

From: **Meindl, Max** <max.meindl@fema.dhs.gov>
To: **femamax@gmail.com** <femamax@gmail.com>
Subject: FW:
Date: 08.06.2020 19:05:50 (+02:00)
Attachments: 2302. Prohibited personnel practices.eml (19 pages), PART 752-ADVERSE ACTIONS.eml (10 pages), statute.eml (7 pages), RE FMLA Recertification - M. Meindl.eml (4 pages)

Max J Meindl, PMP
Emergency Management Specialist | Program Delivery Manager | Houston TRO | FEMA-Recovery
Directorate | DHS
Mobile: 202-374-9426
max.meindl@fema.dhs.gov

Federal Emergency Management Agency
www.FEMA.gov



WARNING: This email contains FOR OFFICIAL USE ONLY (FOUO) OR PRIVACY DATA.

It may contain information exempt from public release under the Freedom of Information Act (5 U.S.C. 552).

The information contained herein must be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO/PII information and is not to be released to the public or other personnel who do not have a valid "need-to-know" without prior approval of an authorized DHS official.

From: Meindl, Max
Sent: Tuesday, March 24, 2020 1:30 PM
To: femamax@gmail.com
Subject:

From: **femamax@gmail.com** <femamax@gmail.com>
To: **Meindl, Max** <max.meindl@fema.dhs.gov>
Subject: 2302. Prohibited personnel practices
Date: 23.12.2019 02:04:31 (+01:00)
Attachments: 2302. Prohibited personnel practices.pdf (11 pages), CHAPTER 75-ADVERSE ACTIONS.pdf (7 pages)

Secretary be used in determining who is an air traffic controller.

1980—Pub. L. 96-347 substituted “controller; Secretary” for “controller” in section catchline, and in text included employees of the Department of Defense within the meaning of air traffic controller or controller and defined “Secretary” to mean Secretary of Transportation with respect to controllers in the Department of Transportation and Secretary of Defense with respect to controllers in the Department of Defense.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99-335, set out as an Effective Date note under section 8401 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 3 of Pub. L. 96-347 provided that: “This Act [amending this section and sections 3307, 3381 to 3385, and 8335 of this title and enacting provisions set out as a note under section 8335 of this title] shall take effect on the later of—

“(1) October 1, 1980, or

“(2) the ninetieth day after the date of the enactment of this Act [Sept. 12, 1980].”

EFFECTIVE DATE

Section effective on 90th day after May 16, 1972, see, section 10 of Pub. L. 92-297, set out as a note under section 3381 of this title.

CHAPTER 23—MERIT SYSTEM PRINCIPLES

Sec.

- | | |
|-------|--|
| 2301. | Merit system principles. |
| 2302. | Prohibited personnel practices. |
| 2303. | Prohibited personnel practices in the Federal Bureau of Investigation. |
| 2304. | Responsibility of the Government Accountability Office. |
| 2305. | Coordination with certain other provisions of law. |

AMENDMENTS

2004—Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814, substituted “Government Accountability Office” for “General Accounting Office” in item 2304.

§ 2301. Merit system principles

(a) This section shall apply to—

- (1) an Executive agency; and
- (2) the Government Printing Office.

(b) Federal personnel management should be implemented consistent with the following merit system principles:

(1) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

(2) All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.

(3) Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by employ-

ers in the private sector, and appropriate incentives and recognition should be provided for excellence in performance.

(4) All employees should maintain high standards of integrity, conduct, and concern for the public interest.

(5) The Federal work force should be used efficiently and effectively.

(6) Employees should be retained on the basis of the adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.

(7) Employees should be provided effective education and training in cases in which such education and training would result in better organizational and individual performance.

(8) Employees should be—

(A) protected against arbitrary action, personal favoritism, or coercion for partisan political purposes, and

(B) prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for election.

(9) Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences—

(A) a violation of any law, rule, or regulation, or

(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(c) In administering the provisions of this chapter—

(1) with respect to any agency (as defined in section 2302(a)(2)(C) of this title), the President shall, pursuant to the authority otherwise available under this title, take any action, including the issuance of rules, regulations, or directives; and

(2) with respect to any entity in the executive branch which is not such an agency or part of such an agency, the head of such entity shall, pursuant to authority otherwise available, take any action, including the issuance of rules, regulations, or directives;

which is consistent with the provisions of this title and which the President or the head, as the case may be, determines is necessary to ensure that personnel management is based on and embodies the merit system principles.

(Added Pub. L. 95-454, title I, §101(a), Oct. 13, 1978, 92 Stat. 1113; amended Pub. L. 101-474, §5(c), Oct. 30, 1990, 104 Stat. 1099.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-474 redesignated par. (3) as (2) and struck out former par. (2) which provided that this section is applicable to Administrative Office of United States Courts.

EFFECTIVE DATE

Chapter effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

**NOTIFICATION AND FEDERAL EMPLOYEE
ANTIDISCRIMINATION AND RETALIATION**

Pub. L. 107-174, May 15, 2002, 116 Stat. 566, as amended by Pub. L. 109-435, title VI, § 604(f), Dec. 20, 2006, 120 Stat. 3242, provided that:

“SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

“(a) **SHORT TITLE.**—This Act may be cited as the ‘Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002’.

“(b) **TABLE OF CONTENTS.**—[Omitted.]

“TITLE I—GENERAL PROVISIONS

“SEC. 101. FINDINGS.

“Congress finds that—

“(1) Federal agencies cannot be run effectively if those agencies practice or tolerate discrimination;

“(2) Congress has heard testimony from individuals, including representatives of the National Association for the Advancement of Colored People and the American Federation of Government Employees, that point to chronic problems of discrimination and retaliation against Federal employees;

“(3) in August 2000, a jury found that the Environmental Protection Agency had discriminated against a senior social scientist, and awarded that scientist \$600,000;

“(4) in October 2000, an Occupational Safety and Health Administration investigation found that the Environmental Protection Agency had retaliated against a senior scientist for disagreeing with that agency on a matter of science and for helping Congress to carry out its oversight responsibilities;

“(5) there have been several recent class action suits based on discrimination brought against Federal agencies, including the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco, and Firearms, the Drug Enforcement Administration, the Immigration and Naturalization Service, the United States Marshals Service, the Department of Agriculture, the United States Information Agency, and the Social Security Administration;

“(6) notifying Federal employees of their rights under discrimination and whistleblower laws should increase Federal agency compliance with the law;

“(7) requiring annual reports to Congress on the number and severity of discrimination and whistleblower cases brought against each Federal agency should enable Congress to improve its oversight over compliance by agencies with the law; and

“(8) requiring Federal agencies to pay for any discrimination or whistleblower judgment, award, or settlement should improve agency accountability with respect to discrimination and whistleblower laws.

