

Domestic Workers Standards Board

Report and Recommendations to City Council & Mayor

Background & Context

The Domestic Workers Standards Board (DWSB) was established in 2019 as part of the city's groundbreaking Domestic Workers Ordinance (DWO). The DWSB provides a place for domestic workers, employers, private households, worker organizations, and the public to consider and suggest ways to improve the working conditions of domestic workers. We work to help implement the regulations of the DWO and further improve the standard of domestic work in Seattle. Since its inception, the DWSB has been working in partnership with the domestic worker community to identify their most pressing needs and concerns. The COVID-19 pandemic added further urgency to the work of the board, given the essential nature of so much domestic work and the increased vulnerability that many domestic workers face.

Vision & Values

In crafting our recommendations, the DWSB works toward a vision where all domestic work is visible, valued, and sustainable. This is a world where:

- Domestic workers and hiring entities are informed and supported, and hiring entities, including third-party platforms, are accountable and regulated;
- Better communication and relationships are cultivated between workers and hiring entities across languages and cultures; and
- Policies are clear, consistently enforced, and meaningfully improve the lives of domestic workers.

Summary of Report

In this report, we present the barriers to achieving this vision for domestic workers in Seattle, even with the DWO in effect for almost two years. We also offer information about the current working conditions for domestic workers in the hopes of improving and furthering the policy goals of the DWO. We then present a series of urgent recommendations designed to improve the working conditions of domestic workers, and to improve the effectiveness of the DWO. Finally, we offer next steps for the Council and policymakers that would achieve current goals of the DWO and provide a framework for the next phase of domestic worker policy in the City of Seattle. In developing this report, the DWSB has consulted with a coalition of domestic worker organizations, domestic employer groups, policy attorneys, and academics, referred to as “the Coalition.”

Outreach Barriers for DWO Implementation

Reaching the right community

Two years into the DWO we are still trying to reach workers about their rights. The nature of domestic work presents myriad challenges for successful outreach and enforcement of labor standards. To reach domestic workers and hiring entities, one must first identify who to contact, which presents an immediate challenge. Some domestic workers, such as gardeners and landscapers, don't self-identify as domestic workers; some hiring entities, like working parents, may not see themselves as employers.

Overcoming fear and reticence

Fear and anxiety present significant barriers to outreach and implementation. Both domestic workers and hiring entities may have a desire to preserve the benefits of the informal economy, such as flexibility, and worry about the DWO's effects on taxes and benefits. Domestic workers may fear job security for reporting employer violations. Even more vexing for effective communication is that many domestic workers are undocumented and are thus wary of interacting with civic departments, such as the Seattle Office of Labor Standards.

Communicating to a massive population

And finally, there is simply the challenge of reaching so many people. There are tens of thousands of domestic workers and hiring entities in the city of Seattle. Many domestic workers work for multiple hiring entities, and many work on a rolling basis for hiring entities that change from week to week.

Current Working Conditions

Low wages

Very low wages make it difficult for Seattle domestic workers to care for themselves and their families. According to a 2018 survey conducted by the Seattle Domestic Workers Alliance, 96% of Seattle domestic workers are low income and 81% are very low income under federal poverty standards. More than half of domestic workers struggle to pay rent or other bills. And while the DWO has been in effect for almost two years, the immense outreach and enforcement challenges discussed above, as well as the devastating impact of the COVID-19 crisis on workers' hours and health, have continued to leave domestic workers impoverished.

Paid time off

Furthermore, most domestic workers do not receive basic worker benefits, such as healthcare or paid time off. The historically informal nature of domestic work means that many workers are unaware of their rights, and many employers are unaware of their responsibilities. As awareness of the DWO improves, workers have begun seeking benefits. Nearly 60% of domestic workers lack any paid leave,

and so access to paid time off is a top priority; 64% of domestic workers say they would pursue a new job that offered paid time off.¹

Healthcare and health insurance

Domestic workers don't just lack sick time--they lack any healthcare benefits that would support them should they get sick. Only 12% of domestic workers have health insurance through their employers. Workers report that they regularly go to work sick because they can't take unpaid time off and they can't afford basic healthcare.

