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April 24, 2023

**VIA ELECTRONIC TRANSMISSION**

The Honorable Julie A. Su  
Acting Secretary  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, DC 20001

Acting Secretary Su:

Earlier this week, The New York Times released another alarming report that the administration, including senior leaders in the Department of Labor (DOL), repeatedly ignored warnings and missed signs that migrant children were being exploited for cheap labor.<sup>1</sup> The prevalence of migrant children being forced into dangerous labor, working overnight shifts, and having to miss or drop out of school as a result, is simply unacceptable. DOL must do more to confront this egregious violation of federal labor law head-on.

On February 25, 2023, The New York Times released an investigation highlighting how the influx of migrant children is fast becoming part of a “new economy of exploitation” that includes “[t]welve year old roofers in Florida and Tennessee,” “underage slaughterhouse workers in Delaware, Mississippi and North Carolina,” and “[c]hildren sawing planks of wood on overnight shifts in South Dakota.”<sup>2</sup> As part of their investigation, The New York Times spoke with more than 100 migrant child workers in 20 states who described punishing work replacing roofs, operating machinery in factories, and working with caustic chemicals—all in violation of federal child labor laws that are in place to protect them.<sup>3</sup>

The increased prevalence of migrant children working dangerous jobs appears to coincide with the Biden administration’s decision to exempt unaccompanied migrant children from the requirements of Title 42 of the United States Code. In 2022 alone, the number of unaccompanied migrant children entering the United States climbed to a high of 130,000, three times what it was five years

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<sup>1</sup> Hannah Dreier, *As Migrant Children Were Put to Work, U.S. Ignored the Warnings*, THE NEW YORK TIMES (Apr. 17, 2023), <https://www.nytimes.com/2023/04/17/us/politics/migrant-child-labor-biden.html>.

<sup>2</sup> Hannah Dreier, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, THE NEW YORK TIMES (Feb. 25, 2023), <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html> (the byline notes Ms. Dreier “traveled to Alabama, Florida, Georgia, Michigan, Minnesota, South Dakota and Virginia” for the story and “spoke to more than 100 migrant child workers in 20 states”).

<sup>3</sup> Dreier, *supra* note 1.

earlier.<sup>4</sup> According to The New York Times, the prevalence of migrant child labor and exploitation “has exploded since 2021, while the systems meant to protect children have broken down.”<sup>5</sup> By early 2021, “the Biden administration reported more than 18,000 immigrant children in its custody, with roughly 12,500 of them in government shelters” and “another 5,500 . . . being held in temporary Border Patrol holding facilities waiting to be transferred to shelters.”<sup>6</sup> In another article, The Wall Street Journal noted that “[t]he growing number of children crossing the border alone” in early 2021 “has overwhelmed government resources.”<sup>7</sup>

DOL’s Wage and Hour Division (WHD) is responsible for enforcing the Fair Labor Standards Act which governs the wages and hours of work, including child labor protections.<sup>8</sup> However, according to The New York Times, DOL WHD District Offices “barely respond to [child labor] complaints, much less open original investigations.” DOL also typically tracks, and makes public, fatal work injuries, but as of 2017, it no longer makes public fatal work injuries of foreign-born workers including children.<sup>9</sup> The Times’ investigative reporting highlighted stories like a young boy “working 12-hour days on dairy farms in the four years since” he arrived in Middlebury, Vermont at the age of 14, who “crushed his hand in an industrial milking machine.”<sup>10</sup> Because DOL has been severely lacking in collecting data about child workplace injuries, however, “most of these injuries go uncounted.”<sup>11</sup>

The New York Times’ investigation also revealed that DOL has been derelict in its duty to enforce federal child labor laws, allowing the continued exploitation of children at levels likely not seen since the height of the industrial revolution over a century ago. The investigation revealed shocking reports of children younger than 14 engaged in labor that is “grinding them into exhaustion,” leading them to “become trapped in circumstances they never could have imagined.”<sup>12</sup> The reports of children suffering severe injuries in the workplace, such as “hav[ing] their legs torn off in factories and their spines shattered on construction sites,” sound more like something out of an Upton Sinclair novel than anything that should be expected in our modern American century.<sup>13</sup>

After The New York Times released its investigative findings, on February 27, 2023, DOL and the Department of Health and Human Services (HHS) announced a DOL-led interagency task force to combat child labor exploitation to, among other things, “further collaboration and improve

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<sup>4</sup> Dreier, *supra* note 2.

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

<sup>6</sup> Alicia A. Caldwell & Michelle Hackman, *Border Crossings by Migrant Children to Rise Sharply, U.S. Estimates Show*, THE WALL STREET JOURNAL (MAR. 26, 2021), <https://www.wsj.com/articles/border-crossings-by-migrant-children-to-rise-sharply-according-to-internal-u-s-government-estimates-11616800942>.