“SEC. 102. SENSE OF CONGRESS.

“It is the sense of Congress that—

“(1) Federal agencies should not retaliate for court judgments or settlements relating to discrimination and whistleblower laws by targeting the claimant or other employees with reductions in compensation, benefits, or workforce to pay for such judgments or settlements;

“(2) the mission of the Federal agency and the employment security of employees who are blameless in a whistleblower incident should not be compromised;

“(3) Federal agencies should not use a reduction in force or furloughs as means of funding a reimbursement under this Act;

“(4)(A) accountability in the enforcement of employee rights is not furthered by terminating—

“(i) the employment of other employees; or

“(ii) the benefits to which those employees are entitled through statute or contract; and

“(B) this Act is not intended to authorize those actions;

“(5)(A) nor is accountability furthered if Federal agencies react to the increased accountability under this Act by taking unfounded disciplinary actions

against managers or by violating the procedural rights of managers who have been accused of discrimination; and

“(B) Federal agencies should ensure that managers have adequate training in the management of a diverse workforce and in dispute resolution and other essential communication skills; and

“(C) Federal agencies are expected to reimburse the General Fund of the Treasury within a reasonable time under this Act; and

“(D) a Federal agency, particularly if the amount of reimbursement under this Act is large relative to annual appropriations for that agency, may need to extend reimbursement over several years in order to avoid—

“(i) reductions in force;

“(ii) furloughs;

“(iii) other reductions in compensation or benefits fits for the workforce of the agency; or

“(iv) an adverse effect on the mission of the agency.

“SEC. 103. DEFINITIONS.

“For purposes of this Act—

“(1) the term ‘applicant for Federal employment’ means an individual applying for employment in or under a Federal agency;

“(2) the term ‘basis of alleged discrimination’ shall have the meaning given such term under section 303;

“(3) the term ‘Federal agency’ means an Executive agency (as defined in section 105 of title 5, United States Code), the United States Postal Service, or the Postal Regulatory Commission;

“(4) the term ‘Federal employee’ means an individual employed in or under a Federal agency;

“(5) the term ‘former Federal employee’ means an individual formerly employed in or under a Federal agency; and

“(6) the term ‘issue of alleged discrimination’ shall have the meaning given such term under section 303.

“SEC. 104. EFFECTIVE DATE.

“This Act and the amendments made by this Act shall take effect on the 1st day of the 1st fiscal year beginning more than 180 days after the date of the enactment of this Act [May 15, 2002].

**“TITLE II—FEDERAL EMPLOYEE
DISCRIMINATION AND RETALIATION**

“SEC. 201. REIMBURSEMENT REQUIREMENT.

“(a) **APPLICABILITY.**—This section applies with respect to any payment made in accordance with section 2414, 2517, 2672, or 2677 of title 28, United States Code, and under section 1304 of title 31, United States Code (relating to judgments, awards, and compromise settlements) to any Federal employee, former Federal employee, or applicant for Federal employment, in connection with any proceeding brought by or on behalf of such employee, former employee, or applicant under—

“(1) any provision of law cited in subsection (c); or

“(2) any other provision of law which prohibits any form of discrimination, as identified under rules issued under section 204.

“(b) **REQUIREMENT.**—An amount equal to the amount of each payment described in subsection (a) shall be reimbursed to the fund described in section 1304 of title 31, United States Code, out of any appropriation, fund, or other account (excluding any part of such appropriation, or such fund, or of such account available for the enforcement of any Federal law) available for operating expenses of the Federal agency to which the discriminatory conduct involved is attributable as determined under section 204.

“(c) **SCOPE.**—The provisions of law cited in this subsection are the following:

“(1) Section 2302(b) of title 5, United States Code, as applied to discriminatory conduct described in paragraphs (1) and (8), or described in paragraph (9) of such section as applied to discriminatory conduct described in paragraphs (1) and (8), of such section.

“(2) The provisions of law specified in section 2302(d) of title 5, United States Code.

“SEC. 202. NOTIFICATION REQUIREMENT.

“(a) IN GENERAL.—Written notification of the rights and protections available to Federal employees, former Federal employees, and applicants for Federal employment (as the case may be) in connection with the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) shall be provided to such employees, former employees, and applicants—

“(1) in accordance with otherwise applicable provisions of law; or

“(2) if, or to the extent that, no such notification would otherwise be required, in such time, form, and manner as shall under section 204 be required in order to carry out the requirements of this section.

“(b) POSTING ON THE INTERNET.—Any written notification under this section shall include, but not be limited to, the posting of the information required under paragraph (1) or (2) (as applicable) of subsection (a) on the Internet site of the Federal agency involved.

“(c) EMPLOYEE TRAINING.—Each Federal agency shall provide to the employees of such agency training regarding the rights and remedies applicable to such employees under the laws cited in section 201(c).

“SEC. 203. REPORTING REQUIREMENT.

“(a) ANNUAL REPORT.—Subject to subsection (b), not later than 180 days after the end of each fiscal year, each Federal agency shall submit to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate, the Committee on Government Reform [now Committee on Oversight and Government Reform] of the House of Representatives, each committee of Congress with jurisdiction relating to the agency, the Equal Employment Opportunity Commission, and the Attorney General an annual report which shall include, with respect to the fiscal year—

“(1) the number of cases arising under each of the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) in which discrimination on the part of such agency was alleged;

“(2) the status or disposition of cases described in paragraph (1);

“(3) the amount of money required to be reimbursed by such agency under section 201 in connection with each of such cases, separately identifying the aggregate amount of such reimbursements attributable to the payment of attorneys' fees, if any;

“(4) the number of employees disciplined for discrimination, retaliation, harassment, or any other infraction of any provision of law referred to in paragraph (1);

“(5) the final year-end data posted under section 301(c)(1)(B) for such fiscal year (without regard to section 301(c)(2));

“(6) a detailed description of—

“(A) the policy implemented by that agency relating to appropriate disciplinary actions against a Federal employee who—

“(i) discriminated against any individual in violation of any of the laws cited under section 201(a)(1) or (2); or

“(ii) committed another prohibited personnel practice that was revealed in the investigation of a complaint alleging a violation of any of the laws cited under section 201(a)(1) or (2); and

“(B) with respect to each of such laws, the number of employees who are disciplined in accordance with such policy and the specific nature of the disciplinary action taken;

“(7) an analysis of the information described under paragraphs (1) through (6) (in conjunction with data provided to the Equal Employment Opportunity Commission in compliance with part 1614 of title 29 of the Code of Federal Regulations) including—

“(A) an examination of trends;

“(B) causal analysis;

“(C) practical knowledge gained through experience; and

“(D) any actions planned or taken to improve complaint or civil rights programs of the agency; and

“(8) any adjustment (to the extent the adjustment can be ascertained in the budget of the agency) to comply with the requirements under section 201.