Domestic work during COVID-19 pandemic

The COVID-19 pandemic has exacerbated this precarious situation. Domestic workers are regularly on the frontlines of the pandemic and often work in close quarters but have no protections afforded them should they fall ill.

Many domestic workers have been performing essential work throughout the pandemic, whether by providing childcare, serving as home health aides, or by cleaning and disinfecting homes. Too often, workers have not been able to access proper personal protective equipment (PPE), further exposing them and their loved ones to risk and potentially contributing to community spread. The COVID-19 pandemic also exemplifies the disparities in health care in Washington State. Latinx people make up 34% of confirmed COVID-19 cases in Washington state, compared with their 13% share of the overall population, and Latinx patients are six times more likely to die from the virus.²

Better wages and benefits would significantly improve the lives of domestic workers citywide and slow the spread of COVID-19 and other transmissible diseases. These improvements should become central to the goals of the Domestic Worker Ordinance.

Board Recommendations

Given the barriers to outreach and current working conditions for domestic workers, the Domestic Workers Standards Board offers recommendations in the following areas:

- Invest in community expertise and building trust
- Provide more materials and resources to domestic workers and hiring entities
- Implement policy changes to improve the Domestic Workers Ordinance
- Mandate portable benefits for domestic workers

¹ Survey responses cited in this document are based on a survey conducted by the Coalition in February and March 2021, or a survey conducted by the Seattle Domestic Workers Alliance in 2018, unless otherwise noted. See Appendix for more information.

² <https://crosscut.com/equity/2021/01/disproportionately-hit-covid-19-wa-latinos-brace-vaccine>.

Invest in community expertise and building trust

Reaching tens of thousands of domestic workers and hundreds of thousands of hiring entities or households represents an immense challenge that calls for significant resources and creative thinking beyond what OLS is funded for. We need to invest deeply in building trust among vulnerable populations, through relationship-building, one-on-one conversations, and sustained, long-term engagement.

- **Recommendation: Fund community organizations.** The DWSB recommends expanding the Community Outreach and Education Fund to create specific ongoing funding for domestic worker outreach in several organizations. This funding should be made available for ordinance-focused staff members or initiatives at community organizations that work with domestic workers and employers. Many of the DWSB's following recommendations require significant staff time to execute. They will only be successful with support from community organizations that can effectively communicate OLS/DWO messaging to domestic worker communities. These organizational partners have the trust of the domestic worker community and can reach the workers and employers that are critical for achieving the goals of the DWO.

Furthermore, partnering with community organizations will improve awareness within domestic worker communities and close existing communication gaps, such as with the African and Asian Pacific Islander communities. Funding will also support dissemination of OLS materials through community organizations' contact lists and collaborative outreach efforts, such as digital and social media campaigns. We recommend that these community organizations are robustly supported, ideally with grants that require some reporting back on outcomes and impact.

- **Recommendation: Compensate workers for their expertise.** We recommend that the city provide compensation to domestic workers for time spent working with the DWSB. Specifically, we recommend paying Board members who are themselves domestic workers, and paying for specific engagements with domestic workers, like a paid survey or interview.

The DWSB and OLS cannot function meaningfully without the leadership and participation of domestic workers. But, lacking any paid leave, and living mostly below the poverty level, domestic workers simply cannot afford to take time away from work without being compensated. Being a member of the DWSB is a significant time commitment; one that individual domestic workers, unaffiliated with an organization, have struggled to make. The recommendation to pay domestic worker members of the Board comes from our actual experience; we have already lost valuable Board members, *all of them domestic workers*, who cannot take the unpaid time to commit to this work. This is a loss not only for the board but for the goals of the DWO. Compensation for board work can provide a more representative and diverse group of board members, and better, more informed outreach and policy ideas.

We also recommend that the city fund paid surveys and/or interviews of domestic workers to continue to inform our board work and the efforts of OLS. Research shows that using

incentives increases responses in a wide variety of surveys. In particular, the DWSB proposes compensating workers approximately \$15-25 in gift cards for workers who complete surveys. The DWSB proposes additional compensation, approximately \$25, for a half-hour phone interview, based on market rate compensation.

