

POLITICS / CORONAVIRUS

The Justice Department Isn't Giving Employees Enough Guidance On Working During The Coronavirus Pandemic, Workers Say

A DOJ employee group sent a letter to leadership Monday saying some offices have yet to put out policies addressing paid leave and flexible work schedules.



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Attorney General Bill Barr speaks at President Donald Trump's daily coronavirus briefing, April 1.

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WASHINGTON — A group representing hundreds of Justice Department employees sent a letter to department

leadership on Monday identifying inconsistencies in DOJ's response to employees juggling work and family during the coronavirus pandemic.

Each office within the Justice Department has been responsible for developing policies that address how employees can work during the pandemic, including how much flexibility they have while working from home, and how much additional coronavirus-related paid leave they can get while caring for elderly relatives and children home from school. Those policies vary, and some offices haven't issued one at all, according to a letter from the DOJ Gender Equality Network (DOJ GEN) to management obtained by BuzzFeed News.

"[M]any workers are now in their fourth week of teleworking with no caretaking assistance and have been forced to use considerable amounts of annual leave," DOJ GEN wrote.

The letter doesn't call out offices by

name, and DOJ GEN President Stacey Young declined to comment, but BuzzFeed News reviewed copies of four policies that show one of the differences. Lawyers and staff in the Environment and Natural Resources Division received a memo making clear they could ask for special paid leave — excused absences from work under what's known as “evacuation pay” authority — to apply retroactively. Memos issued to staff in the Civil Division, Antitrust Division, and Executive Office for Immigration Review don't include language about that.

DOJ GEN asked department leadership to address the disparity, noting that the State Department had allowed for retroactive administrative leave going back to mid-February.

DOJ employees facing coronavirus-specific job pressures have raised concerns about the department's response to the pandemic so far. Immigration judges and prosecutors

have protested the department's decision to keep some immigration courts open during the pandemic. The union representing the Federal Bureau of Prisons employees has accused the government of failing to provide enough protective equipment and take other steps to keep staff and inmates safe. A class action lawsuit filed in federal court last month accuses the government of failing to pay special "hazard pay" to BOP employees and other federal workers exposed to the coronavirus.

"Uniformly the communication has been absolutely horrible," said Heidi Burakiewicz, the lead attorney for the BOP and other federal workers who filed the hazard pay lawsuit. "It's been contradictory, it's not been uniform."

DOJ GEN in March had sent letters to department leadership asking for teleworking flexibility, paid administrative leave, and better communication about employees testing positive for COVID-19, the

disease caused by the novel coronavirus.

The Office of Personnel Management has been issuing guidance to federal agencies about how to handle teleworking and other working conditions during the pandemic, but it's up to each agency to develop and carry out its own policy. On April 1, the head of DOJ's administrative office Lee Lofthus sent a memo to all office heads saying they could grant teleworking employees excused absences to care for kids and elderly relatives, and delegated specific policymaking to each office.

In response to DOJ GEN's letter, the department sent this statement to BuzzFeed News: "The Department of Justice is enacting all work flexibility guidance issued by [the Office of Management and Budget] and OPM. Based on evacuation orders, the Department of Justice Management Division issued additional flexibility guidance to executive officers for implementation on April 1. The Department of Justice will continue to

take measures to protect employees while ensuring critical DOJ functions such as national security continue.”

Since April 1, some DOJ components have issued policies specifying that employees can take up to 20 hours of excused absences per two-week pay period, but some haven’t yet, according to the letter that DOJ GEN sent to Lofthus and Deputy Attorney General Jeffrey Rosen on Monday.

The letter says that “many” of the dozens of components that fall under the Justice Department haven’t issued new policies in response to the April 1 memo, and that, of those that have, some are more employee-friendly than others.

In addition to the issue of retroactive excused absences, the DOJ GEN letter said that some offices have eliminated “core job hours” requirements — giving employees flexibility to do work outside of a normal schedule — and have allowed employees to temporarily

switch to part-time status. Other offices haven't issued specific policies allowing for those changes, according to the group.

"DOJ GEN members have written to express how appreciative they are of these policies, and how meaningful it is that their components support them and their families during this unprecedented time," the group wrote.

Judge A. Ashley Tabaddor, speaking as president of the National Association of Immigration Judges, told BuzzFeed News that the immigration judges' union was still waiting for clarity on issues like flexible hours and part-time status. She said that the Executive Office for Immigration Review, which manages US immigration courts, had an "abysmal" response to the pandemic so far.

DOJ GEN, which says it represents more than 550 employees across the department, did thank Lofthus for issuing the April 1 memo with guidance

on paid leave and said that DOJ leadership had taken some steps that “alleviated some of the safety concerns and distress that many DOJ workers experienced in the last few weeks.”

The head of the Civil Division, Joseph “Jody” Hunt, sent all staff a message of support shortly after 1:30 a.m. on April 11, a Saturday.

“In addition to the issues associated with social distancing and our concern for family, friends, and neighbors, many of you are now having to juggle difficult personal responsibilities along with your professional obligations,” Hunt wrote, according to a copy of the email read to BuzzFeed News. “These are complicated times and as a division we are endeavoring to do everything we can to ensure that you are provided the flexibilities necessary to attend to your personal situation while doing your job.”

If you're someone who is seeing the impact of the coronavirus firsthand, we'd like to hear from you. Reach out to us via one of our tip line channels.

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