“(b) FIRST REPORT.—The 1st report submitted under subsection (a) shall include for each item under subsection (a) data for each of the 5 immediately preceding fiscal years (or, if data are not available for all 5 fiscal years, for each of those 5 fiscal years for which data are available).

“SEC. 204. RULES AND GUIDELINES.

“(a) ISSUANCE OF RULES AND GUIDELINES.—The President (or the designee of the President) shall issue—

“(1) rules to carry out this title;

“(2) rules to require that a comprehensive study be conducted in the executive branch to determine the best practices relating to the appropriate disciplinary actions against Federal employees who commit the actions described under clauses (i) and (ii) of section 203(a)(6)(A); and

“(3) based on the results of such study, advisory guidelines incorporating best practices that Federal agencies may follow to take such actions against such employees.

“(b) AGENCY NOTIFICATION REGARDING IMPLEMENTATION OF GUIDELINES.—Not later than 30 days after the issuance of guidelines under subsection (a), each Federal agency shall submit to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Equal Employment Opportunity Commission, and the Attorney General a written statement specifying in detail—

“(1) whether such agency has adopted and will fully follow such guidelines;

“(2) if such agency has not adopted such guidelines; the reasons for the failure to adopt such guidelines; and

“(3) if such agency will not fully follow such guidelines, the reasons for the decision not to fully follow such guidelines and an explanation of the extent to which such agency will not follow such guidelines.

“SEC. 205. CLARIFICATION OF REMEDIES.

“Consistent with Federal law, nothing in this title shall prevent any Federal employee, former Federal employee, or applicant for Federal employment from exercising any right otherwise available under the laws of the United States.

“SEC. 206. STUDIES BY GENERAL ACCOUNTING OFFICE [now GOVERNMENT ACCOUNTABILITY OFFICE] ON EXHAUSTION OF ADMINISTRATIVE REMEDIES AND ON ASCERTAINMENT OF CERTAIN DEPARTMENT OF JUSTICE COSTS.

“(a) STUDY ON EXHAUSTION OF ADMINISTRATIVE REMEDIES.—

“(1) STUDY.—

“(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [May 15, 2002], the General Accounting Office [now Government Accountability Office] shall conduct a study relating to the effects of eliminating the requirement that Federal employees aggrieved by violations of any of the laws specified under section 201(c) exhaust administrative remedies before filing complaints with the Equal Employment Opportunity Commission.

“(B) CONTENTS.—The study shall include a detailed summary of matters investigated, information collected, and conclusions formulated that lead to determinations of how the elimination of such requirement will—

“(i) expedite handling of allegations of such violations within Federal agencies and will streamline the complaint-filing process;

“(ii) affect the workload of the Commission;

“(iii) affect established alternative dispute resolution procedures in such agencies; and

“(iv) affect any other matters determined by the General Accounting Office [now Government Accountability Office] to be appropriate for consideration.

“(2) REPORT.—Not later than 90 days after completion of the study required by paragraph (1), the General Accounting Office [now Government Accountability Office] shall submit to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Equal Employment Opportunity Commission, and the Attorney General a report containing the information required to be included in such study.

“(b) STUDY ON ASCERTAINMENT OF CERTAIN COSTS OF THE DEPARTMENT OF JUSTICE IN DEFENDING DISCRIMINATION AND WHISTLEBLOWER CASES.—

“(1) STUDY.—Not later than 180 days after the date of enactment of this Act [May 15, 2002], the General Accounting Office [now Government Accountability Office] shall conduct a study of the methods that could be used for, and the extent of any administrative burden that would be imposed on, the Department of Justice to ascertain the personnel and administrative costs incurred in defending in each case arising from a proceeding identified under section 201(a)(1) and (2).

“(2) REPORT.—Not later than 90 days after completion of the study required by paragraph (1), the General Accounting Office [now Government Accountability Office] shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report containing the information required to be included in the study.

“(c) STUDIES ON STATUTORY EFFECTS ON AGENCY OPERATIONS.—

“(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act [May 15, 2002], the General Accounting Office [now Government Accountability Office] shall conduct—

“(A) a study on the effects of section 201 on the operations of Federal agencies; and

“(B) a study on the effects of section 13 of the Contract Disputes Act of 1978 (41 U.S.C. 612) [now 41 U.S.C. 7108] on the operations of Federal agencies.

“(2) CONTENTS.—Each study under paragraph (1) shall include, with respect to the applicable statutes of the study—

“(A) a summary of the number of cases in which a payment was made in accordance with section 2414, 2517, 2672, or 2677 of title 28, United States Code, and under section 1304 of title 31, United States Code;

“(B) a summary of the length of time Federal agencies used to complete reimbursements of payments described under subparagraph (A); and

“(C) conclusions that assist in making determinations on how the reimbursements of payments described under subparagraph (A) will affect—

“(i) the operations of Federal agencies;

“(ii) funds appropriated on an annual basis;

“(iii) employee relations and other human capital matters;

“(iv) settlements; and

“(v) any other matter determined by the General Accounting Office [now Government Accountability Office] to be appropriate for consideration.

“(3) REPORTS.—Not later than 90 days after the completion of each study under paragraph (1), the General Accounting Office [now Government Accountability Office] shall submit a report on each study, respectively, to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate, the Committee on Government Reform [now Committee on Oversight and Government Reform] of the House of Representatives, and the Attorney General.

“(d) STUDY ON ADMINISTRATIVE AND PERSONNEL COSTS INCURRED BY THE DEPARTMENT OF THE TREASURY.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [May 15, 2002], the General Accounting Office [now Government Accountability Office] shall conduct a study on the extent of any administrative and personnel costs incurred by the Department of the Treasury to account for payments made in accordance with section 2414, 2517, 2672, or 2677 of title 28, United States Code, and under section 1304 of title 31, United States Code, as a result of—

“(A) this Act; and

“(B) the Contracts Dispute [Contract Disputes] Act of 1978 (41 U.S.C. 601 note [see 41 U.S.C. 7101 et seq.]; Public Law 95–563).

“(2) REPORT.—Not later than 90 days after the completion of the study under paragraph (1), the General Accounting Office [now Government Accountability Office] shall submit a report on the study to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate, the Committee on Government Reform [now Committee on Oversight and Government Reform] of the House of Representatives, and the Attorney General.

