



# Agricultural and Seasonal Workforce Services Advisory Committee

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## Meeting details

**Date:** Thursday, April 9, 2020

**Time:** 8:30 a.m. to 10:30 a.m.

**Location:** Skype meeting due to COVID-19

### Committee members present

- Michele Besso
- Jonathan DeVaney
- Michael Gempler
- Rosalinda Guillen
- Rosella Mosby
- Delia Peña
- Erik Nicholson

### Committee members absent

- Ramon Torres

### ESD staff

- Dan Zeitlin
- Alberto Isiordia
- Gustavo Aviles
- Norma Chavez
- Tamara Johnson
- Rene Maldonado

### Non-voting agency representatives

- Alejandro Sanchez
- Anne Soiza
- Todd Phillips
- Uriel Iniguez
- Ignacio Marquez
- Dave Gifford
- Maggie Leland

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## Summary

### Welcome and Introductions

Employment Security Department (ESD) Policy Director, Dan Zeitlin, welcomed everyone and asked them to introduce themselves.

### Agenda

Dan Zeitlin reviewed the agenda for the meeting and asked if anyone had any questions. There were no questions. (See Addendum I.)

### COVID-19 Discussion:

- Governor's Office – Alejandro Sanchez
- Labor and Industries – Uriel Iniguez , Maggie Leland, & Anne Soiza
- Department of Health – Todd Phillips & David Gifford
- ESD Policy, Data, Performance and Integrity – Dan Zeitlin
- Department of Agriculture – Ignacio Marquez

DAN ZEITLIN (ESD): What would committee members like to discuss today? Also, we have Alejandro to speak on behalf of the Governor's office and we'll have the various agencies present based on topics that folks want to discuss.

MICHELE BESSO (NWJP): Temporary worker housing, the guidance that came out from public health and the draft guidance from L&I. How it's going on the ground with the influx of H2A workers?

JON DEVANEY (WSTFA): Three factsheets that were circulated by L&I. Is COVID-19 a potential workplace injury for workers comp purposes?

MIKE GEMPLER (WGL): Recommendations from L&I and temporary worker housing.

ROSALINDA GUILLEN (CC): Quarantining in farm labor camps and farmworker community in general and the economic health for farmworkers and pending arrival dates of H2A workers.

ROSELLA MOSBY (MF): The impact on the employers financially and economic support for farmers when it comes to housing and implementing all the new safety guidelines.

ERIK NICHOLSON (UFW): L&I guidance that has come out, the quarantine facilities in rural areas, economic assistance, paid sick leave, and workers urgent need for daycare.

DELIA PENA (ZFC): I would like to talk about housing requirements; L&I.

RAMON: ABSENT

DAN ZEITLIN (ESD): We will have Alejandro from the Governor's office to provide his view on these issues and then we will turn to L&I for a presentation on their guidance.

ALEJANDRO SANCHEZ (GOV): Public policy is waiting to see what the terms of the grant stimulus will be and then they will figure out how they're going to be able to allocate the childcare funding. It is primarily to be used for the childcare for first responders such as medical workers. I realize there are a lot of families outside the medical context that will need childcare. That is something we are going to have to have as an expectation. I will update this group immediately as soon as I get more information.

ERIK NICHOLSON (UFW): We are hearing increasing reports of people going hungry because of dramatically increased daycare expenses. Could we engage in this conversation with the Governor's office to try to take care of the medical workers and farmworkers? Without farmworkers to feed the medical workers the whole system collapses.

ALEJANDRO SANCHEZ (GOV): I'll see where they are, and I will get back to you.

I did ask the group if they have any thoughts on additional messaging we could put out. I don't know if it's made it onto the website yet but to reemphasize what I said last time, we want to try to alleviate some of the fear farmworkers may have about this essential/nonessential designation. We are willing to add whatever else needs to be in that bulletin or elsewhere.

We talked a little bit last time about the regional isolation centers and those are still being stood up by the Counties. Grants are made to the counties to identify the areas; how many beds are needed, but it's not finalized. This is an alternative for people who need to isolate out of congregate housing. It was not my intention to convey that people would be forced to go there.

ROSALINDA GUILLEN (CTC): What is the total dollar amount of the grant going to the counties?

ALEJANDRO SANCHEZ (GOV): \$30 million from the state and I think there are other dollars from the Feds for isolation centers

ROSALINDA GUILLEN (CTC): Is the \$30 million in general for all workers or for all people? Is there any specific designation of specific dollars for farmworkers or agriculture?

