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July 11, 2024

The Honorable Julie Su
Acting Secretary of Labor
U.S. Department of Labor
200 Constitution Ave NW
Washington, DC 20210

Dear Acting Secretary Su:

As part of our ongoing examination of the resurgence of oppressive child labor and the tools available to the Department of Labor (DOL) to address the problem, we write to explore the potential risk of child labor and occupational safety and health violations in programs backed by federal funding or approvals. The programs of specific concern are federal workforce investment programs authorized under the *Workforce Innovation and Opportunity Act (WIOA)* and school-based Work Experience and Career Explorations Programs (WECEPs), which DOL approves as part of its implementation of the child labor provisions of the *Fair Labor Standards Act of 1938 (FLSA)*.

The purpose of these programs is to expose children ages 14 and older to work experiences where they can gain valuable in-demand skills, but two recent cases have highlighted the possibility that children participating in them could be exposed to child labor and occupational safety and health violations:

- DOL announced in February that it had cited a national workforce provider for a child labor violation in Pennsylvania.¹ The firm in question was Equus Workforce Solutions (Equus), a national for-profit organization that serves as a contractor for local workforce boards by, among other things, operating Job Corps and one-stop centers.² As the contractor for Workforce Solutions for North Central PA delivering WIOA-funded Work

¹ Wage & Hr. Div., *US Department of Labor Investigation Finds Pennsylvania Employment Service Agency Equus Workforce Solutions Violated Federal Child Labor Laws*, DEP'T OF LAB. (Feb. 1, 2024), <https://www.dol.gov/newsroom/releases/whd/whd20240201> [hereinafter *WHD Announcement*].

² *About Equus*, EQUUSWORKS.COM, <https://equusworks.com/about-equus/> (last visited May 9, 2024).

Experience Programs, Equus placed nine minors aged 14 and 15 with a local employer, Majestic Trails, which employed them outside of permitted hours and assigned several of them to work with equipment in violation of DOL hazardous occupation orders.³ One minor, who was illegally permitted to work with a chain saw and pole saw, experienced an injury.⁴ Although Majestic Trails permitted the employment in violation of FLSA rules, the firm does not appear to have been cited as a joint employer and may be continuing to receive WIOA funds.⁵

- The State of Washington’s labor department announced in January that it had cited the construction firm Rotschy LLC (Rotschy) for state occupational health and safety violations after a 16-year-old lost both of his legs during a work-based learning program.⁶ The boy had been using a walk-behind trencher to dig a channel for fenceposts when he was dragged under the blades.⁷ Although the State of Washington authorizes student-learner exemptions from some of its state law restrictions on the employment of children, much as DOL itself does,⁸ the walk-behind trencher was not included in the firm’s exemption.⁹ Just three months later, the state cited Rotschy again for state child labor violations involving multiple occasions of allowing minor employees to use hazardous equipment.¹⁰ Follow-up reporting revealed that Rotschy has a record of dozens of state child labor violations and that a Rotschy manager claimed the firm “started hiring more and more minors” because of the student-learner exemption from hazardous machinery prohibitions.¹¹ A Rotschy official continues to serve on the board of directors of Workforce Southwest Washington, the local workforce board distributing WIOA funds.¹²

³ Email from Pam Streich, Exec. Dir., Workforce Solutions for North Central PA, to Dem. Staff of H. Comm. on Educ. & the Wrkf. (Mar. 7, 2024) [hereinafter Streich Email]; Conversation with Mark Douglass, Chief Exec. Off., Equus Workforce Solutions (Mar. 6, 2024).

⁴ WHD Announcement, *supra* note 1.

⁵ According to the local workforce board, the employer is currently being used as a site for a work experience program with adults. Streich Email, *supra* note 3.

⁶ *Young Worker Loses Both Legs to Trenching Machine, Leading to Fines, Further Investigation into Vancouver Construction Company*, WASH. LAB. & INDUS. (Jan. 23, 2024), <https://www.lni.wa.gov/news-events/article/24-01> [hereinafter L&I Announcement].

⁷ *Id.*

⁸ See 29 C.F.R. §§ 570.36 (work experience and career exploration variances from child labor orders), 570.50(c) (student learner exemption); WASH. DEP’T OF LAB. & INDUS., ES.C.11, STUDENT LEARNER EXEMPTION FOR WORKSITE LEARNING AND APPRENTICESHIPS IN CERTAIN HAZARDOUS WORK (Dec. 29, 2020), https://lni.wa.gov/workers-rights/_docs/esc11.pdf.

⁹ L&I Announcement, *supra* note 6.

¹⁰ *L&I Adds Child Labor Violations to Safety Citations Against Vancouver Construction Company Where Teen Worker Lost His Legs*, WASH. L&I (Mar. 19, 2024), <https://www.lni.wa.gov/news-events/article/24-03>.

¹¹ Mallory Gruben, *Vancouver Firm Fined in Grisly Accident Is Repeat Child Labor Offender*, N.W. LAB. P. (Apr. 4, 2024), <https://nwlaborpress.org/2024/04/vancouver-firm-fined-in-grisly-accident-is-repeat-child-labor-offender/>.