Provide more materials and resources to workers and hiring entities

Significant confusion about labor standards among both domestic workers and hiring entities presents a need for more DWO resources. Publishing and disseminating DWO-focused materials can provide immediate, short-term assistance to domestic workers as well as clarity for hiring entities.

- **Recommendation: Publish new materials and provide funding for the translation, printing, and dissemination of additional DWO materials, whether through mail or in-person, to appropriate venues.** OLS has already produced a booklet and a model Notice of Rights, which have been useful in spreading awareness of the ordinance. These materials are currently only available in Spanish and Simplified Chinese. We recommend expanding language access for these materials, as well as developing newer, updated materials in collaboration with community organizations and workers who will know what specific messaging to include for their communities, and where to place printed materials.

Additionally, we recommend funding a mailing to all households in Seattle. This is a well-established tactic used by other City departments, and a way to reach both workers and employers in domestic workers' workplace – the home.

Finally, we recommend that any mailings and resource dissemination also share information about existing resources that are available to low-wage workers and independent contractors (e.g., COVID relief funds, Fresh Bucks, Access to Affordable Housing and Healthcare, Orca Lift, etc.).

- **Recommendation: Provide support for the creation of a user-friendly website or significant redesign of the current DWO section on the OLS website.** Currently the site is not user friendly; resources are spread across several pages and can be difficult to find. The website should be clear, searchable, and easily navigable whether you are a worker or an employer. The "Resources" and "File a Complaint" links should be prominent, as well as links to the Office of Civil Rights and Office of Immigrant and Refugee Affairs. A help bot might help users find what they need more quickly, like the one found on the website for the Department of Neighborhoods. If a new website is created, Spanish language translation should be easily accessible since such a large proportion of domestic workers are Spanish language speakers.
- **Recommendation: Ensure third party platforms are in compliance with the DWO.** Like so many other industries, technology has disrupted the domestic worker industry in the form of third-party platforms. Many of these platforms are run by enormous tech companies that are disconnected from the day-to-day lives of the workers they profit from. Third-party platforms

are likely covered hiring entities under the DWO and its associated rules. Therefore, we recommend the city address these third-party platforms, many of which may be completely noncompliant with the DWO but still serve as an essential source of income for workers.

First, we recommend reaching out directly to third party platforms. Ideally, a powerful representative of the city, like a councilmember or the mayor, would sign a letter outlining the regulations and detailing enforcement measures under the DWO, and requesting that the platform include information about the ordinance for anyone hiring within Seattle. City staff could follow up until they received an acknowledgement. Second, we recommend devising a strategy, in conjunction with the Board, to reach both individual workers and individual households who use these apps. This includes publishing and disseminating materials more broadly that talk about third-party platforms and the regulations they must adhere to in the city. That way, workers and hiring entities will be informed of their respective rights and responsibilities under the DWO when using third-party platforms. Additionally, a mandated notice of rights, as recommended below, would require third-party platforms to post the requirements of the DWO on their site for all potential employers and employees to see.

- **Recommendation: Research options and provide support for affordable health care to all domestic workers.** Recognizing that much health care policy is set at the state and federal level, we recommend that the City use its advocacy power to push the state legislature to adopt an affordable health insurance option that is available to ALL Washington State residents. While we wait for the state to act, we recommend that the Office of Labor Standards, the Office of Economic Development, and the Office of Immigrant and Refugee Affairs convene to discuss creative ways to help workers gain access to care. Possible models to explore include helping to establish domestic worker co-operative businesses, or funding healthcare navigators for those who may have access to insurance but don't know it. We also recommend that the City identify and make available educational materials and resources for hiring entities to understand health care options for small businesses and independent contractors.

Policy changes to improve the Domestic Workers Ordinance

The City must work to clarify the rights and responsibilities embedded in the DWO. Simplifying worker and hiring entity coverage, for example, and mandating a notice of rights, can help with confusion that currently exists.

