box with a prompt to 'Please share your ethnicity/race'.

Employment Security would use the same methodology for UI that is currently used in the Paid Leave system. This single question has become the new standard for the Census Bureau and is recommended by EQUITY. It will improve race and ethnicity data collection and will also fully represent the racial and ethnic composition in Washington with detailed identities. However, some modifications may need to occur in the future as EQUITY develops statewide standards.

It is important to note that the budget proviso for this study does not include a directive to adjust how Employment Security collects race and ethnicity data from benefit applicants. If changes are to be made to either program's wage reporting process, additional funding would be required to make the corresponding changes to the benefit application, as well. This would be necessary to analyze utilization by customer demographics and provide any equity impacts.

Implementation strategy

The Paid Leave and UI reporting structures let Employment Security measure each program's use based on race and ethnicity, but they do not allow Employment Security to compare that data to workers statewide. That requires using outside sources, like the American Community

Survey. Employment Security would need to update wage reports to collect this data for all workers in the Paid Leave and UI programs.

Employment Security believes the best way to get demographic information is by having employers send it. Employers would send the race and ethnicity for each of their employees while filing quarterly wage reports. They would file this data like any other information collected on the wage reports, such as the employee's date of birth or occupation. Employees would have the option to disclose race and ethnicity information to their employer. The employer would only need to report the information voluntarily disclosed by the employee. However, Employment Security would have no way of validating or auditing this data for accuracy. This is because employers do not need to submit this data to their employer.

The proviso language states the agency would revise reporting requirements to include race and ethnicity data. But it does not say if reporting is mandatory or voluntary. There is no federal or state law prohibiting employers to make this a requirement. Some employers are currently required to report race and ethnicity data to the Equal Employment Opportunity Commission[6] (EEOC). However, while the EEOC mandates employer reporting, employees are not required to report race or ethnicity information. The EEOC only requires employers to report information voluntarily given by the employee. This is similar to the strategy Employment Security proposes.

Employment Security has made similar changes to wage reporting for both programs in recent years. For Paid Leave, Employment Security added date of birth during WA Cares integration. The agency added Standard Occupational Classification codes for UI. These program additions were used to develop implementation timelines and costs.

To make this change in either Paid Leave or UI, it would take about eight months of development work. This allows enough time for technical development, necessary rulemaking, and employer communication. It also gives employers and third-party administrators (TPAs) enough time to update their reporting systems and payroll software. Some of the technical features that will require changes include:

- Systems for manual reporting.
- Filing comma separated values (CSV) files.
- Bulk reporting systems for multiple employers, used by TPAs.

Employment Security expects to need to make statutory changes if it relies on voluntarily submitted data from employees. Adopting this requirement in the Paid Leave and UI programs

---

[6] More information on the U.S. Equal Employment Opportunity Commission data collection can be found here.

would also require rulemaking. Depending on how the language is developed in potential future legislation, Employment Security would need to revisit which statutes may need amending[7].

For standard implementation, Employment Security estimates the cost to modify the wage reports to be between $1.15 and $1.7 million for each program that adds this data to their reporting system. Timelines and final language in any bill requiring this change could affect the overall cost as, in general, shorter timelines require more contracted staff, which increases costs. There are no major cost differences whether adding the additional demographic data to the Paid Leave or UI reporting systems.

More funding may be necessary depending on how the legislature intends the agency to support having statewide race and ethnicity data. Employment Security would likely get more data requests because this would be the only database for race and ethnicity across workers in the state. Employment Security may also impose fees for processing and providing this information, as given in statute[8]. More staff for the research and data teams within Employment Security could accommodate data requests from other state and non-state agencies and organizations. This could increase costs by roughly $160,000 per FTE.

If someone requested data through public records requests or other data inquiries, Employment Security would need to de-identify the demographic data and only give aggregated estimates to maintain confidentiality of this information[9]. However, RCWs pertaining to data privacy and sharing would need to be revisited and clearly defined regarding the collection and publication of this data to prevent against disclosure of sensitive or identifying information. Employment Security would also need to update data-sharing standard operating procedures to accommodate the inclusion of race and ethnicity data inquiries.

---

[7] See appendix for list of potentially relevant RCWs, WACs, and other federal guidance.
[8] Chapter 50.368 RCW and RCW 42.56.070.
[9] Chapters in RCW 50.13 addresses record privacy, confidentiality, and disclosures and would likely need to be revised.

Office of Equity and Employment Security's Equity Diversity and Inclusion consult

Employment Security consulted with EQUITY, as required by ESSB 5950, to ensure proposed data collections are consistent with other Washington data collection efforts. Employment Security also consulted internally with its Office of Equity, Diversity, and Inclusion to outline several benefits and risks in collecting worker race and ethnicity data.

