

# United States Senate

WASHINGTON, DC 20510

May 18, 2020

The Honorable Eugene Scalia  
Secretary  
U.S. Department of Labor  
200 Constitution Ave. NW  
Washington, DC 20210

Dear Secretary Scalia:

We write to learn more about how the Department of Labor (Department or DOL) is targeting resources and support to communities of color experiencing magnified economic consequences of the COVID-19 pandemic. This crisis has exacerbated many of the longstanding structural barriers for people of color, in particular women of color, to securing and advancing within jobs with family-sustaining wages and benefits. We urge the Department to acknowledge these disparities and do everything in its power to ensure resources and support are readily available to communities of color most impacted by the pandemic.

Since public health experts began urging Americans to stay at home to slow the spread of COVID-19, and state and local officials mandated the abrupt closures of retail establishments, hotels, restaurants, schools, and other workplaces, the precipitous decline in economic activity across the U.S. has led to historic levels of unemployment. DOL's unemployment data through the first week of May show more than one in five workers has lost their job and more than 36.5 million workers have filed for unemployment benefits.<sup>1</sup> No community has been untouched by the unprecedented economic downturn, but the rate of job loss in communities of color has been particularly acute. Many of the jobs lost have been in industries that employ large numbers of workers of color, such as the retail, food service, and other service industries.<sup>2</sup> While unemployment rates increased sharply across all worker groups, they rose especially for workers of color: the unemployment rate reached 18.9 percent for Latino workers and 16.7 percent for Black workers, compared to 14.2 percent for white workers.<sup>3</sup>

The historic loss of economic opportunity in this country has been especially acute for women, and particularly women of color. In April, women lost over 11 million jobs.<sup>4</sup> The number of jobs lost in just one month was five times higher than the total reduction in women's employment experienced during the Great Recession of 2007-2009.<sup>5</sup> Women now account for

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<sup>1</sup> <https://www.nytimes.com/2020/05/14/business/economy/coronavirus-unemployment-claims.html>;  
<https://www.epi.org/blog/nearly-one-in-five-workers-applied-for-state-unemployment-insurance-benefits-in-the-last-seven-weeks-congress-must-act-to-mitigate-harm-from-unprecedented-joblessness/>

<sup>2</sup> <https://www.americanprogress.org/issues/race/news/2020/04/14/483125/economic-fallout-coronavirus-people-color/>

<sup>3</sup> <https://www.bls.gov/news.release/pdf/empsit.pdf>

<sup>4</sup> <https://iwpr.org/wp-content/uploads/2020/05/QF-Breadwinner-Mothers-by-Race-FINAL.pdf>

<sup>5</sup> *Id.*

55 percent of workers who have lost their jobs since the pandemic began.<sup>6</sup> But while the unemployment rate for white women was 15 percent in April, the unemployment rates for Black women and Latinas were 16.4 percent and 20.2 percent, respectively.<sup>7</sup>

These high rates of job loss exacerbate the economic hardship women of color already experience in this country. The well-documented, pervasive wage gap means women who work full-time are paid approximately 82 cents for every dollar paid to men, which amounts to a loss of \$407,760 over a standard career.<sup>8</sup> For Black women, Latinas, and Native women, the loss amounts to \$1 million over their careers.<sup>9</sup> Women of color are underpaid despite the fact that roughly 68 percent of Black mothers and 41 percent of Latina mothers are the primary breadwinners in their families—compared with 37 percent of white mothers.<sup>10</sup> Women of color also face a number of additional challenges that can lead to economic insecurity. For example, workers of color are far more likely to be paid poverty-level wages than white workers.<sup>11</sup> Additionally, women are overrepresented in tipped jobs and thus disproportionately experience wage theft, which exacerbates the economic insecurity they likely already face.<sup>12</sup> Women of color are also overrepresented in jobs that fail to provide access to critical benefits like employer-sponsored health insurance, paid sick leave, and paid family and medical leave, leaving many families of color without sufficient safety nets to help weather this crisis. Unfortunately, these examples represent just a few of the many difficulties women of color face in the workplace.