<sup>7</sup> *Id.*

<sup>8</sup> Press Release, U.S. Dep’t of Health and Hum. Servs., U.S. Departments of Labor and Health and Human Services announce additional steps to tackle child labor violations, strengthening coordination (Mar. 24, 2023), <https://www.hhs.gov/about/news/2023/03/24/us-departments-labor-health-human-services-announce-additional-steps-tackle-child-labor-violations-strengthening-coordination.html>.

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

<sup>10</sup> Dreier, *supra* note 2.

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

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

information sharing among agencies.”<sup>14</sup> On March 24, 2023, DOL and HHS formalized the partnership between the agencies, and outlined the procedures to be followed to address information sharing, coordination, training, and education.<sup>15</sup> While this is a step in the right direction, I am concerned that it will not resolve the finger-pointing and blame-shifting we have seen among the various agencies in this administration when it comes to child labor. For instance, in interviews with The New York Times, HHS officials said monitoring workplaces for child labor violations “was the job of the Department of Labor,” while DOL officials countered that it “was not a welfare agency.”<sup>16</sup> The White House also contends that the information and reports passed between HHS and DOL about child labor violations “were not flagged as urgent and did not make clear the scope of the problem.”<sup>17</sup>

The New York Times revealed a particularly damning example of blame-shifting that occurred while you were serving as Deputy Secretary of Labor in 2022. DOL investigators discovered migrant child labor inside industrial workplaces, including several auto part factories, when they began a major probe of child labor violations at Packers Sanitation Services, Inc., one of the largest food sanitation companies in the U.S.<sup>18</sup> The investigation reports that DOL included details about these probes in weekly cabinet-level reports, and quotes former Secretary Marty Walsh saying, “It was like, ‘We have problems here’ . . . We sent reports to the White House, so they knew we were working on this stuff.”<sup>19</sup> However, White House Deputy Press Secretary, Andrew Bates, responded that officials there “had not known of the increase in child labor until The Times’s February report.”<sup>20</sup> As former Secretary Walsh said, “[e]veryone has a responsibility here,”<sup>21</sup> but DOL, HHS, and the White House seem to be involved in an ongoing blame game by deflecting their respective responsibilities onto other agencies. Forming an inter-agency task force to collaborate and share information will not make a meaningful impact on this crisis unless this administration, including DOL, takes responsibility to address the exploitation of migrant children.

During your confirmation hearing on April 20, 2023, you testified before the U.S. Senate Health, Education, Labor & Pensions Committee that you worked “side-by-side” with Marty Walsh.<sup>22</sup> Therefore, it is reasonable to assume that you are intimately familiar with this issue. As President Biden’s pick to replace Marty Walsh as Secretary of Labor, you are also ultimately responsible for DOL’s response to this crisis. Therefore, I ask that you specifically outline how you intend to combat the clear violations of federal labor law that have now been well documented, and request you answer the following questions, on a question-by-question basis, by **close of business on April 25, 2023.**

1. What do you believe DOL’s role is in preventing child labor violations?

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<sup>14</sup> Press Release, U.S. Dep’t of Lab., Departments of Labor, Health and Human Services Announce New Efforts to Combat Exploitative Child Labor (Feb. 27, 2023), <https://www.dol.gov/newsroom/releases/osec/osec20230227>.

<sup>15</sup> *Id.*

<sup>16</sup> Dreier, *supra* note 1.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> Press Release, U.S. Dep’t of Lab., *supra* note 14.

<sup>22</sup> *Nomination of Julie Su to serve as Secretary of Labor: Hearing Before the S. Comm. on Health, Educ., Lab., and Pensions*, 118th Cong. 1 (Apr. 20, 2023) (statement of Julie A. Su, nominee for Sec’y of Lab.).

2. When did you become aware that migrant children were being exploited to work in hazardous conditions?
3. As Deputy Secretary, what steps have you taken over the last two years to notify the White House and HHS of the child labor law violations DOL has discovered?
4. Do you agree with the White House's assertion that they "had not known of the increase in child labor" until The New York Times published their investigation in February 2023? If not, what steps did you, Marty Walsh, and the DOL at large take to alert the White House of the increase in child labor violations?
5. If confirmed as Secretary of Labor, what actions will you take to improve DOL's communication with HHS, the White House, and other relevant federal agencies in order to ensure that reports of child labor law violations are not ignored or missed in the future?
6. As part of its recently announced interagency task force, please explain how DOL will address child labor violations. In addition, please provide:
  - a. An overview of the types of data DOL will collect and use to prevent the exploitation of child labor.
  - b. Will this initiative require the collection of any data that DOL does not already collect? If so, what types of data does DOL not collect?
  - c. How will this data be used to address child labor violations?
  - d. Will DOL commit to making public foreign-born work injuries for children and adults? If not, why not?
7. What steps are you taking to increase DOL's enforcement activities around violations of child labor law? Please describe in detail.

Thank you for your attention to this matter, and I look forward to your prompt response.

Sincerely,



Bill Cassidy, M.D.  
Ranking Member  
U.S. Senate Committee on Health,  
Education, Labor, and Pensions