Equity, Diversity, and Inclusion consultation

Statewide consistency in race and ethnicity data collection

There is currently not one statewide method for collecting race and ethnicity data in Washington. EQUITY is developing standards to guide the collection of disaggregated demographic data and the data categories that would be collected under these standards are still to be finalized.

EQUITY recommends, at minimum, that the demographic data categories for race and ethnicity be aligned with the U.S. Office of Management and Budget's Statistical Policy Directive No. 15 (OMB SPD 15)[10]. This standard requires the use of one combined question for race and ethnicity and encourages respondents to select as many options as apply to how they identify. This is more closely aligned with how the race and ethnicity question is asked during the Paid Leave benefit application process compared to how it is asked on the UI application.

Additionally, EQUITY recommends that Employment Security plan to incorporate subdomains to collect disaggregated demographic data that align with the forthcoming standards. The specific race and ethnicity fields that would be collected by Employment Security should align with these standards and allow for future modifications. EQUITY is working to engage the various communities in Washington to finalize the standards. However, if Employment Security needs to implement a solution before this is complete, EQUITY recommends Employment Security engage with all those impacted by the proposed changes and develop the updated categories based on the draft domains that EQUITY is developing currently.

---

[10] More information about the OMB SPD 15 guidelines can be found here.

EQUITY also recommends that Employment Security consult with the Washington Technology Solutions' Office of Privacy and Data Protection and the Attorney General's Office to determine if statutory changes are required to ensure the data is appropriately safeguarded to prevent harm through the potential misuse of this data.

Benefits and risks to collecting this data

Employment Security's Office of Equity, Diversity, and Inclusion outlined several benefits and risks in collecting worker race and ethnicity data. Understanding the equity perspective is important to implementation planning.

Employment Security is also often asked to research local demographics. The intent is to identify disparities in labor market data. However, labor market data has no adequate demographic information. Currently, the agency compares labor market information with the national standard demographics. The American Community Survey collects that information. But the sample size is not big enough to show the biggest race and ethnicity disparities in labor market data.

Collecting this data would also allow Employment Security to give reports to community organizations. These would include specific and disaggregated demographic data. This could help them increase targeted economic security efforts for disparately affected communities. This would also allow Employment Security to review and analyze policy effects on:

- Disproportionately affected communities
- Communities historically underserved by the agency.

By identifying and documenting racial inequities, Employment Security can consider adverse effects. The agency can allocate resources for equitable outcomes for all communities. Employment Security can do this by identifying indicators that can be disaggregated by the demographic data to help determine alternative service delivery models or process improvements for marginalized communities.

However, along with the benefits of keeping this data within Employment Security's systems, there are risks. If employers submit race and ethnicity data on their employees' behalf, the agency could not validate, audit, or do quality assurance for it. This may make the data unreliable. Measuring equity impacts would be difficult. They may even be harmful to communities' that state and non-state agencies are intending to serve.

There are risks associated with employers asking for employees' race and ethnicity information. Asking for race and ethnicity could create a barrier for some people when applying for programs. Some potential employees may not want to give demographic data to an employer for fear of discrimination, deterring them from seeking a job. Some communities

that have faced marginalization and harm from government organizations may not seek the use of Paid Leave or UI knowing that Employment Security collects race and ethnicity information.

If a bill is pursued, the way Employment Security works with federally recognized Tribes reporting into the Paid Leave and UI programs would also take more consideration, as Employment Security would require Tribal consultation before making more reporting requirements for them without further input, under RCW 43.376.020. Currently, no Tribes have elected to participate in the Paid Leave program. Thus, they are not required to file quarterly reports. Tribes and tribal employers do participate in the UI system, but federal guidance governs reporting requirements.

There are also risks associated with data security and sharing. There would need to be more guidance when sharing data with other state, non-state and federal agencies. Internal processes and policies would need to be updated to ensure the data is protected.

Appendix

Below are the various Paid Leave and UI laws, rules and guidance that may require revisions if a bill were to be drafted. This is not an exhaustive list and is subject to change depending on the specific language in a proposed bill. Federal law and guidance are also included. These requirements should be considered when drafting any potential legislation.