“TITLE III—EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT DATA DISCLOSURE

“SEC. 301. DATA TO BE POSTED BY EMPLOYING FEDERAL AGENCIES.

“(a) IN GENERAL.—Each Federal agency shall post on its public Web site, in the time, form, and manner prescribed under section 303 (in conformance with the requirements of this section), summary statistical data relating to equal employment opportunity complaints filed with such agency by employees or former employees of, or applicants for employment with, such agency.

“(b) CONTENT REQUIREMENTS.—The data posted by a Federal agency under this section shall include, for the then current fiscal year, the following:

“(1) The number of complaints filed with such agency in such fiscal year.

“(2) The number of individuals filing those complaints (including as the agent of a class).

“(3) The number of individuals who filed 2 or more of those complaints.

“(4) The number of complaints (described in paragraph (1)) in which each of the various bases of alleged discrimination is alleged.

“(5) The number of complaints (described in paragraph (1)) in which each of the various issues of alleged discrimination is alleged.

“(6) The average length of time, for each step of the process, it is taking such agency to process complaints (taking into account all complaints pending for any length of time in such fiscal year, whether first filed in such fiscal year or earlier). Average times under this paragraph shall be posted—

“(A) for all such complaints,

“(B) for all such complaints in which a hearing before an administrative judge of the Equal Employment Opportunity Commission is not requested, and

“(C) for all such complaints in which a hearing before an administrative judge of the Equal Employment Opportunity Commission is requested.

“(7) The total number of final agency actions rendered in such fiscal year involving a finding of discrimination and, of that number—

“(A) the number and percentage that were rendered without a hearing before an administrative judge of the Equal Employment Opportunity Commission, and

“(B) the number and percentage that were rendered after a hearing before an administrative judge of the Equal Employment Opportunity Commission.

“(8) Of the total number of final agency actions rendered in such fiscal year involving a finding of discrimination—

“(A) the number and percentage involving a finding of discrimination based on each of the respective bases of alleged discrimination, and

“(B) of the number specified under subparagraph (A) for each of the respective bases of alleged discrimination—

“(i) the number and percentage that were rendered without a hearing before an administrative judge of the Equal Employment Opportunity Commission, and

“(ii) the number and percentage that were rendered after a hearing before an administrative judge of the Equal Employment Opportunity Commission.

“(9) Of the total number of final agency actions rendered in such fiscal year involving a finding of discrimination—

“(A) the number and percentage involving a finding of discrimination in connection with each of the respective issues of alleged discrimination, and

“(B) of the number specified under subparagraph (A) for each of the respective issues of alleged discrimination—

“(i) the number and percentage that were rendered without a hearing before an administrative judge of the Equal Employment Opportunity Commission, and

“(ii) the number and percentage that were rendered after a hearing before an administrative judge of the Equal Employment Opportunity Commission.

“(10)(A) Of the total number of complaints pending in such fiscal year (as described in the parenthetical matter in paragraph (6)), the number that were first filed before the start of the then current fiscal year.

“(B) With respect to those pending complaints that were first filed before the start of the then current fiscal year—

“(i) the number of individuals who filed those complaints, and

“(ii) the number of those complaints which are at the various steps of the complaint process.

“(C) Of the total number of complaints pending in such fiscal year (as described in the parenthetical matter in paragraph (6)), the total number of complaints with respect to which the agency violated the requirements of section 1614.106(e)(2) of title 29 of the Code of Federal Regulations (as in effect on July 1, 2000, and amended from time to time) by failing to conduct within 180 days of the filing of such complaints an impartial and appropriate investigation of such complaints.

“(c) TIMING AND OTHER REQUIREMENTS.—

“(1) CURRENT YEAR DATA.—Data posted under this section for the then current fiscal year shall include both—

“(A) interim year-to-date data, updated quarterly, and

“(B) final year-end data.

“(2) DATA FOR PRIOR YEARS.—The data posted by a Federal agency under this section for a fiscal year (both interim and final) shall include, for each item under subsection (b), such agency's corresponding year-end data for each of the 5 immediately preceding fiscal years (or, if not available for all 5 fiscal years, for however many of those 5 fiscal years for which data are available).

“SEC. 302. DATA TO BE POSTED BY THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

“(a) IN GENERAL.—The Equal Employment Opportunity Commission shall post on its public Web site, in the time, form, and manner prescribed under section 303 for purposes of this section, summary statistical data relating to—

“(1) hearings requested before an administrative judge of the Commission on complaints described in section 301, and

“(2) appeals filed with the Commission from final agency actions on complaints described in section 301.

“(b) SPECIFIC REQUIREMENTS.—The data posted under this section shall, with respect to the hearings and appeals described in subsection (a), include summary statistical data corresponding to that described in paragraphs (1) through (10) of section 301(b), and shall be subject to the same timing and other requirements as set forth in section 301(c).

“(c) COORDINATION.—The data required under this section shall be in addition to the data the Commission is required to post under section 301 as an employing Federal agency.

“SEC. 303. RULES.

“The Equal Employment Opportunity Commission shall issue any rules necessary to carry out this title.”

[For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.]

[For transfer of authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms, including the related functions of the Secretary of the Treasury, to the Department of Justice, see section 531(c) of Title 6, Domestic Security, and section 599A(c)(1) of Title 28, Judiciary and Judicial Procedure.]

[Memorandum of President of the United States, July 8, 2003, 68 F.R. 45155, delegated to Director of Office of Personnel Management authority of President under section 204(a) of Public Law 107-174, set out above.]

§ 2302. Prohibited personnel practices

(a)(1) For the purpose of this title, “prohibited personnel practice” means any action described in subsection (b).

(2) For the purpose of this section—

(A) “personnel action” means—

- (i) an appointment;
- (ii) a promotion;
- (iii) an action under chapter 75 of this title or other disciplinary or corrective action;
- (iv) a detail, transfer, or reassignment;
- (v) a reinstatement;
- (vi) a restoration;
- (vii) a reemployment;
- (viii) a performance evaluation under chapter 43 of this title;

(ix) a decision concerning pay, benefits, or awards, or concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, performance evaluation, or other action described in this subparagraph;

(x) a decision to order psychiatric testing or examination; and

(xi) any other significant change in duties, responsibilities, or working conditions;

with respect to an employee in, or applicant for, a covered position in an agency, and in the case of an alleged prohibited personnel practice described in subsection (b)(8), an employee or applicant for employment in a Government corporation as defined in section 9101 of title 31;

(B) “covered position” means, with respect to any personnel action, any position in the competitive service, a career appointee position in the Senior Executive Service, or a position in the excepted service, but does not include any position which is, prior to the personnel action—

(i) excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

(ii) excluded from the coverage of this section by the President based on a determination by the President that it is necessary and warranted by conditions of good administration; and

(C) “agency” means an Executive agency and the Government Printing Office, but does not include—

(i) a Government corporation, except in the case of an alleged prohibited personnel practice described under subsection (b)(8);

(ii) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Security Agency, and, as determined by the President, any Executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counterintelligence activities; or

(iii) the Government Accountability Office.

