**Agricultural and Seasonal Workforce Services Advisory Committee**



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| **Meeting details** |
| **Date:** Monday, August 26, 2019**Time:** 11:00 a.m. to 2:00 p.m.**Location:** Employment Security Department, (ESD) Maple Park Building, Maple Leaf Room

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| **Committee members present** | **Committee members absent** |
| * Michele Besso
* Jonathan DeVaney
* Michael Gempler
* Rosalinda Guillen
* Rosella Mosby
* Delia Peña
* Ramon Torres
 | * Erik Nicholson
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**Non-voting agency representatives*** Uriel Iñiguez
* Ignacio Marquez
* Todd Phillips

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|  **ESD staff**  |
| * Joy Adams
* Wendy Goldmark
* Suzan LeVine
* Larry Sheahan
* Nick Streuli
* Dan Zeitlin
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| **Summary** |
| **Welcome and introductions**Commissioner Suzan LeVine introduced herself, welcomed everyone and toasted with sliced apples. She asked the public to identify themselves and thanked them for engaging with ESD. ESD staff were introduced and offered to be of assistance throughout the meeting.The Commissioner requested everyone’s permission to put photographs of the meeting out on social media. There were no objections.After making opening remarks (see Addendum I), the Commissioner asked each voting member of the committee, followed by the non-voting agency representatives to provide up to three minutes of remarks expressing their views of and expectations for this Committee.* Michele Besso, Attorney at Law – Northwest Justice Project
	+ Challenges with agency responses to various instances of abuse of H-2A program requirements.
	+ Looking for a more effective collaboration between state agencies.

 * Jon DeVaney, President – Washington State Tree Fruit Association
	+ Challenges with additional growers participating in highly regulated program.
	+ Looking for the committee to provide input and guidance on how we improve the system.
		- Rules not followed vs. rules being inadequate.
		- Observed that some issues will be beyond ESD’s role.

 * Rosalinda Guillen, Executive Director – Community to Community (C2C)
	+ Moments before meetings, they practice a similar ceremony to what Suzi did with the apple.
	+ At C2C they come to the table hopeful and optimistic.
		- This becomes a space where farmworkers can have equitable voice with discussions that lead to actions to better the situation for farmworkers and growers.
		- Understands the complexities between the federal and state with regard to the H-2A program.

 * Rosella Mosby, Owner/Operator – Mosby Farms
	+ First generation farm in Auburn/Pacific/Sumner/Orting – 350 to 500 acres spread over 25 miles.
	+ Hand weeded/hand harvested.
	+ Take great pride in being a farm of families.
	+ As a farm owner, it takes a team to accomplish the harvest goals every year. Compete with lots of other industries for workers and facing huge challenges.
	+ The impact of farms in our economy is huge.

 * Michael Gempler, Executive Director – Washington Growers League
	+ Executive Director of the WA Growers League deals exclusively with labor and employment issues for Washington growers.
	+ Hope for the committee is to be able to develop an efficient unit of staff to administer the program and perform the duties.
	+ Effective monitoring of H-2A employment conditions.
	+ Effective complaint system where the department is able to receive and respond to complaints.
	+ Concern from the industry that the office is larger than necessary.
	+ Hope to develop an improved and smoother working relationship with ESD on agriculture issues.
	+ Hope to have good open dialog with labor/gov reps to determine what the facts are regarding the conditions of ag employment. Also look to hear about referral and domestic recruitment issues.
	+ Producers are proud of what they do and want to continue to be proud of the working conditions and employment for their employees and want the program and industry to be respected.

 * Ramon Torres, President – Familias Unidas por la Justicia (FUJ)
	+ President of FUJ
	+ Looking to learn more about the committee.
	+ Been doing this job for 6 years and has seen a lot of abuse.
	+ Now that farmworkers have a voice and they want to use it to make sure the program is used correctly.
	+ In the strikes before there has been abuse and people detained wages - even someone who died.
	+ Wants to see how the committee is going to help.
	+ Want to make sure that local farmworkers are respected.
	+ Appreciate that we don’t want to have strikes and hopes this committee can help.
	+ Appreciates the invitation and wants to be heard.