While many workers of color are experiencing unemployment, those who remain employed are overrepresented in jobs on the frontlines. People of color comprise 40 percent of workers in six “essential” industries, including more than 56 percent of building cleaning service workers, 45 percent of transit workers,<sup>13</sup> 49 percent of home health care and personal health care workers, and 30 percent of registered nurses.<sup>14</sup> Moreover, people of color are generally less likely to be able to work remotely: Bureau of Labor Statistics data show in 2017-2018, only 20 percent of Black workers and 16 percent of Latino workers could work remotely, compared to 30 percent of white workers.<sup>15</sup> These workers are keeping the country running, and in doing so, are put at far greater risk of exposure to COVID-19 than workers who are able to work from home, potentially contributing to the disproportionately high rates of infections among Black, Latino, and Asian-American/Pacific Islander families. The lack of an Emergency Temporary Standard and strong enforcement from the Occupational Safety and Health Administration (OSHA) have left the lives and wellbeing of these workers to the whims of their employers. The dual stress of

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<sup>6</sup> <https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2020/05/Jobs-Day-April-Factsheet.pdf>

<sup>7</sup> <https://www.bls.gov/news.release/pdf/empsit.pdf>

<sup>8</sup> <https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2020/03/Women-and-the-Lifetime-Wage-Gap.pdf>

<sup>9</sup> *Id.*

<sup>10</sup> <https://www.epi.org/blog/workers-of-color-are-far-more-likely-to-be-paid-poverty-level-wages-than-white-workers/>

<sup>11</sup> *Id.*

<sup>12</sup> <http://www.georgetownpoverty.org/wp-content/uploads/2019/02/GCPI-ESOI-Wage-Theft-FS-20190110-1.pdf>

<sup>13</sup> <https://cepr.net/a-basic-demographic-profile-of-workers-in-frontline-industries/>

<sup>14</sup> <https://www.americanprogress.org/issues/race/news/2020/04/14/483125/economic-fallout-coronavirus-people-color/>

<sup>15</sup> <https://www.washingtonpost.com/business/2020/03/22/working-home-reveals-another-fault-line-americas-racial-educational-divide/>; <https://www.bls.gov/news.release/flex2.t01.htm>

unemployment and high rates of COVID-19 infection has placed tremendous strain on communities of color.

Another result of this pandemic that is deeply disturbing and disproportionately affects women, especially women of color, is a rise in domestic violence as people are forced to stay at home. Women, particularly women of color and indigenous women, typically are disproportionately affected by intimate partner violence: Black women experience intimate partner violence at a rate 35 percent higher than white women, and Native Americans experience rape or sexual assault at more than double the rate of other racial groups. Over the last two months, law enforcement agencies across the country have reported increasing rates of gender-based violence,<sup>16</sup> and the National Domestic Violence Hotline has reported over 2,000 calls that cite COVID-19 as a condition of abuse.<sup>17</sup> The realities of sheltering in place may make it even more difficult to escape an abusive situation, especially for those who already face additional barriers to reporting violence.

The COVID-19 pandemic has shone a bright light on these and myriad other racial and gender disparities within our economic system that have persisted for far too long. We must acknowledge and do everything we can to address these disparities. As DOL works to administer programs to address unemployment, workforce training, and employment services, and to enforce workers' rights during the COVID-19 pandemic, it is critical the Department assess systemic inequality and target communities most in need of assistance. We request answers to the following questions no later than June 1, 2020:

1. The economic uncertainty and historically high unemployment caused by the pandemic has given employers even more leverage over workers, enabling scofflaw businesses to take advantage of workers and engage in wage theft, which women and workers of color experience at disproportionate rates.<sup>18</sup> What actions is the Department taking to ensure violations of the minimum wage, overtime pay, and tip protections of the Fair Labor Standards Act are vigorously investigated?
2. Given the Department has temporarily suspended or substantially restricted on-site investigations of potential violations of wage and hour, occupational health and safety, anti-discrimination, and other workers' rights laws that may disproportionately affect communities of color, what steps is the Department taking to enforce the law during this pandemic?
3. Due to the further delays in justice that these workers will face due to the Department's temporary suspension of in-person investigations as well as the various barriers presented by the pandemic generally, will the Department be seeking the equitable tolling of statutes of limitations of the laws it enforces? Would the Department support Congressional action to toll the statutes of limitations of the laws it enforces during the pandemic?