ALEJANDRO SANCHEZ (GOV): For regional isolation centers? No, it's not specified by industry, it's to have centers in each region. It is based on the scientific model on what they predict will be the need for the whole state.

ROSALINDA GUILLEN (CTC): The scientific model based on need, is there a timeline to that? Is there a projected time for when the need will no longer be needed?

ALEJANDRO SANCHEZ (GOV): I am sure there is based on public health data but that is outside my scope of expertise.

ERIK NICHOLSON (UFW): How would we engage with those facilities to ensure that people that need to access those facilities can get them; and to make sure that they are treated fairly and respectfully?

ALEJANDRO SANCHEZ (GOV): It will be at the county level, through their local county health departments. I think it's ramping up right now, I don't know what the actual timeline is to be all in place.

ROSALINDA GUILLEN (CTC): Will you check on that timeline?

ALEJANDRO SANCHEZ (GOV): Yes, I am happy to.

DAN ZEITLIN (ESD): Does anyone have other questions for Alejandro on the ground he covered?

MIKE GEMPLER: I'd like a more detailed explanation of the quarantine plan in rural communities and how the funding you described relates to that. It is an issue of great concern.

ALEJANDRO SANCHEZ (GOV): I think I can't really answer that effectively because it is a County by County plan so it's going to be different in one county than another and how they're going to manage it. If you have a specific question about a county, I can try to find that out.

MIKE GEMPLER (WGL): Points of contact for the key agricultural counties would be appreciated.

ALEJANDRO SANCHEZ (GOV): I'm happy to provide a list of contacts if you let me know which counties.

MICHELE BESSO (NWJP): I realize it's going to be County by County but have there been discussions? Are we looking at unused motels or hotels? Are they talking about putting up tents? What is this looking like?

ALEJANDRO SANCHEZ (GOV): I think it is going to be a range. If you get me a list of the counties that you're most interested in I can go back in and find out more specifics about what they've presented back to our Department of Commerce.

DAN ZEITLIN (ESD): Should we just name counties here?

MIKE GEMPLER (WGL): Whatcom, Snohomish, Okanagan, Chelan, Douglas, Kittitas, Grant, Adams, Yakima, Skagit, Benton, Franklin, Walla Walla, King, Pierce, Lewis, and Clark. We are quickly getting to all the counties because there is agriculture in most areas.

ALEJANDRO SANCHEZ (GOV): I will see if I can get a unified document. I think the local health jurisdictions are working on this.

MIKE GEMPLER (WGL): It is critical to know and understand the process for being able to take someone from a housing facility to a quarantine facility, to call and how quickly you can get them there.

ALEJANDRO SANCHEZ (GOV): I will dive in deeper on that.

DAN ZEITLIN (ESD): Let's turn it over to Anne Soiza from L&I.

ANNE SOIZA (L&I): Ag is one of our areas of interest, in terms of trying to keep up with the change about policies from CDC and what we're learning about the disease.

We are here to explain and introduce our strategy and our future. In this past week, we issued a compliance directive for all employers. We have also issued fact sheets for other industries. That directive was a big piece of work for us to get that out to help employers and workers understand with expectations.

The basic goal is to prevent the spread of this pathogen and to be clear about the expectations from L&I. We are very serious about helping workers and employers in their desire to stop the spread of this disease. We broke it up into three sections. We have the Coronavirus Prevention in Agriculture, which is the baseline document that applies across agriculture and related businesses. We have prepared two supplemental factsheets one for Temporary Worker Housing and one for Agriculture Processing and Warehouse Operations. The temporary worker housing challenge of having social distancing is a real big hurdle.

We are asking for your comments on these documents. Please let us know by midnight on Friday night. Our goal for these factsheets, is clarity to meet the expectations of what employers and employees need to know about their industry.

JEFF KILLIP (L&I): The only thing I would like to add is the main factsheet for agriculture, incorporates the four-part plan for the Coronavirus Workplace Prevention factsheet and is part of the Governor's proclamation Stay Home, Stay Healthy order. It also is based on existing DOSH regulations for workplace safety with the four-part messaging; social distancing, handwashing/surface sanitation, sick workers and Coronavirus education. Those four items are requirements and we are trying to make sure that the fact sheets are clear regarding what's required versus what is a suggestion or idea in order to achieve the expectations that are delineated.

ERIK NICHOLSON (UFW): Are these factsheets or requirements? They don't appear to be rules. I think a huge question we have is the enforceability. What is required, how it will be enforced and what are the consequences for failure to comply. Can you clarify those issues?