 * Delia Pe$ñ$a, Director of Orchard HR and H-2A – Zirkle Fruit Company
	+ Zirkle has participated in the program for 15 years.
	+ Have the same goal - as employer how do we build relationships and ensure the flow of communication is appropriate.
	+ People want to have a voice - how do we build that relationship and voice.
	+ How do we come together and build a process that works for everyone.

 * Ignacio Marquez, Director’s Office – Washington State Department of Agriculture (WSDA)
	+ We should expect miracles.
	+ Been working on farmworker issues all his life.
	+ Looking toward the trends and wants to help plan and transition.
	+ No longer families picking - mostly males.
	+ At WSDA they do pesticide training.
	+ We are all part of the agricultural industry - we all eat. Do we want the cheapest apple or do we want the premium apple that is grown with care.

 * Todd Phillips, Director of Environmental Health and Safety Office – Department of Health (DOH)
	+ Manages Temporary Worker Housing (TWH) at DOH.
	+ Plays a part in coordination - majority of TWH is H-2A related.
	+ Hoping to listen and provide input to create a more effective program.
	+ Goal for TWH is to provide oversight to ensure occupants are safe and healthy. Environmental public health is a major goal.

 * Uriel Iñiguez, Director of Community Relations – Department of Labor and Industries
	+ Lots of the conversations happening for years.
	+ Has been dealing with this issue for years at Comission on Hispanic Affairs.
	+ These agencies have worked together for a long-time.
	+ Labor and Industries has jurisdiction of most of these programs.
	+ Yes, this is a federal program but WA has an obligation.
	+ Would like a way for agencies to coordinate better. We should be able to respond in a timely manner.

 The Commissioner turned to Dan Zeitlin, Employment System Policy Director, who made brief welcoming remarks. Dan read a statement (see Addendum II), from Erik Nicholson, Vice-President of United Farm Workers, who was unable to attend the meeting.The Commissioner closed her remarks requesting that all future meetings open by “sharing the fruits of our labor” with sliced apples, pears, or cherries, etc. The Commissioner turned the meeting over to Dan Zeitlin.Dan Zeitlin introduced Nancy Krier from the Washington State Attorney General’s Office and turned the meeting over to her.**Open Public Meetings Act RCW 42.30 Training**Nancy Krier, from the Washington State Attorney General’s Office, conducted a PowerPoint training on the Open Public Meetings Act (OPMA) which was passed in 1971; requiring meetings to be open to the public, gavel to gavel. The complete PowerPoint presentation can be found [here](https://esdorchardstorage.blob.core.windows.net/esdwa/Default/ESDWAGOV/newsroom/Ag-Committee/Open-Public-Meetings-Act-RCW42.30%20PowerPoint.pptx).**Committee Charter**Dan Zeitlin led the discussion on approving the initial Office of Agricultural and Seasonal Workforce Services Advisory Committee Charter. A second draft was proposed. (See Addendum III.)**Committee Meeting Schedule**Dan Zeitlin led the discussion on approving the committee meeting schedule through to December 2020. The Committee agreed to meet on October 11, 2019 from 11 am to 4 pm in Olympia with October 17, 2019 as an alternative date if the 11th does not work for Erik Nicholson. The Committee agreed to meet from 11 am to 2 pm on November 22, 2019 in Yakima. The Committee agreed to meet on the third Thursday of of every month in 2020 with the duration of meetings and locations to be determined. **Agenda Items for Next Meeting**Suggested agenda items for the next Committee meeting are:* Final approval of Committee Charter
* Mechanism for seeking public comment outside meeting agenda
* Facilitated discussion gathering members points of view on issues and expectations for the Committee’s work.