- **Recommendation: Require hiring entities to provide domestic workers with information about their rights and the conditions of their work.** We recommend that the City mandate that all hiring entities and third-party platforms, as likely hiring entities, provide a notice of rights to their domestic workers. We understand that the Council may be considering a policy that would require hiring entities to provide independent contractor workers with the information necessary to understand the terms of their engagement and determine whether those terms have been satisfied. However, it is unclear whether this policy has been informed and prioritized directly by workers. We recommend that Council do further engagement with domestic workers to explore whether and how this policy should cover domestic workers, and whether a notice of rights

requirement for domestic workers can be incorporated as part of the current bill under consideration at Council.

- **Recommendation: Eliminate the exclusion of publicly funded home care workers from the ordinance.** When the DWO was being considered at Council in 2018, homecare worker representatives suggested that publicly funded workers be excluded from coverage. Domestic worker ordinances in other jurisdictions have often excluded publicly funded work, primarily to exclude Medicaid-funded providers. That is because Medicaid-paid home care workers all either work, or will soon work, for employers that are covered by local minimum wage laws and other employment laws. However, the Seattle law was adopted before the state established the new Long-Term Care Trust Act, which creates an additional public long-term care benefit. The Long-Term Care Trust Act funds workers who are not necessarily employed by agencies or funded by Medicaid. Therefore, there is no longer reason to exempt home care workers funded through the Trust Act from the provisions of the DWO. By eliminating this exclusion, the DWO will have more consistent and clear coverage, and benefit thousands more workers.
- **Recommendation: Eliminate the “interference” standard for joint hiring entity liability and harmonize the standard with the joint liability standard from Seattle’s other labor laws.** Currently, the DWO states: “When an individual or household contracts with a separate hiring entity that employs the domestic worker(s) to provide domestic services, the separate hiring entity is solely liable for violations of this Chapter 14.23 unless the individual or household interferes with the rights established for domestic worker(s) in this Chapter 14.23.” OLS has further defined in its administrative rules about what it means to “interfere” with the rights of domestic workers.³

The interference standard suggests a household must analyze whether the separate hiring entity they have engaged is classifying the domestic worker as either an employer or independent contractor. Such an exercise thrust upon a household undermines a key value of the DWO: to broaden coverage to more domestic workers by focusing on the work they do (nanny, gardener, etc), regardless of how they are classified by a hiring entity. In short, the interference standard is out of step with the rest of the ordinance and creates confusion about who is responsible if violations of the law occur in the household.

While it may seem like it would be less generous to households to remove this language, the DWSB believes households would be better off with a clear and simple message of responsibility, and practical guidance from OLS on what households can do to uphold the ordinance themselves when they contract with a company. Put simply, it is easier to both communicate and implement a basic message: “You are responsible for upholding the DWO in your own home.”

Furthermore, this standard is not in harmony with the common standard used in Seattle’s other labor laws, including, for example, the Minimum Wage Ordinance, the Secure Scheduling

³ For more information, see SHRR 160-160 (3), available at: http://www.seattle.gov/Documents/Departments/LaborStandards/SHRR_160_Rules.pdf

Ordinance and the Paid Sick and Safe Time Ordinance. It also is more limited in scope, potentially reducing domestic workers' rights compared to other workers. This lack of harmony and scope has the effect of continuing the historical treatment of domestic workers as distinct from other workers--something the DWO was meant to eliminate. We recommend deleting the "interference" standard and replacing it with the common joint liability standard used in the City's other labor laws (drawn from the language of the federal Fair Labor Standards Act).

Mandate portable benefits for domestic workers

Seattle can continue its tradition of innovative leadership on workers' rights by implementing a portable benefits system for domestic workers across the city. A portable benefits system for paid time off (PTO) will ensure domestic workers can access the basic benefits many other workers receive. Domestic workers deserve a right to portable paid leave for paid sick days, rest days and other uses as they may need. The DWSB believes that portable benefits for all domestic workers should be mandated, and that this mandate be supported by strong and simple enforcement.

In order for a system to meet the needs of this industry, the following elements are crucial:

1. Portability

- A right to PTO must be portable to address the real working conditions of many domestic workers. Data from a 2018 survey by the Seattle Domestic Workers Alliance and a 2021 survey by the Coalition reveals that many domestic workers work for multiple hiring entities, with limited hours among each one, and often without a contract or job description. As a result, they often have limited access to benefits. With a portable system, benefits do not depend on any particular hiring entity, and multiple hiring entities can each contribute their fair share of benefits. Domestic workers can earn and keep their paid time off benefits as they move between jobs.