ANNE SOIZA (L&I): The compliance directive that we have points to the Governor's directive.

We have regulations in Washington state which are unique compared to other States. We are using those regulations to apply to this situation. In the workplace, if it doesn't appear that that code is being

complied with, we issue violations. We do proactive inspections as well as complaint triggered inspections. The factsheets are a quick reference with the stated code, with what, where and when something must be done. Then, suggestions are offered to help meet those expectations. We have tried to help educate the employers and their workers to understand how the disease can be transmitted and what are the best things to practice in order to prevent the transmission from person to person. We would like to partner with anyone to assist with getting this information and education out there.

We also have the largest consultation program for Occupational Safety and Health Administration in the United States and we have consultants all over the state who are able and willing to either help employers on the phone or actually go out physically to take a look at temporary worker housing or their farm or dairy or whatever operations they have where they may need assistance.

ERIK NICHOLSON (UFW): I think what I would ask is to look at the degree to which taxpayer dollars are being used to offset the cost of the H2A program. I would ask us as a committee to keep an eye on this. to make sure that farmworkers have the dignified isolation facilities and medical attention but after 9.5-billion-dollar bailout to the growers and now \$30 million dollars being allocated for these isolation facilities of taxpayer money and we still can't ensure that 100% of farmworkers get paid sick leave.

ROSALINDA GUILLEN (CTC): You mentioned about administrative and engineering controls could you explain what that is? And to our partners, what are you doing with farmers and growers?

ANNE SOIZA (L&I): Engineering controls are a concept where the first thing that you do is you arrange work, you arrange protections and you minimize the source of the hazard. In this case, in which pathogen spreads through the air through droplets, one of the main engineering things that is being used in a wide variety of industries is the use of physical barriers. An example of an administrative control could mean a situation where they reduce the amount of human contact potential by not overlapping work shifts or even giving an hour between shifts, which limits the amount of people in the building, in the parking lot, etc.

MIKE GEMPLER (WGL): As far as engineering controls, one immediate concern was with housing. We are looking at an enclosure for the bottom bunks of bunk beds, like a train berth, enclosed on three sides with the curtain on the open side. We are waiting to find out if our design is acceptable or not from the Department of Health and Department of Labor and Industries. So many of our facilities are filled with bunk beds we want to make sure to get approval and keep people safe.

ROSALINDA GUILLEN (CTC): How long does this process take to get approval once an idea is submitted to DOH and L&I?

ANNE SOIZA (L&I): We just got this idea in and we are working with Department of Health to respond safely and timely. We anticipate giving them feedback with a matter of days. However, there's a lot that we know and don't know about this pathogen. We want to provide feedback back to the employer for their consideration and implementation whether an idea is excellent or needs to be modified in a particular manner..

MIKE GEMPLER (WGL): In the Temporary Housing draft there is no process for approval presented. There are suggestions so an employer might implement something but there is no required approval process as far as I can see in this document. We wanted to get input from DOH & L&I.

ROSALINDA GUILLEN (CTC): That was going to be my question, is this a timely process for the farmers? Is this optional? You are only hearing from the proactive employers what they are doing. In the

meantime, Mike, are you moving forward with implementing these engineering controls or are you waiting to hear from DOH and L&I?

MIKE GEMPLER (WGL): We are because it's early in the season were able to spread people out, we're only allowing two people per room. But that is only going to last so long because more people are coming growing season is starting.

ROSALINDA GUILLEN (CTC): According to what we know about approved applications there will be almost 11,000 workers here by May 1st and these numbers are only going to grow. My concern is if there's no approval required and there's no follow up, that these engineering or administrative changes may or may not be implemented.

MICHELE BESSO (NWJP): Follow-up question to pivot to ESD because if these are possible compliance directives will you be requiring some evidence or assurance of compliance with this in order to certify to the Department of Labor that the housing meets state standards?

DAN ZEITLIN (ESD): I will turn to Alberto or Norma or perhaps Todd, to answer this question.

NORMA CHAVEZ (ESD): We send applications to the Department of Health for checking temporary worker housing.

TODD PHILLIPS (DOH): I would send back our preoccupancy inspection to help certify or determine that the housing meets state rules for housing. Which the state rules are not set up for this situation.

MICHELE BESSO (NWJP): When you get these requests from ESD to certify whether the housing meets state standards how will you evaluate that?

TODD PHILLIPS (DOH): They would just accept or take our preoccupancy inspection or permit for that facility. To determine whether it is meeting that code for temporary worker housing and that is accepted by ESD as approved housing for workers.