(b) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority—

(1) discriminate for or against any employee or applicant for employment—

(A) on the basis of race, color, religion, sex, or national origin, as prohibited under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16);

(B) on the basis of age, as prohibited under sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a);

(C) on the basis of sex, as prohibited under section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d));

(D) on the basis of handicapping condition, as prohibited under section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791); or

(E) on the basis of marital status or political affiliation, as prohibited under any law, rule, or regulation;

(2) solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of—

(A) an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or

(B) an evaluation of the character, loyalty, or suitability of such individual;

(3) coerce the political activity of any person (including the providing of any political contribution or service), or take any action against any employee or applicant for employment as a reprisal for the refusal of any person to engage in such political activity;

(4) deceive or willfully obstruct any person with respect to such person’s right to compete for employment;

(5) influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment;

(6) grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment;

(7) appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative (as defined in section 3110(a)(3) of this title) of such employee if such position is in the agency in which such employee is serving as a public official (as defined in section 3110(a)(2) of this title) or over which such employee exercises jurisdiction or control as such an official;

(8) take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment because of—

(A) any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences—

(i) a violation of any law, rule, or regulation, or

(ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

(B) any disclosure to the Special Counsel, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences—

(i) a violation of any law, rule, or regulation, or

(ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

(9) take or fail to take, or threaten to take or fail to take, any personnel action against any employee or applicant for employment because of—

(A) the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation;

(B) testifying for or otherwise lawfully assisting any individual in the exercise of any right referred to in subparagraph (A);

(C) cooperating with or disclosing information to the Inspector General of an agency, or the Special Counsel, in accordance with applicable provisions of law; or

(D) for¹ refusing to obey an order that would require the individual to violate a law;

¹ So in original. The word “for” probably should not appear.

(10) discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others; except that nothing in this paragraph shall prohibit an agency from taking into account in determining suitability or fitness any conviction of the employee or applicant for any crime under the laws of any State, of the District of Columbia, or of the United States;

(11)(A) knowingly take, recommend, or approve any personnel action if the taking of such action would violate a veterans' preference requirement; or

(B) knowingly fail to take, recommend, or approve any personnel action if the failure to take such action would violate a veterans' preference requirement; or

(12) take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in section 2301 of this title.

This subsection shall not be construed to authorize the withholding of information from the Congress or the taking of any personnel action against an employee who discloses information to the Congress.

(c) The head of each agency shall be responsible for the prevention of prohibited personnel practices, for the compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management, and for ensuring (in consultation with the Office of Special Counsel) that agency employees are informed of the rights and remedies available to them under this chapter and chapter 12 of this title. Any individual to whom the head of an agency delegates authority for personnel management, or for any aspect thereof, shall be similarly responsible within the limits of the delegation.

(d) This section shall not be construed to extinguish or lessen any effort to achieve equal employment opportunity through affirmative action or any right or remedy available to any employee or applicant for employment in the civil service under—

(1) section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), prohibiting discrimination on the basis of race, color, religion, sex, or national origin;

(2) sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), prohibiting discrimination on the basis of age;

(3) under section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)), prohibiting discrimination on the basis of sex;

(4) section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), prohibiting discrimination on the basis of handicapping condition; or

(5) the provisions of any law, rule, or regulation prohibiting discrimination on the basis of marital status or political affiliation.

(e)(1) For the purpose of this section, the term “veterans' preference requirement” means any of the following provisions of law:

(A) Sections 2108, 3305(b), 3309, 3310, 3311, 3312, 3313, 3314, 3315, 3316, 3317(b), 3318, 3320, 3351, 3352, 3363, 3501, 3502(b), 3504, and 4303(e) and (with respect to a preference eligible referred to in section 7511(a)(1)(B)) subchapter II of chapter 75 and section 7701.

(B) Sections 943(c)(2) and 1784(c) of title 10.

(C) Section 1308(b) of the Alaska National Interest Lands Conservation Act.

(D) Section 301(c) of the Foreign Service Act of 1980.

(E) Sections 106(f),² 7281(e), and 7802(5)² of title 38.

(F) Section 1005(a) of title 39.

(G) Any other provision of law that the Director of the Office of Personnel Management designates in regulations as being a veterans' preference requirement for the purposes of this subsection.

(H) Any regulation prescribed under subsection (b) or (c) of section 1302 and any other regulation that implements a provision of law referred to in any of the preceding subparagraphs.

(2) Notwithstanding any other provision of this title, no authority to order corrective action shall be available in connection with a prohibited personnel practice described in subsection (b)(11). Nothing in this paragraph shall be considered to affect any authority under section 1215 (relating to disciplinary action).

(Added Pub. L. 95–454, title I, §101(a), Oct. 13, 1978, 92 Stat. 1114; amended Pub. L. 101–12, §4, Apr. 10, 1989, 103 Stat. 32; Pub. L. 101–474, §5(d), Oct. 30, 1990, 104 Stat. 1099; Pub. L. 102–378, §2(5), Oct. 2, 1992, 106 Stat. 1346; Pub. L. 103–94, §8(c), Oct. 6, 1993, 107 Stat. 1007; Pub. L. 103–359, title V, §501(c), Oct. 14, 1994, 108 Stat. 3429; Pub. L. 103–424, §5, Oct. 29, 1994, 108 Stat. 4363; Pub. L. 104–197, title III, §315(b)(2), Sept. 16, 1996, 110 Stat. 2416, Pub. L. 104–201, div. A, title XI, §1122(a)(1), title XVI, §1615(b), Sept. 23, 1996, 110 Stat. 2687, 2741; Pub. L. 105–339, §6(a), (b), (c)(2), Oct. 31, 1998, 112 Stat. 3187, 3188; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110–417, [div. A], title IX, §931(a)(1), Oct. 14, 2008, 122 Stat. 4575.)

REFERENCES IN TEXT

Section 1308(b) of the Alaska National Interest Lands Conservation Act, referred to in subsec. (e)(1)(C), is classified to section 3198(b) of Title 16, Conservation.

Section 301(c) of the Foreign Service Act of 1980, referred to in subsec. (e)(1)(D), is classified to section 3941(c) of Title 22, Foreign Relations and Intercourse.