2. Centralized Accounting System

- All hiring entities of a domestic worker will make contributions to a centralized account, which is then available when the domestic worker needs to take paid time off.
- The system should track hours worked and employer payments, and should be contained within an efficient, simple-to-use online platform accessible to workers and employers. Philadelphia recently mandated a right to portable benefits and the creation of such a system and platform.
- The platform developed should be able to manage contributions from multiple hiring entities and meet our basic definition of portable benefits (benefits and contributions that are attached to the worker, not the hiring entity).

3. Third Party Administration

- To reduce administrative burdens and liabilities, the City may want to consider contracting with a third-party entity to administer the PTO portable benefit platform and system. This may also better protect the privacy of workers and employers. 76% of workers in a recent survey

say they would be comfortable sharing their work records with a nonprofit third-party entity (see Appendix).

4. Universal Coverage of All Domestic Workers

- A right to paid time off must be available for all domestic workers, whether they are employees or independent contractors. Such a right can build on the successful framework of the Domestic Worker Ordinance which expanded other essential workplace protections to all workers.

5. Enhanced Enforceability

- A third-party portable benefit system would track a worker's work history and pay and an employer's benefit contributions; this would facilitate enforcement of the PTO benefit, as well as other domestic workers' rights by the city enforcement agency. Strong enforcement protections must also accompany the PTO benefit to ensure that workers can use paid time off without fear of retaliation, loss of work, or negative employer references.

6. Continued engagement with workers and worker organizations

- We urge the city to continue to work closely with the DWSB and the Coalition to ensure accessibility and address policy and technical issues related to the design and implementation of the portable benefits policy and platform, including the creation of an accrual system for paid leave. That way, worker leadership will be central in the development of the portable benefits policy. We believe that the accrual formula designed should be equitable across all professions of domestic workers, addressing the needs of the most marginalized domestic worker professions that have the least access to benefits.

7. Outreach and Education

- Finally, we recommend that the City create (or contract with community organizations to create) outreach and education materials – for both domestic workers and their employers – about how to access portable benefits. These materials should include information about new benefits available through a portable benefits mandate, and allow partner organizations to sign workers up directly to the system. These materials should be translated in the languages most spoken by domestic workers in Seattle.

Next Steps

As part of the Ordinance, the DWSB is required to submit recommendations to the Mayor and the City Council's Finance and Housing Committee ("Committee"). The Committee must respond to these recommendations within 120 days of the Board's presentation to Committee.

We recognize that some recommendations will require time and effort, and we look forward to partnering with the City on those endeavors. We also want to identify several recommendations that can be acted upon quickly:

- **Publish new materials** –The DWSB believes that many items relating to drafting, publishing, disseminating, and translating materials, both online and printed, can be addressed by the current 2021 budget that OLS was allocated for this work. We request that OLS work with the DWSB and other community partners to identify what is possible with the existing budget and staff resources.
- **Ensure third party platforms are in compliance with the DWO** – Similarly, the DWSB strongly encourages OLS to immediately support this recommendation, as this would require simply drafting a letter and sending it to the various third-party platforms.
- **Policy changes to improve the Domestic Workers Ordinance** - While Councilmembers are considering the recommendations in this section, the DWSB expects engagement from Council staff and partnership in responding to the following recommendations:
 - Eliminating the “interference” standard for joint hiring entity liability
 - Eliminating the exclusion of publicly funded home care workers from the ordinance.
 - Requiring hiring entities to provide domestic workers with information about their rights and the conditions of their work. This should be considered in conjunction with the Council’s consideration of pay transparency for independent contractors, if that moves forward.
- **Compensate workers for their expertise** – We request that OLS use its existing budget to support stipends for domestic workers who serve on the board, and payment for workers who participate in surveys or interviews that inform the work of OLS and the DWSB.
- **Invest in community partnerships.** We request that additional funding through the 2021 supplemental budget process be allocated to expand on the Community Outreach and Education Fund, creating specific funding for domestic worker outreach in several organizations due to the unique and particularly difficult challenges in outreach within this industry. The extreme hardship that this worker population has faced in the COVID crisis creates urgency for this support that only trusted community partners can provide. Additionally, we request that this funding be made ongoing through the annual budget process this Fall.
- **Portable benefits**-- After the DWSB presentation to the City Council’s Finance and Housing Committee, we urge the Committee and OLS to work closely with a stakeholder group that includes the Portable Benefits Subcommittee of the DWSB and the Coalition to discuss policy and technical issues integral to establishing and implementing portable benefits. This will center worker leadership in the development of the portable benefits policy. Issues to be discussed will include, but not be limited to, those listed in the Portable Benefits recommendation above. The stakeholder group and representatives of the Finance and Housing Committee should meet at least once a month during the Committee’s 120-day response period, and the first meeting shall take place within the first 30 days after the DWSB’s presentation to Committee.