**Closing comments**Dan Zeitlin thanked everyone for their input and participation and ended the meeting. |
| **2019 meetings** |

The remaining 2019 Agricultural and Seasonal Workforce Services Advisory Committee meetings are on:

* Friday, October 11th or Thursday, October 17th 11:00 a.m. to 4:00 p.m. in Olympia
* Friday, November 22nd 11:00 a.m. to 2:00 p.m. in Yakima

**Addendum I**

**Opening Remarks by Commissioner Suzan LeVine**

* Good morning! I am Suzi LeVine the Commissioner of the Employment Security Department and I am so excited to welcome you to this inaugural meeting of the Agriculture and Seasonal Workforce Services Advisory Committee.
* Before getting started, can members of the public please identify themselves?
	+ Thank you so much for taking the time to do your civic duty and engage with us today!
* Can staff from the Employment Security Department [Joy Adams, Wendy Goldmark and Larry Sheahan] also please introduce yourselves?
	+ Thank you for all your hard work to make this day a reality.
* If you need assistance throughout the meeting with anything, my amazing team is here to support you.
* After my brief remarks I would like each voting member of the committee to my right and then left, followed by the non-voting agency representatives, to provide up to 3 minutes of remarks expressing their views of and expectations for this Committee.
* After that, I’ll turn things over to Dan Zeitlin - who you all know is leading our effort to stand up this Committee and the Office of Agriculture and Seasonal Workforce Services. Dan will be serving as the ESD representative and Chair of the Committee.
* All Committee members have a personal folder in front of them and there are handouts in the back related to today’s agenda, which includes an Open Public Meetings Act training, discussion and approval of the Committee charter, and discussion and identification of dates and locations for future meetings.
* Before we get started, as you know we put out a press release announcing the Committee members and this meeting. We would like to take pictures and continue to amplify this work to the public including through social media. Before doing that, I do want to be respectful of everyone’s comfort level and ask if there are any objections?
* Any other questions about today’s agenda?
* Then let’s get started.
* On May 21, Governor Inslee signed Senate Bill 5438 establishing the Office of Agriculture and Seasonal Workforce Services and this associated Advisory Committee.
* I recognize and appreciate that issues related to the H-2A program, and agriculture labor more generally, are difficult and that, while this bill was ultimately approved with bipartisan support, the debate that proceeded its passage was contentious.
* I adhere to the philosophy that the only way to address hard problems is to run to them and not from them. That we are sitting here today is proves that!
* When we gathered for that signing, it filled me with a sense of hope to see employer and worker representatives standing side by side as we looked over the Governor’s shoulder to breathe life into that bill with his pen! And now, that hope is joined with pride as I look around this room at many of the people who were there for that special moment.
* And, it gives me even greater hope kicking off this Committee less than one month since the bill became effective to begin charting out steps we can take that will allow us to work together to make gains for both agriculture employers and workers.
* Washington State has been recognized as the top state for doing business and the best state in which to work.
* Our goal with this effort is to ensure that applies, not just overall, but to the state’s $10 billion agricultural economy in particular. We want people to know that, when they purchase Washington grown products, they are buying products from a state with the best conditions for both agricultural employers and farmworkers.
* I so appreciate that agricultural workers, employers and state agencies here today are coming together-sitting side-by-side-to contribute to this goal. Thank you so much for choosing to spend your incredibly valuable time serving on this vital committee!
* The key goals of this Committee are clearly spelled out in the legislation and, as Chair of the Committee, I see ESD’s role as convener and as the entity ensuring that we meet those requirements.
* HOW we work is just as important as WHAT work we do. So, it’s important that you know our commitment to transparency, openness, and respect with this Committee - seeking advice as we stand up the Office of Agriculture and Seasonal Workforce Services.
* Our core objective is to produce a report to the Legislature and Governor in October 2020 that:
* Identifies and recommends approaches to increase the effectiveness of the recruitment process as part of the H-2A application with an eye toward increasing the recruitment and hiring of domestic workers in agriculture in Washington; and
* Analyzes the costs incurred by ESD to administer the H-2A and other farmworker programs, as well as the amount of funds allocated by the federal government to administer the H-2A program and related programs that support farmworkers.
* As this Committee proceeds, it must remain focused on that task at hand.
* Yet, ultimately, I hope and, in fact, expect more from this Committee.
* At times Committees such as these become forums for discussion, sometime contentious discussion, but no action.
* Here at ESD, I believe we have demonstrated what Advisory Committee success looks like with the Employment Security Advisory and Paid Family Medical Leave Committees playing critical roles supporting our mission.
* With this Committee, with you as the nominated representatives to serve on it, and with a strong send of collective purpose, I have great confidence that we can work together to make tangible progress on these challenging issues.
* Progress that makes the “Grown in Washington” label on products mean: grown in a place where workers, employers and the state came together to ensure that in the agriculture sector, Washington is the best state for business and the best state in which to work.
* Before I conclude, I want to turn to Dan to read a statement provided by Erik Nicholson, United Farm Workers Vice President and Committee member, who could not be here today, as well as to provide any remarks he may have.
* Again, I want to thank everyone for agreeing to serve on this vital Committee.
* I look forward to remaining engaged in your work with an intent to build into your calendar updates for me, as well as the heads of other agencies involved on your progress.
* I also look forward to getting to know more about each of you and the work that you do day-in and day-out to support our great state’s agriculture economy.
* And, with that, I am going to turn things over to Dan.

