

April 7, 2021

Arthur E. Gary
Acting Deputy Assistant Attorney General for Human Resources/Chief Human Capital Officer
Justice Management Division
U.S. Department of Justice
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Dear Mr. Gary:

The DOJ Gender Equality Network's (DOJ GEN) board of directors writes to express our concerns about the disparities among DOJ components' policies for granting employees administrative leave to obtain Covid-19 vaccines and recover from any side effects. DOJ GEN, which has approximately 775 members throughout the Department, urges DOJ to advance the Administration's top priority of ending the spread of the coronavirus by ensuring that *all* components offer, and notify employees of the opportunity to take, adequate vaccine-related administrative leave.

We recognize that there are sometimes legitimate reasons for components to tailor rules to their specific needs. But we have long had concerns about important workplace policies that differ sharply from component to component when there is no reason for inconsistency. Requiring employees to use their own accrued leave can present a significant barrier to vaccination, especially after an unprecedented year when many drained much of their own leave for health-related and caregiving purposes. Women in particular have been disproportionately affected; studies show that one in ten women in the United States have quit their jobs due to child care and family care demands, and 47% of women have had to take unpaid leave to meet child care demands.¹ Moreover, women have been found to experience side effects from Covid-19 vaccines more acutely.² Considering the inequity caused by inconsistent vaccine-related policies and the importance of vaccination to DOJ's mission, DOJ GEN can determine no legitimate reason for not consistently applying a policy granting adequate administrative leave for vaccine-related purposes across the Department.

As you know, vaccination is of the utmost importance to the United States. The Centers for Disease Control and Prevention has specifically recommended that employers "allow employees to get vaccinated during work hours or take paid leave to get vaccinated at a community site," and "implement policies and practices" to address "other potential barriers."³ Congress and President

¹ Usha Ranji, Brittni Frederiksen, Alina Salganicoff, and Michelle Long, *Women, Work, and Family During COVID-19: Findings from the KFF Women's Health Survey*, KAISER HEALTH NEWS (March 22, 2021), available at <https://www.kff.org/womens-health-policy/issue-brief/women-work-and-family-during-covid-19-findings-from-the-kff-womens-health-survey/>.

² See Melinda Wenner Moyer, *Women Report Worse Side Effects After a Covid Vaccine*, NEW YORK TIMES (March 8, 2021), available at <https://www.nytimes.com/2021/03/08/health/vaccine-side-effects-women-men.html>.

³ Centers for Disease Control and Prevention, *Workplace Vaccination Program* (last updated March 25, 2021), available at https://www.cdc.gov/coronavirus/2019-ncov/vaccines/recommendations/essentialworker/workplace-vaccination-program.html#anchor_1615585108235.

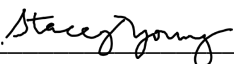
Biden also recognized the imperative of providing paid leave to all federal employees obtaining vaccinations or recovering from side effects by requiring it under the American Rescue Act of 2021.⁴

However, components are inconsistently applying the administrative leave authority available under DOJ Leave Administration Order 1630.1B. For example, the Office of Justice Programs allows supervisors to approve up to four hours of administrative leave for each vaccination appointment and up to eight hours to recover from side effects from either dose. The Civil Rights Division allows the same number of hours, but only permits eight hours to recover from the second dose. The Civil Division allows for up to four hours of administrative leave to obtain each dose, but says nothing about the use of administrative leave for vaccine recovery. And most concerning is that numerous components currently have no stated policy at all.

Covid-19 presents a health threat to everyone, and DOJ should clear the path to vaccination for all employees regardless of where in the Department they work. We hope that DOJ will do its part by ensuring that *every* component provides an adequate amount of administrative leave for employees to obtain the vaccine and recover from any side effects. And given the extraordinary nature of this public health emergency, we believe that it should do so now, without waiting for the Office of Personnel Management to issue implementation guidance for the American Rescue Act.

As always, we appreciate your consideration.

Respectfully,


Stacey Young

President, on behalf of DOJ GEN's Board of Directors:

Ilene Albala, Office of the U.S. Attorney for the Eastern District of Virginia
Georgette Brown, Bureau of Prisons
Eliza Dermody, Civil Rights Division
Lindsay Dunn, Civil Division
Shana Eaton, National Security Division
Stefanie Hennes, Civil Division
Melanie Krebs-Pilotti, Vice President, Antitrust Division
Carmel Morgan, Civil Division
Heather Moss, Office of Justice Programs
Colleen Phillips, Civil Rights Division
Carolyn Vines Sapla, Bureau of Prisons
Mimi Tsankov, National Association of Immigration Judges
Kimberly Wilkins, Executive Office for Immigration Review
Liza Zamd, Civil Rights Division

⁴ Under Title IV, Sec. 4001 of the American Rescue Act of 2021, \$570,000,000 is appropriated to fund up to 600 hours of paid leave for a federal employee who is unable to work due to COVID-related reasons, including if the employee is "obtaining immunization related to COVID-19 or is recovering from any injury, disability, illness, or condition related to such immunization." Employees do not need to exhaust their own accrued sick or annual leave before using the leave that the law provides.