ROSALINDA GUILLEN (CTC): But that is what was required prior to the pandemic, right?

TODD PHILLIPS (DOH): Yes, and the state codes have not changed. We have almost if not all inspected and permitted with the state rules. We are going to provide feedback for the temporary housing guidance, but it looks like a lot of the things that are in there are addressing what we see as needing to be addressed. It's an ever-changing situation and there are permits issued for housing already that ESD would use for approval or not.

ROSALINDA GUILLEN (CTC): This is very concerning there are 204 applications already approved by ESD. There is a total of 19,829 workers scheduled to be here by June 1st. I would imagine that most of the 204 applications approved or approved prior to the pandemic or very early on before we started addressing these issues. How are you going to backtrack and ensure the safety of the workers now?

TODD PHILLIPS (DOH): I understand and agree it is a concern. I believe that is why we are here today to try to help address the situation. I really appreciate L&I working on this to provide education and eventually enforcement on issues on how to keep the workplace safe.

ERIK NICHOLSON (UFW): Do you all have a plan to go back out and re-inspect temporary farmworker housing to ensure compliance with the factsheets that have been put forward?

TODD PHILLIPS (DOH): We wouldn't necessarily be re-inspecting for permitting, but our inspectors are willing to go out and help and be a part of the process of making sure it's known how to address these situations. We have two inspectors that do our housing inspections..

ERIK NICHOLSON (UFW): In the last several weeks we are seeing widespread non-compliance with basic measures like a handwashing facilities, social distancing; especially when it comes to housing.

ERIK NICHOLSON (UFW): I would in the strongest terms ask that the agency reconsider and recognize there's a limitation of only two inspectors. If we want to avoid an outbreak, I think it is incumbent on the state to get out there proactively and reinspect every camp. We are putting H2A workers directly in harm's way. We have got to make sure there is compliance.

TODD PHILLIPS (DOH): It's important we partner with other state agencies. How we look at the bigger picture on how we might address the other pieces.

MICHELE BESSO (NWJP): Two years ago there was a lack of coordination between ESD, L&I and DOH to ensure that farmworker housing was going to be certified for H2A workers. There was a meeting at the Governor's office to pull all the agencies together and figure out how to make it happen. ESD must certify to USDOL that the housing meets state standards. Because of the way our state is set-up, ESD relies on Department of Health to have done the inspection. L&I is also involved if it doesn't fit in the jurisdiction of DOH or if there is a complaint. There is a memorandum of understanding that came out as part of that meeting, but it urgently needs to be reviewed and revised. At minimum, there needs to be a process of sending questionnaires out to employers to check off the measures they're taking to meet the new standards before certification of housing for H2A workers.

MIKE GEMPLER (WGL): I want to remind people that not every employee that stays in housing is an H2A worker. There are people arriving from all over the country now for asparagus harvest and other spring work.

MICHELE BESSO (NWJP): I agree we need to be concerned with all of them.

ROSALINDA GUILLEN (CTC): I think that you would be coordinating even more because if something should go wrong with 20,000 workers coming by June 1st, it's the entire community then that could be exposed. I just want to point it out, everybody is stressed out and anxiety levels are rising but this is a mandate that we accepted as farmworker representatives of this committee to bring to the table the concerns of the community.

TODD PHILLIPS (DOH): I appreciate everything you're saying, in a perfect world I was saying yes, we're going to be out there and that's what I want that's what I would like to do. I think our very good first step and what we have been spending our time on is trying to figure out the best tools to put out there to the owners of the homes, to the owners of the farms, to try and give them the best tools available to make good decisions and do things right. As we have those best tools it is my wish to get out to see every farm, but I can't tell you right now that that is possible.

MIKE GEMPLER (WGL): One of the greatest challenges we have is having enough sanitation supplies. Everything is on back order and if have these essential industries that are operating, and we have these expectations that we're going to be doing cleaning which we're doing. Alejandro could tell us if somebody's working on this?

ERIK NICHOLSON (UFW): That is something that we discussed in our original letter to the Governor.

TODD PHILLIPS (DOH): We are running into the same issues, and my understanding that there is a statewide driver behind, and I keep raising issue.

MIKE GEMPLER (WGL): Is there is there somebody in the Governor's office or central emergency response person who's tracking availability of the cleaning supplies. Cleaning supplies are a major tool in addressing the potential exposure of COVID-19.

TODD PHILLIPS (DOH): I believe there is.