Section 106(f) of title 38, referred to in subsec. (e)(1)(E), was enacted subsequent to the enactment of subsec. (e) of this section.

Section 7802(5) of title 38, referred to in subsec. (e)(1)(E), was redesignated section 7802(e) of title 38 by Pub. L. 108–170, title III, §304(b)(3), Dec. 6, 2003, 117 Stat. 2059.

AMENDMENTS

2008—Subsec. (a)(2)(C)(ii). Pub. L. 110–417 substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency”.

2004—Subsec. (a)(2)(C)(iii). Pub. L. 108–271 substituted “Government Accountability Office” for “General Accounting Office”.

² See References in Text note below.

1998—Subsec. (a)(1). Pub. L. 105-339, § 6(c)(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ‘‘For purposes of this title, ‘prohibited personnel practice’ means the following:

“(A) Any action described in subsection (b) of this section.

“(B) Any action or failure to act that is designated as a prohibited personnel action under section 1599c(a) of title 10.”

Subsec. (b)(10) to (12). Pub. L. 105-339, § 6(a), struck out “or” at end of par. (10), added par. (11), and redesignated former par. (11) as (12).

Subsec. (e). Pub. L. 105-339, § 6(b), added subsec. (e).

1996—Subsec. (a)(1). Pub. L. 104-201, § 1615(b), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ‘‘For the purpose of this title, ‘prohibited personnel practice’ means any action described in subsection (b) of this section.’’

Subsec. (a)(2)(C)(ii). Pub. L. 104-201, § 1122(a)(1), substituted ‘‘National Imagery and Mapping Agency’’ for ‘‘Central Imagery Office’’.

Subsec. (b)(2). Pub. L. 104-197 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ‘‘solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action except as provided under section 3303(3);’’.

1994—Subsec. (a)(2)(A). Pub. L. 103-424, § 5(a)(3), in concluding provisions, inserted before semicolon “, and in the case of an alleged prohibited personnel practice described in subsection (b)(8), an employee or applicant for employment in a Government corporation as defined in section 9101 of title 31’’.

Subsec. (a)(2)(A)(x), (xi). Pub. L. 103-424, § 5(a)(1), (2), added cl. (x) and (xi) and struck out former cl. (x) which read as follows: ‘‘any other significant change in duties or responsibilities which is inconsistent with the employee’s salary or grade level;’’.

Subsec. (a)(2)(B). Pub. L. 103-424, § 5(b), amended subparagraph. (B) generally. Prior to amendment, subparagraph. (B) read as follows: ‘‘‘covered position’ means any position in the competitive service, a career appointee position in the Senior Executive Service, or a position in the excepted service, but does not include—

“(i) a position which is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

“(ii) any position excluded from the coverage of this section by the President based on a determination by the President that it is necessary and warranted by conditions of good administration.”

Subsec. (a)(2)(C)(i). Pub. L. 103-424, § 5(c), inserted before semicolon “, except in the case of an alleged prohibited personnel practice described under subsection (b)(8)”.

Subsec. (a)(2)(C)(ii). Pub. L. 103-359 inserted ‘‘the Central Imagery Office,’’ after ‘‘Defense Intelligence Agency,’’.

Subsec. (c). Pub. L. 103-424, § 5(d), inserted before period at end of first sentence “, and for ensuring (in consultation with the Office of Special Counsel) that agency employees are informed of the rights and remedies available to them under this chapter and chapter 12 of this title’’.

1993—Subsec. (b)(2). Pub. L. 103-94 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ‘‘solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of—

“(A) an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or

“(B) an evaluation of the character, loyalty, or suitability of such individual;’’.

1992—Subsec. (b)(8)(B). Pub. L. 102-378 substituted ‘‘Special Counsel’’ for ‘‘Special Counsel of the Merit Systems Protection Board’’.

1990—Subsec. (a)(2)(C). Pub. L. 101-474 struck out ‘‘, the Administrative Office of the United States Courts,’’ after ‘‘means an Executive agency’’.

1989—Subsec. (b)(8). Pub. L. 101-12, § 4(a), in introductory provision inserted ‘‘, or threaten to take or fail to take,’’ after ‘‘fail to’’ and substituted ‘‘because of’’ for ‘‘as a reprisal for’’, in subparagraph. (A) substituted ‘‘any disclosure’’ for ‘‘a disclosure’’, in subparagraph. (A)(ii) inserted ‘‘gross’’ before ‘‘mismanagement’’, in subparagraph. (B) substituted ‘‘any disclosure’’ for ‘‘a disclosure’’, and in subparagraph. (B)(ii) inserted ‘‘gross’’ before ‘‘mismanagement’’.

Subsec. (b)(9). Pub. L. 101-12, § 4(b), amended par. (9) generally. Prior to amendment, par. (9) read as follows: ‘‘take or fail to take any personnel action against any employee or applicant for employment as a reprisal for the exercise of any appeal right granted by any law, rule, or regulation;’’.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by section 1122(a)(1) of Pub. L. 104-201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104-201, set out as a note under section 193 of Title 10, Armed Forces.

Section 315(c) of Pub. L. 104-197 provided that: ‘‘This section [amending this section and section 3303 of this title] shall take effect 30 days after the date of the enactment of this Act [Sept. 16, 1996].’’

EFFECTIVE DATE OF 1993 AMENDMENT; SAVINGS PROVISION

Amendment by Pub. L. 103-94 effective 120 days after Oct. 6, 1993, but not to release or extinguish any penalty, forfeiture, or liability incurred under amended provision, which is to be treated as remaining in force for purpose of sustaining any proper proceeding or action for enforcement of that penalty, forfeiture, or liability, and no provision of Pub. L. 103-94 to affect any proceedings with respect to which charges were filed on or before 120 days after Oct. 6, 1993, with orders to be issued in such proceedings and appeals taken therefrom as if Pub. L. 103-94 had not been enacted, see section 12 of Pub. L. 103-94, set out as an Effective Date; Savings Provision note under section 7321 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-12 effective 90 days following Apr. 10, 1989, see section 11 of Pub. L. 101-12, set out as a note under section 1201 of this title.

SAVINGS PROVISION

Pub. L. 105-339, § 6(d), Oct. 31, 1998, 112 Stat. 3188, provided that: ‘‘This section [amending this section and repealing section 1599c of Title 10, Armed Forces] shall be treated as if it had never been enacted for purposes of any personnel action (within the meaning of section 2302 of title 5, United States Code) preceding the date of enactment of this Act [Oct. 31, 1998].’’