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<sup>16</sup> <https://www.nbcnews.com/news/us-news/police-see-rise-domestic-violence-calls-amid-coronavirus-lockdown-n1176151>

<sup>17</sup> <https://www.forbes.com/sites/rachelsandler/2020/04/06/domestic-violence-hotline-reports-surge-in-coronavirus-related-calls-as-shelter-in-place-leads-to-isolation-abuse/#73450661793a>

<sup>18</sup> <https://www.epi.org/publication/employers-steal-billions-from-workers-paychecks-each-year/>

4. Please outline any grant programs or other initiatives the Women’s Bureau plans to deploy this fiscal year specifically targeted to increasing employment for women, and particularly women of color, impacted by the COVID-19 crisis.
5. On March 18, the Office of Federal Contract Compliance Programs (OFCCP) announced a three-month exemption and waiver to “all affirmative action obligations of supply and service and construction contracts” and other equal opportunity obligations for “covered contracts entered into specifically to provide Coronavirus relief.”<sup>19</sup> What steps will OFCCP take to ensure communities of color, and particularly women of color, have equal employment and advancement opportunities with federal contractors and subcontractors under exempted contracts?
6. What is DOL doing to work with states to remove structural barriers impeding workers, particularly workers of color, from claiming unemployment compensation?
7. How is DOL working to target communities of color, and particularly women of color, in its workforce employment and training activities, including through grant programs and guidance, in response to the pandemic?
8. The Coronavirus Aid, Relief, and Economic Security (CARES) Act provided \$345 million for national Dislocated Worker Grants. The Employment and Training Administration (ETA) has already received \$932 million worth of requests, but only has obligated \$171 million. How are these grants supporting authorized employment and training activities in communities of color? Please provide a plan and timeline for obligating available funds.
9. Approximately 22 percent of homes do not have internet, and low-income Black and Hispanic households are less likely to have home internet than their low-income white counterparts.<sup>20</sup> Additionally, many individuals lack consistent access to a laptop or computer. Given that many workforce services and training programs have moved online, what steps has DOL taken to ensure participants can engage remotely, especially low-income workers of color?
10. According to the National Skills Coalition, 48 million Americans lack digital literacy skills and may not be able to take advantage of online training, even if they have access to the internet.<sup>21</sup> What steps has DOL taken to address disproportionately low digital literacy skills among workers in industries like retail and food services that will be heavily impacted by COVID-19-related job loss?
11. How is the Office of Unemployment Insurance (OUI) working with the Department of Education to inform applicants for, and recipients of, unemployment insurance about

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<sup>19</sup> <https://www.dol.gov/sites/dolgov/files/OFCCP/National-Interest-Exemption-Memo-Coronavirus-Relief-Efforts.pdf>

<sup>20</sup> <https://www.freepress.net/news/press-releases/members-congress-digital-rights-and-social-justice-advocates-call-covid-19>


<sup>21</sup> <https://software.org/blog/digital-fluency-for-a-resilient-economy/>

their eligibility for federal student aid and workforce training resources, similar to outreach the Department conducted in 2009?<sup>22</sup>

12. The CARES Act provided additional funding for Pandemic Unemployment Assistance (PUA); the Department has clarified that survivors of domestic violence, sexual assault, or stalking can be eligible to receive PUA. How is DOL working with states and other stakeholders to ensure survivors of domestic violence, sexual assault, and stalking, including those with language access needs, are aware of their potential eligibility for PUA or for unemployment insurance benefits in states where state laws around good cause for leaving a job due to domestic violence, sexual assault, or stalking may not be clear?
13. How is the Department working with states and institutions of higher education to inform students of their potential eligibility for PUA, given that students are often ineligible for traditional unemployment insurance benefits?<sup>23</sup>
14. As the Department has so far refused to direct OSHA to issue an Emergency Temporary Standard that would help protect workers of color on the frontlines of this crisis, what steps is the Department taking to require employers to ensure worker health and safety?

Thank you for your attention to this matter. If you have any questions, or would like to discuss this request, please contact Michael Huggins, Democratic staff for the Health, Education, Labor, and Pensions Committee, at (202) 224-0767, or Kelsey Mellette, staff for Sen. Kamala Harris, at (202) 224-3553.

Sincerely,

  
PATTY MURRAY  
United States Senator

  
KAMALA D. HARRIS  
United States Senator

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<sup>22</sup> <https://ifap.ed.gov/dear-colleague-letters/05-08-2009-gen-09-05-subject-update-use-professional-judgment-financial-aid>

<sup>23</sup> <https://tcf.org/content/commentary/pandemic-unemployment-insurance-mean-college-students/>