Revised Code of Washington (RCW)

- RCW 42.56.250 – Voluntarily submitted personal demographic information is exempt from public inspection with regards to public employees and higher education institutions.
- RCW 50.12.070 – Employers shall make periodic reports regarding their employees.
- RCW 50.12.300 – Professional employer organizations must file quarterly tax and contribution reports.
- RCW 50.13.015 – The department may hold private and confidential information supplied voluntarily so long as its confidentiality is maintained.
- RCW 50.13.020 – The department must hold private and confidential information or records concerning individuals.
- RCW 50.13.100 – The department may disclose private and confidential information or records so long as all details identifying individuals are deleted.
- 50A.25.020 – Information concerning an individual or employer obtained pursuant to the administration of chapter 50A.25 RCW is private and confidential.
- 50A.25.040 – Access to records and information—Individuals—Interested parties—Employers—Third parties.
- 50A.25.070 – Data-sharing contracts—When authorized—Disclosure to state or local government agencies.
- 50A.25.110 – Disclosure by the family and medical leave program of the department—When authorized.
- 50A.25.130 – Disclosure of records acquired in the performance of the department's obligation—When authorized.
- 50A.25.140 – Disclosure when all details identifying an individual or employee are deleted—When authorized.

Washington Administrative Code (WAC)

- WAC 192-310-010 – Each calendar quarter, employers must file reports of employees' wages.
- WAC 192-310-050 – Employers shall make and keep records on their employees.
- WAC 192-540-030 – Employer quarterly reporting requirements

Federal laws, Unemployment Insurance Program Letters (UIPLs), and other guidance

- Unemployment Insurance Program Letter No. 01-24(4)(a)(iii),(4)(b)(v) – States should collect and maintain claimant demographic data to verify compliance with non-discrimination obligations and to guarantee equitable access.
- Unemployment Insurance Program Letter No. 11-14(4)(5) – States should ask claimants to provide demographic data voluntarily and that data should be kept confidential. During the initial claim, claimants must be asked to provide responses for the four categories of demographic data (race, ethnicity, sex, age). For race and ethnicity, DOL favors a two-question format in which ethnicity is asked first.
- Workforce Innovation and Opportunity Act of 1998(188)(2) – No individual shall be discriminated against on the basis of race or ethnicity.
- 29 USC 2938(a)(2) – No individual shall be discriminated against on the basis of race or ethnicity.
- 20 CFR 603.4 (b)(c) – States must safeguard the confidentiality of claimants' demographic information provided in connection with unemployment claims.
- 29 CFR 37.37(b)(2) – States must record the race and ethnicity of claimants. Such information must be kept confidential and used for legal purposes only.
- 29 CFR 38.5,38.6(a),38.41(b)(1)(2) – No individual shall be discriminated against on the basis of race or ethnicity. States should collect and maintain claimant demographic data to verify compliance with non-discrimination obligations and to guarantee equitable access.

OMB SPD 15 sample question

Figure 1 provides an example published in the OMB SPD 15 as to how the question could be developed following OMB's guidelines and EQUITY's recommendations as statewide standards

are being formalized. Phrasing the question this way provides individuals the ability to select subdomains from larger race and ethnicity categories while leaving respondents the ability to write in race and ethnicities that may not be represented.

Figure 1: OBM SPD 15 race and ethnicity data collection

What is your race and/or ethnicity?
Select all that apply and enter additional details in the spaces below.

☐ **American Indian or Alaska Native –** _Enter, for example, Navajo Nation, Blackfeet Tribe of the Blackfeet Indian Reservation of Montana, Native Village of Barrow Inupiat Traditional Government, Nome Eskimo Community, Aztec, Maya, etc._

☐ **Asian –** _Provide details below._
  ☐ Chinese   ☐ Asian Indian   ☐ Filipino
  ☐ Vietnamese   ☐ Korean   ☐ Japanese
  Enter, for example, Pakistani, Hmong, Afghan, etc.

☐ **Black or African American –** _Provide details below._
  ☐ African American   ☐ Jamaican   ☐ Haitian
  ☐ Nigerian   ☐ Ethiopian   ☐ Somali
  Enter, for example, Trinidadian and Tobagonian, Ghanaian, Congolese, etc.

☐ **Hispanic or Latino –** _Provide details below._
  ☐ Mexican   ☐ Puerto Rican   ☐ Salvadoran
  ☐ Cuban   ☐ Dominican   ☐ Guatemalan
  Enter, for example, Colombian, Honduran, Spaniard, etc.

☐ **Middle Eastern or North African –** _Provide details below._
  ☐ Lebanese   ☐ Iranian   ☐ Egyptian
  ☐ Syrian   ☐ Iraqi   ☐ Israeli
  Enter, for example, Moroccan, Yemeni, Kurdish, etc.

☐ **Native Hawaiian or Pacific Islander –** _Provide details below._
  ☐ Native Hawaiian   ☐ Samoan   ☐ Chamorro
  ☐ Tongan   ☐ Fijian   ☐ Marshallese
  Enter, for example, Chuukese, Palauan, Tahitian, etc.

☐ **White –** _Provide details below._
  ☐ English   ☐ German   ☐ Irish
  ☐ Italian   ☐ Polish   ☐ Scottish
  Enter, for example, French, Swedish, Norwegian, etc.