FEDERAL BENEFITS AND NON-DISCRIMINATION

Memorandum of President of the United States, June 17, 2009, 74 F.R. 29393, provided:

Memorandum for the Heads of Executive Departments and Agencies

Millions of hard-working, dedicated, and patriotic public servants are employed by the Federal Government as part of the civilian workforce, and many of these devoted Americans have same-sex domestic partners. Leading companies in the private sector are free to provide to same-sex domestic partners the same benefits they provide to married people of the opposite sex. Executive departments and agencies, however, may only provide benefits on that basis if they have legal authorization to do so. My Administration is not authorized by Federal law to extend a number of available Federal benefits to the same-sex partners of Federal employees. Within existing law, however, my Administration, in consultation with the Secretary of State, who oversees our Foreign Service employees, and the

Director of the Office of Personnel Management, who oversees human resource management for our civil service employees, has identified areas in which statutory authority exists to achieve greater equality for the Federal workforce through extension to same-sex domestic partners of benefits currently available to married people of the opposite sex. Extending available benefits will help the Federal Government compete with the private sector to recruit and retain the best and the brightest employees.

I hereby request the following:

SECTION 1. Extension of Identified Benefits. The Secretary of State and the Director of the Office of Personnel Management shall, in consultation with the Department of Justice, extend the benefits they have respectively identified to qualified same-sex domestic partners of Federal employees where doing so can be achieved and is consistent with Federal law.

SEC. 2. Review of Governmentwide Benefits. The heads of all other executive departments and agencies, in consultation with the Office of Personnel Management, shall conduct a review of the benefits provided by their respective departments and agencies to determine what authority they have to extend such benefits to same-sex domestic partners of Federal employees. The results of this review shall be reported within 90 days to the Director of the Office of Personnel Management, who, in consultation with the Department of Justice, shall recommend to me any additional measures that can be taken, consistent with existing law, to provide benefits to the same-sex domestic partners of Federal Government employees.

SEC. 3. Promoting Compliance with Existing Law Requiring Federal Workplaces to be Free of Discrimination Based on Non-Merit Factors. The Office of Personnel Management shall issue guidance within 90 days to all executive departments and agencies regarding compliance with, and implementation of, the civil service laws, rules, and regulations, including 5 U.S.C. 2302(b)(10), which make it unlawful to discriminate against Federal employees or applicants for Federal employment on the basis of factors not related to job performance.

SEC. 4. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) Authority granted by law or Executive Order to an agency, or the head thereof; or

(ii) Functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

SEC. 5. Publication. The Director of the Office of Personnel Management is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

EXTENSION OF BENEFITS TO SAME-SEX DOMESTIC PARTNERS OF FEDERAL EMPLOYEES

Memorandum of President of the United States, June 2, 2010, 75 F.R. 32247, provided:

Memorandum for the Heads of Executive Departments and Agencies

For far too long, many of our Government's hard-working, dedicated LGBT employees have been denied equal access to the basic rights and benefits their colleagues enjoy. This kind of systemic inequality undermines the health, well-being, and security not just of our Federal workforce, but also of their families and communities. That is why, last June, I directed the heads of executive departments and agencies (agencies), in consultation with the Office of Personnel Man-

agement (OPM), to conduct a thorough review of the benefits they provide and to identify any that could be extended to LGBT employees and their partners and families. Although legislative action is necessary to provide full equality to LGBT Federal employees, the agencies have identified a number of benefits that can be extended under existing law. OPM, in consultation with the Department of Justice, has provided me with a report recommending that all of the identified benefits be extended.

Accordingly, I hereby direct the following:

SECTION 1. Immediate Actions To Extend Benefits. Agencies should immediately take the following actions, consistent with existing law, in order to extend benefits to the same-sex domestic partners of Federal employees, and, where applicable, to the children of same-sex domestic partners of Federal employees:

(a) The Director of OPM should take appropriate action to:

(i) clarify that the children of employees' same-sex domestic partners fall within the definition of "child" for purposes of Federal child-care subsidies, and, where appropriate, for child-care services;

(ii) clarify that, for purposes of employee assistance programs, same-sex domestic partners and their children qualify as "family members";

(iii) issue a proposed rule that would clarify that employees' same-sex domestic partners qualify as "family members" for purposes of noncompetitive appointments made pursuant to Executive Order 12721 of July 30, 1990;

(iv) issue a proposed rule that would add a Federal retiree's same-sex domestic partner to the list of individuals presumed to have an insurable interest in the employee pursuant to 5 U.S.C. 8339(k)(1), 8420;

(v) clarify that under appropriate circumstances, employees' same-sex domestic partners and their children qualify as dependents for purposes of evacuation payments made under 5 U.S.C. 5522–5523; Folio: 1632 [sic]

(vi) amend its guidance on implementing President Clinton's April 11, 1997, memorandum to heads of executive departments and agencies on "Expanded Family and Medical Leave Policies" to specify that the 24 hours of unpaid leave made available to Federal employees in connection with (i) school and early childhood educational activities; (ii) routine family medical purposes; and (iii) elderly relatives' health or care needs, may be used to meet the needs of an employee's same-sex domestic partner or the same-sex domestic partner's children; and

(vii) clarify that employees' same-sex domestic partners qualify as dependents for purposes of calculating the extra allowance payable under 5 U.S.C. 5942a to assist employees stationed on Johnston Island, subject to any limitations applicable to spouses.

(b) The Administrator of General Services should take appropriate action to amend the definitions of "immediate family" and "dependent" appearing in the Federal Travel Regulations, 41 C.F.R. Chs. 300–304, to include same-sex domestic partners and their children, so that employees and their domestic partners and children can obtain the full benefits available under applicable law, including certain travel, relocation, and subsistence payments.

(c) All agencies offering any of the benefits specified by OPM in implementing guidance under section 3 of this memorandum, including credit union membership, access to fitness facilities, and access to planning and counseling services, should take all appropriate action to provide the same level of benefits that is provided to employees' spouses and their children to employees' same-sex domestic partners and their children.

(d) All agencies with authority to provide benefits to employees outside of the context of title 5, United States Code should take all appropriate actions to ensure that the benefits being provided to employees' spouses and their children are also being provided, at an equivalent level wherever permitted by law, to their employees' same-sex domestic partners and their children.

SEC. 2. Continuing Obligation To Provide New Benefits. In the future, all agencies that provide new benefits to the spouses of Federal employees and their children should, to the extent permitted by law, also provide them to the same-sex domestic partners of their employees and those same-sex domestic partners' children. This section applies to appropriated and nonappropriated fund instrumentalities of such agencies.

