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United States Senate

COMMITTEE ON THE JUDICIARY

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February 9, 2016

VIA ELECTRONIC TRANSMISSION

Thomas E. Perez
Secretary
U.S. Department of Labor
200 Constitution Ave., NW
Room S-2018
Washington, DC 20210

Dear Secretary Perez:

In the fall of 2014, I sent inquiries to 19 agencies regarding their use of paid administrative leave. The information received in response to these inquiries formed the basis of a report issued by Judiciary Committee investigative staff on agency use of administrative leave.¹ This staff report confirmed the finding of an earlier report issued by the Government Accountability Office (GAO) that agencies are placing employees on extended periods of administrative leave for personnel-related matters, such as a pending disciplinary action or investigation into alleged misconduct.²

In order to address issues raised by the use and abuse of paid administrative leave, I, along with Senators Tester, Johnson, and Carper, have introduced comprehensive, bipartisan legislation that will ensure both fairness to employees and to

¹ *Agency Use of Administrative Leave*, Memorandum from Senate Judiciary Committee, Oversight and Investigations Staff for Senator Charles E. Grassley, to Senate Committee on the Judiciary, et al. (Nov. 30, 2015), available at <http://www.grassley.senate.gov/news/news-releases/grassley-releases-investigative-report-agencies%E2%80%99-use-paid-administrative-leave>.

² U.S. Gov't Accountability Office, GAO-15-79, *Federal Paid Administrative Leave: Additional Guidance Needed to Improve OPM Data* (2014) [hereinafter GAO Report].

the taxpayers when it comes to administrative leave.³ This commonsense legislation eliminates extended administrative leave and establishes meaningful, escalating controls on the use of new categories of leave for employees under investigation or in a notice period. These controls will ensure high-level oversight of extended paid leave practices and help curb abuse.

The Department of Labor was not among the agencies that I surveyed because of its relatively low use of administrative leave among CFO Act agencies.⁴ In particular, the Department of Labor had no employee on extended administrative leave—i.e., over a year or more—for the period of fiscal years 2011-2013.⁵ While the department had some cases of administrative leave for periods of more than six months—which do raise concerns—Labor appears to have successfully curbed the abuse of administrative leave for lengthier periods.

As such, the Department of Labor is positioned to shed light on best practices and lessons learned from its successes in limiting the use of extended administrative leave. Any insights the department can share will be valuable to agencies as they seek to restrain the use of administrative leave generally and in eventually implementing the proposed legislation. In addition, it will help inform the Office of Personnel Management, which has the duty to oversee and regulate the use of administrative leave under the bill. As such, please provide responses to the following questions:

1. To what does the Labor Department attribute to its relative success in limiting the amount of extended administrative leave used at the department?
2. What specific controls, guidance, or policies on the use of administrative leave does the Labor Department have in place?
3. What best practices has the department developed with respect to the implementation of its policies on administrative leave?
4. What challenges has the department encountered with respect to the use of administrative leave and what have been the lessons learned in addressing these challenges?

Please provide your responses to these questions no later than February 24, 2016. In addition, I request that you make knowledgeable officials available to brief my staff as

³ S. 2450, 114th Cong. (2016).

⁴ GAO Report, at 46.

⁵ *Id.*

on these issues as soon as possible. Please contact DeLisa Lay of my Committee staff at (202) 224-5225 should you have any questions and to schedule a briefing. Thank you for your cooperation in this important matter.

Sincerely,



Charles E. Grassley
Chairman
Senate Committee on the Judiciary

cc:

The Honorable Patrick Leahy
Ranking Member
Senate Committee on the Judiciary

Beth F. Cobert
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