**Addendum II**

**Statement from Erik Nicholson**

I am very sorry I cannot be with you all in person today. This meeting conflicts with a long standing family vacation; I very much look forward to participating in future meetings.

As I imagine others have or will soon say, today is a historic day. We applaud the efforts of ESD, Community to Community, Familias Unidas, the legal service community, growers and their respective organizations who came together earlier this year with the legislature to pass the historic legislation that constituted this committee today.

The United Farm Workers has been engaged on the issue of agricultural guest workers since our union’s founding in the early 1960s. Ensuring that domestic workers’ rights to employment, fair wages and just treatment remain top of the UFW’s agenda today. While we remain active in Washington DC on the federal policy level, our work now also extends into Mexico where have been actively looking at recruitment related issues in partnership with the federal government and a network of civil society organizations for a number of years. We look forward to sharing our experience on both fronts with this committee.

While the H-2A visa is primarily a federally administered program, there are clearly a number of increasingly important areas in which States need to play a more active role to both protect the rights of domestic farmworker and those agricultural workers employed with this visa.

We look forward to working with the members of this committee to construct a better future for all agricultural workers.

I hope today’s deliberations are fruitful and look forward to learning about your work today upon my return.

Thank you,

Erik Nicholson

National Vice President

United Farm Workers

**Addendum III**

**Second Draft**

**Office of Agricultural and Seasonal Workforce Services Advisory Committee Charter**

office of agricultural and seasonal workforce services

Advisory Committee charter

# PURPOSE

The Legislature declared it to be in the public interest to clarify the state’s role in the H-2A temporary agricultural program to provide adequate protections for foreign and domestic workers, and provide education and outreach opportunities to help growers maintain the stable workforce they need. The Office of Agricultural and Seasonal Workforce Services (ASWS) Advisory Committee (Committee) is established to comply with the intent of the Legislature by advising the Employment Security Department (Department) on ASWS operations and the management of the Foreign Labor Certification program within the Department’s purview.

# GOALS

On issues and topics of interest related to the work of ASWS, the Committee is directed by the Legislature to:

* Provide comment on Department rule making and policy
* Provide comment on implementation of Chapter 441, Laws of 2019 and initiatives, and
* Study issues the Committee determines require consideration

The Committee will advise the Department in the organization and initiation of the Office of Agricultural and Seasonal Workforce Services, the coordination of all state agencies with regulatory authority over the agricultural workplace, and the ongoing operations of the Foreign Labor Certification program.

The Committee is required to submit a report to the governor and the Legislature by October 31st of even numbered years that:

* Identifies and recommends approaches to increase the effectiveness of the Department’s recruitment process as part of the H-2A application. This report may include recommended changes to state law that would increase recruitment and hiring of domestic workers in agriculture in Washington,
* Analyzes the cost incurred by the Department to administer the H-2A and other farmworker programs, and
* Analyzes the amount of funds allocated by the federal government to administer the H-2A program and all other programs within the Department.

The primary focus of the Committee’s work shall be to advise on the ASWS budget and operations, as well as meeting the requirement to report to the governor and Legislature.

# MEMBERSHIP

This Committee is made up of twelve members, as follows:

* Four voting members representing agricultural workers’ interests, one of whom is a farm worker;
* Four voting members representing agricultural employers, one of whom is an agricultural employer;
* One non-voting ex officio member representing the Employment Security Department who shall serve as chair;
* One non-voting ex officio member from the Department of Labor and Industries;
* One non-voting ex officio member from the Department of Health;
* One non-voting ex officio member from the Department of Agriculture.