IGNACIO MARQUEZ (WSDA): I received an email from the State of Washington Department of Commerce asking whether there was any information from the agriculture industry as to needs to deal with COVID-19. They asked does agriculture industry need masks, gloves or hand sanitizers? I responded that we have been getting requests for cleaning supplies in housing. As to what they're going to be doing with that information, I'm not clear as to whether they are planning on buying a big purchase of all these tools and cleaning supplies that are needed, but at least the conversation is started. I will follow up with the Department of Commerce again to find out what the status is.

JON DEVANEY (WSTFA): I think that once we get this guidance out and employers have a clear idea of what the expectations from L&I that are going to be enforceable look like, they may see a very serious spike in demand for some specific items that can be used for cleaning or for mitigation.

ANNE SOIZA (L&I): Emergency Operations Center for state government and L&I health experts are working with the emergency operation center to purchase protective equipment, sanitizers, anything that's needed. I have been involved in personal protective equipment and sanitation supplies.

DAN ZEITLIN (ESD): How much time and what issues would each committee member like to spend as a group discussing next week?

MICHELE BESSO (NWJP): I'm very concerned about how the temporary worker housing work will move forward and getting the information out. I guess I'm just not sure whether this meeting will be a place where we can solve this problem. What I heard is sort of that same problem we had two years ago which is each agency kind of has its own silo and doesn't look at temporary worker housing as its primary responsibility.

JON DEVANEY (WSTFA): Two hours is about right for intensive focus however if we're going to try to cover every issue than the meetings need to be longer. We need to come back to Workers Comp, Paid Sick Leave, and Unemployment for next week.

MIKE GEMPLER (WGL): I would like to understand L&I's approach to coronavirus and workers compensation. There seems to be some conflicting statements particularly in this draft. In the last sentence it says COVID-19 is recognized as a very serious workplace hazard. I'm fine with longer meetings.

ROSALINDA GUILLEN (CTC): I'm fine with longer meetings if we if we're getting something done. I am really concerned about the quarantine and how that is developing. I want to drill down on what is enforceable because the farmers are waiting to know about the requirements.

ROSELLA MOSBY (MF): We are certainly not waiting for any guidelines to take steps to keep our employees safe. We are trusting our crew is making good choices and not bringing anything back to the

farm where we live. I agree with everybody this is a huge concern and if we need to take a little bit more time then I'm in agreement.

ERIK NICHOLSON (UFW): We have the honor of finally being recognized as essential after decades of being ignored and disparaged. I think the challenge is how do we live up to the expectations that our society has put on us to keep people fed, while we're sheltering in place. To keep the growers and farmworkers safe and working, I am willing to do whatever is needed.

DELIA PENA (ZFC): I agree with everybody, I think the employer needs to know what is required to keep workers safe in both housing and working conditions.

DAN ZEITLIN (ESD): We will be back in touch with the group with an agenda for next week. I know we all appreciate this forum is here for these conversations. We know these are urgent matters and conversations are and should be occurring outside this meeting. I heard a desire to continue to have weekly meetings so long as there are productive.

#### **Agenda Items for Next Meeting**

- COVID-19
- Workers comp & Paid sick leave
- Report for legislature

#### **Public Comments**

None

#### **Closing Comments**

Dan Zeitlin thanked everyone for their continued active participation and for their commitment to this work, then ended the meeting at 10:44 a.m.

#### **2020 meetings**

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

- **April 16, 2020 – 8:30 a.m. to 12:30 p.m.**  
**Skype Meeting**

Addendums

ADDENDUM I



Agenda

Agricultural and Seasonal Workforce Services (ASWS)

Advisory Committee

Thursday, April 9, 2020 | SKYPE

Agenda Items

TIME	TOPIC
8:30 am	Introductions <ul style="list-style-type: none"> <li>• Welcome from Dan Zeitlin, Director, ESD Policy, Data, Performance and Integrity Division &amp; Norma Chavez, Director – Agricultural and Seasonal Workforce Services</li> <li>• Agenda Review</li> </ul>
8:40 am	COVID-19 Discussion: <ul style="list-style-type: none"> <li>• Governor’s Office – Alejandro Sanchez</li> <li>• Labor and Industries – Uriel Iniguez &amp; Maggie Leland</li> <li>• Department of Health – Todd Phillips &amp; Staff</li> <li>• ESD Policy, Data, Performance and Integrity – Dan Zeitlin</li> <li>• Department of Agriculture – Ignacio Marquez</li> </ul>
10:20 am	Discuss next meeting agenda
10:25 am	Public Comments
10:30 am	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

Contact information

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