Overall, the DWSB's expectation is that Council staff will remain in regular contact with board members in crafting their response to these recommendations, with a standing monthly check-in to touch base on Council's progress. The DWSB also expects to be in regular contact with OLS and the Mayor's office in facilitating these recommendations. Given the devastating impact of COVID-19 on domestic workers, the DWSB strongly recommends that significant investment in advancing these recommendations begin as soon as possible, including through the 2021 supplemental budget process if necessary.

We greatly appreciate the opportunity to provide these recommendations to City Council and the Mayor, and we look forward to continued partnership in working towards a vision where all domestic work is visible, valued, and sustainable.

Appendix

All statistics in this appendix are based on a survey conducted by the Coalition in February and March 2021 or a survey conducted by the Seattle Domestic Workers Alliance in 2018 (2018 data marked by *). The data from the February-March 2021 survey was compiled as of 4/4/2021.

With very low wages, Seattle domestic workers struggle to care for themselves and their families.

- 96% of Seattle domestic workers are low income and 81% are very low income under federal poverty standards.*
- 46% struggle to pay rent or other bills.
- 28% delay accessing medical care.

Most domestic workers do not receive any of the basic worker benefits that many other workers take for granted. This includes paid sick time which means workers frequently end up going to work when they are sick.

- 57% of domestic workers receive no benefits at all.
- 58% of domestic workers do not receive any type of paid leave.
- Only 36% receive paid sick time, (64% do not receive paid sick time).
- Workers report that they regularly go to work when they are sick.
- 54% of workers do not have health insurance* and only 12% of domestic workers have health insurance through their employers.

For an overwhelming majority of domestic workers, access to paid time off is a top priority.

- 64% of domestic workers would pursue a new job offer that included paid time off or want to ensure that their next job provides PTO.

Many domestic workers work without a contract and have short term jobs with multiple employers, which presents unique challenges for developing a paid time off policy for this industry.

- 70% were paid directly by private households.*
- 30% typically work for 3 or more private households in a month.⁴
- 58% work less than 20 hours a week.
- 36% are paid in cash* and 21% are paid per job or weekly (vs. hourly), and 56% do not have a written contract.*
- 44% of workers report they are treated as neither employees nor independent contractors, which indicates employers' tendency to not recognize domestic work. Misclassification and confusion around classification results in many domestic workers not accessing paid time off benefits to which they are entitled.

⁴ The coalition has discovered through focus groups with domestic workers conducted after the survey was released that the figures on how many workers worked for three or more households in a month and how many worked less than 20 hours a week are both likely significant undercounts, based on how the survey questions were worded. Many workers appear to have answered these questions based on their current circumstances during the pandemic as opposed to pre-pandemic employment under normal conditions as was intended.

Survey data reveals that there is widespread support among employers and domestic workers for paid time off and a system that facilitates providing it.

- 87% of employer survey respondents support paid sick time for domestic workers and 69% support paid vacation. Over half of employer survey respondents (58%) believe agency and individual hiring entities should be responsible for benefits. As mentioned above, the fact that 64% of domestic workers would pursue a new job offer that included paid time off or want to ensure that their next job provides PTO, demonstrates support from domestic workers for paid time off.