¹² Board, WRKF. S.W. WASH., <https://workforcesw.org/about-workforce-sw-washington/board> (last visited Apr. 24, 2024).

As you explained during a recent Committee hearing, we know about the first case because DOL discovered the violation and initiated the process of assessing civil monetary penalties.¹³ DOL's strategic enforcement efforts to address the resurgence of child labor—despite persistent underfunding—are impressive.

As we continue our inquiry into child labor, we view these cases as an opportunity to explore the interrelationship between youth workforce programs, unsafe work, and oppressive child labor and the extent to which legislation may be needed. Our central question is whether DOL currently has sufficient tools at its disposal to ensure that children can participate in such programs free from oppressive child labor and unsafe working conditions.

Accordingly, we request your responses by no later than August 12, 2024, to the following questions:

1. Do existing DOL data collections enable DOL to identify injuries, illnesses, fatalities, or oppressive child labor violations in (a) WIOA-funded workforce programs for young people under age 18, or (b) WECEPs? If the answer is yes, please provide such data for the last five years.
2. Please explain how DOL conducts oversight of WIOA implementation to ensure the safety and wellbeing of children participating in WIOA-funded programs, and include answers to the following:
 - a. Does DOL require WIOA funding recipients, subrecipients, or their contractors to prevent the placement of children in workplaces that would expose them to oppressive child labor or health and safety hazards? If so, through what means are such requirements enforced?
 - b. Are workforce boards required, by statute or regulation, to review an employer's record of past violations before awarding funds to such employers? If the answer is yes, please cite the relevant statutory or regulatory provision.
 - c. Are workforce boards required, by statute or regulation, to take any steps to prevent employers with a record of child labor or other employment law violations from playing a role in the leadership of such boards or having any influence on decisions about uses of WIOA funds?
 - d. Does DOL have any means to suspend or prohibit employers with records of child labor or health and safety violations from employing children who participate in WIOA-funded programs?
3. DOL grants approvals to State Educational Agencies (SEAs) to operate WECEPs that depart from some child labor rules, including any requests for special variations from rules limiting permissible occupations for children ages 14 and 15.¹⁴ DOL retains the right to withdraw its approval of a WECEP and of any such special variation.¹⁵ Please

¹³ *House Education and the Workforce Committee Holds Hearing on Labor Department Policies and Priorities*, CQ CONG. TRANSCRIPTS (May 1, 2024) (transcribing *Examining the Policies and Priorities of the Department of Labor: Hearing Before the H. Comm. on Educ. & the Wrkf.*, 118th Cong. (2024)).

¹⁴ 29 C.F.R. § 570.36.

¹⁵ *Id.*

explain how DOL conducts oversight of WECEPs to ensure the safety and wellbeing of children participating in them, and include answers to the following:

- a. How many (i) WECEPs and (ii) special variations under 29 C.F.R. § 570.36(c) are currently in effect?
 - b. In the last 10 years, how many requested approvals for (i) WECEPs and (ii) special variations has DOL withdrawn or rejected?
 - c. Does DOL require SEAs to log or report injuries, illnesses, or child labor violations by host employers?
 - d. If an employer has a record of child labor or occupational safety and health violations, does DOL (i) suspend or prohibit any such employer from serving as a host employer in a WECEP, or (ii) require SEAs to screen for such records when determining whether to place a student with an employer?
4. President Trump signed a *Congressional Review Act* resolution nullifying regulations to ensure that federal contractors comply with workplace standards such as safety rules and child labor policies.¹⁶ To what extent, if any, does that decision constrain DOL from ensuring that federal funds do not subsidize child labor or other employment law violations?

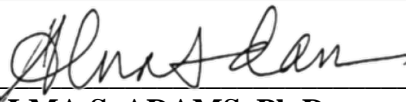
We would have preferred to raise these issues during a committee hearing focused on child labor. Unfortunately, although we have twice asked Rep. Virginia Foxx, Chair of the Committee on Education and the Workforce, to hold such a hearing,¹⁷ she has yet to agree to our requests.

Please send all official correspondence and information related to these requests to the Committee's Democratic Staff Assistant, Ni'Aisha Banks at Niaisha.Banks@mail.house.gov. If DOL has any questions about how to comply with a request, please contact Scott Estrada at Scott.Estrada@mail.house.gov and Bob Shull at Robert.Shull@mail.house.gov.

Sincerely,



ROBERT C. "BOBBY" SCOTT
Ranking Member



ALMA S. ADAMS, Ph.D.
Ranking Member
Subcommittee on Workforce Protections

¹⁶ Guidance for Executive Order 13673, "Fair Pay and Safe Workplaces," 82 Fed. Reg. 51358 (Nov. 6, 2017).

¹⁷ See Letter from Reps. Robert C. "Bobby" Scott & Alma S. Adams to Rep. Virginia Foxx (Sept. 13, 2023), <https://democrats-edworkforce.house.gov/download/scott-adams-second-letter-to-foxx-re-request-for-child-labor-hearing>; Letter from Reps. Robert C. "Bobby" Scott & Alma S. Adams to Rep. Virginia Foxx, (June 6, 2023), <https://democrats-edworkforce.house.gov/download/scott-adams-letter-to-foxx-re-request-for-child-labor-hearing>.