At the time of this Charter’s creation, the following members have been appointed by the Commissioner:

* **Advisory Committee Chair- Employment Security Department:** Dan Zeitlin, Director, Policy, Data, Performance and Integrity Division
* **Agricultural Worker Rep.:** Michele Besso, Attorney, Northwest Justice Project
* **Agricultural Worker Rep.:** Rosalinda Guillen, Executive Director, Community to Community
* **Agricultural Worker Rep.:** Erik Nicholson, Vice-President, United Farm Workers
* **Agricultural Farmworker.:** Ramon Torres, President, Familias Unidas por la Justicia (FUJ)
* **Agricultural Employer Rep.:** Jon DeVaney, President, Washington State Tree Fruit Association
* **Agricultural Employer Rep.:** Michael Gempler, Executive Director, Washington Growers League
* **Agricultural Employer Rep.:** Delia Peña, Director of Orchard HR and H-2A, Zirkle Fruit Company
* **Agricultural Employer:** Rosella Mosby, Owner Operator, Mosby Farms
* **Department of Labor and Industries Rep.:** Uriel Iñiguez, Director, Community Relations
* **Department of Health Rep.:** Todd Phillips, Director, Environmental Health & Safety
* **Department of Agriculture Rep.:** Ignacio Marquez, Regional Assistant to the Director - Eastern/Central WA

# MEMBER APPOINTMENT

## TERMS

All members shall be appointed by the Commissioner to serve an initial term through December 31, 2020. Following the initial term, members shall serve staggered four-year terms following procedures set forth by the Committee. At the end of each term, members may either be replaced or re-appointed by the Commissioner. There is no term limit.

## MEMBER REPLACEMENT

An opening on the Committee may occur due to a resignation or removal by the Commissioner for good cause. If there is an opening on the Committee during a member’s term, the Commissioner shall appoint a replacement member to fill the position as designated in this charter, and as outlined in C 441 L 2019.

# MEMBER EXPECTATIONS

## OPEN PUBLIC MEETINGS ACT

The Washington Open Public Meetings Act (OPMA) applies to the Committee. Members must comply fully with the OPMA.

## MEMBERS COMPENSATION

The members shall serve without compensation but are entitled to reimbursement for travel expenses as provided in RCW 43.03.050 and 43.03.060. The Committee may utilize such personnel and facilities of the Department as it needs, without charge.

# COMMITTEE MEETINGS

## MEMBER MEETINGS - CADENCE

The Advisory Committee conducts a variety of meetings. Each of these meetings are open to the public but are not meetings of the public. The purpose of the meetings is to conduct Committee business and to provide the members an opportunity to discuss issues with each other and with staff scheduled on the agenda. To clarify, we provide the following definitions of meetings:

**Regular Meeting:** This is a business meeting held on a scheduled date, usually the third Thursday of each month. If it is determined that a meeting is not necessary to conduct Committee business, meeting cancellation will be communicated.

**Special Meeting:** This is a business meeting held on a date other than a regularly scheduled meeting.

Advance notice of regular Committee meetings is posted on the Employment Security Department’s website, and available upon request.

## MEMBER MEETINGS - QUORUM

The members agree that a quorum constitutes a simple majority of the total statutorily required number of voting members (e.g. five voting members). The Chair and other Department representatives are not voting members.

As an example: as of 2019, the Committee has eight voting members allowed in statute. A quorum will consist of no less than five voting members (a simple majority of the total statutory number of voting members).

## DECISION MAKING STRUCTURE

The members agree to use the *Robert's Rules of Order Newly Revised* to propose and agree upon decisions before the Committee. In the event of a conflict between this charter and Roberts' Rules of Order, the charter will control.

## PUBLIC COMMENT

An opportunity for public comment will be scheduled during Committee meetings. Time limits for public comment will be established to ensure equitable time for each speaker and to ensure scheduled Committee business can be completed in a reasonable amount of time.

Citizens are invited to provide public comments to the Committee as designated on the meeting agenda. Time for public comments is limited to ensure that all who are interested have an opportunity to speak. 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.

The Chair will strive to ensure that all perspectives have sufficient and equal opportunity to share with the Committee.