SEC. 3. Monitoring and Guidance. The Director of OPM shall monitor compliance with this memorandum, and may instruct agencies to provide the Director with reports on the status of their compliance, and prescribe the form Folio: 1633 [sic] and manner of such reports. The Director of OPM shall also issue guidance to ensure consistent and appropriate implementation.

SEC. 4. Reporting. By April 1, 2011, and annually thereafter, the Director of OPM shall provide the President with a report on the progress of the agencies in implementing this memorandum until such time as all recommendations have been appropriately implemented.

SEC. 5. General Provisions. (a) Except as expressly stated herein, nothing in this memorandum shall be construed to impair or otherwise affect:

(i) authority granted by law or Executive Order to an agency, or the head thereof; or
 (ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

SEC. 6. Publication. The Director of OPM is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 2303. Prohibited personnel practices in the Federal Bureau of Investigation

(a) Any employee of the Federal Bureau of Investigation who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to any employee of the Bureau as a reprisal for a disclosure of information by the employee to the Attorney General (or an employee designated by the Attorney General for such purpose) which the employee or applicant reasonably believes evidences—

- (1) a violation of any law, rule, or regulation, or
- (2) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

For the purpose of this subsection, “personnel action” means any action described in clauses (i) through (x) of section 2302(a)(2)(A) of this title with respect to an employee in, or applicant for, a position in the Bureau (other than a position of a confidential, policy-determining, policymaking, or policy-advocating character).

(b) The Attorney General shall prescribe regulations to ensure that such a personnel action shall not be taken against an employee of the Bureau as a reprisal for any disclosure of information described in subsection (a) of this section.

(c) The President shall provide for the enforcement of this section in a manner consistent with

applicable provisions of sections 1214 and 1221 of this title.

(Added Pub. L. 95-454, title I, §101(a), Oct. 13, 1978, 92 Stat. 1117; amended Pub. L. 101-12, §9(a)(1), Apr. 10, 1989, 103 Stat. 34.)

AMENDMENTS

1989—Subsec. (c). Pub. L. 101-12 substituted “applicable provisions of sections 1214 and 1221” for “the provisions of section 1206”.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-12 effective 90 days following Apr. 10, 1989, see section 11 of Pub. L. 101-12, set out as a note under section 1201 of this title.

DELEGATION OF RESPONSIBILITIES CONCERNING FBI EMPLOYEES UNDER THE CIVIL SERVICE REFORM ACT OF 1978

Memorandum of President of the United States, Apr. 14, 1997, 62 F.R. 23123, provided:

Memorandum for the Attorney General

By the authority vested in me by the Constitution and laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to the Attorney General the functions concerning employees of the Federal Bureau of Investigation vested in the President by section 101(a) of the Civil Service Reform Act of 1978 (Public Law 95-454), as amended by the Whistleblower Protection Act of 1989 (Public Law 101-12), and codified at section 2303(c) of title 5, United States Code, and direct the Attorney General to establish appropriate processes within the Department of Justice to carry out these functions. Not later than March 1 of each year, the Attorney General shall provide a report to the President stating the number of allegations of reprisal received during the preceding calendar year, the disposition of each allegation resolved during the preceding calendar year, and the number of unresolved allegations pending as of the end of the calendar year.

All of the functions vested in the President by section 2303(c) of title 5, United States Code, and delegated to the Attorney General, may be redelegated, as appropriate, provided that such functions may not be redelegated to the Federal Bureau of Investigation.

You are authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

§ 2304. Responsibility of the Government Accountability Office

If requested by either House of the Congress (or any committee thereof), or if considered necessary by the Comptroller General, the Government Accountability Office shall conduct audits and reviews to assure compliance with the laws, rules, and regulations governing employment in the executive branch and in the competitive service and to assess the effectiveness and soundness of Federal personnel management.

(Added Pub. L. 95-454, title I, §101(a), Oct. 13, 1978, 92 Stat. 1118; amended Pub. L. 102-378, §2(6), Oct. 2, 1992, 106 Stat. 1346; Pub. L. 104-66, title II, §2181(e), Dec. 21, 1995, 109 Stat. 732; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

AMENDMENTS

2004—Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office” in section catchline and text.

1995—Pub. L. 104-66 struck out subsec. (a) designation before “If requested by” and struck out subsec. (b) which read as follows: “The General Accounting Office

shall prepare and submit an annual report to the President and the Congress on the activities of the Merit Systems Protection Board and the Office of Personnel Management. The report shall include a description of—

“(1) significant actions taken by the Board to carry out its functions under this title; and

“(2) significant actions of the Office of Personnel Management, including an analysis of whether or not the actions of the Office are in accord with merit system principles and free from prohibited personnel practices.”

1992—Subsec. (b). Pub. L. 102-378 substituted “The” for “the” at beginning of first sentence.

§ 2305. Coordination with certain other provisions of law

No provision of this chapter, or action taken under this chapter, shall be construed to impair the authorities and responsibilities set forth in section 102 of the National Security Act of 1947 (61 Stat. 495; 50 U.S.C. 403), the Central Intelligence Agency Act of 1949 (63 Stat. 208; 50 U.S.C. 403a and following), the Act entitled “An Act to provide certain administrative authorities for the National Security Agency, and for other purposes”, approved May 29, 1959 (73 Stat. 63; 50 U.S.C. 402 note), and the Act entitled “An Act to amend the Internal Security Act of 1950”, approved March 26, 1964 (78 Stat. 168; 50 U.S.C. 831-835).

(Added Pub. L. 95-454, title I, § 101(a), Oct. 13, 1978, 92 Stat. 1118.)

REFERENCES IN TEXT

The Central Intelligence Agency Act of 1949 (63 Stat. 208; 50 U.S.C. 403a and following), referred to in text, is act June 20, 1949, ch. 227, 63 Stat. 208, as amended, which is classified generally to section 403a et seq. of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 403a of Title 50 and Tables.

The Act entitled “An Act to provide certain administrative authorities for the National Security Agency, and for other purposes”, approved May 29, 1959 (73 Stat. 63; 50 U.S.C. 402 note), referred to in text, is Pub. L. 86-36, May 29, 1959, 73 Stat. 63, as amended, and is set out as a note under section 402 of Title 50. For complete classification of this Act to the Code, see Tables.

The Act entitled “An Act to amend the Internal Security Act of 1950”, approved March 26, 1964 (78 Stat. 168; 50 U.S.C. 831-835), referred to in text, is act Sept. 23, 1950, ch. 1024, title III, as added Mar. 26, 1964, Pub. L. 88-290, 78 Stat. 168, which is classified principally to subchapter III (§ 831 et seq.) of chapter 23 of Title 50. For complete classification of this Act to the Code, see Tables.

CHAPTER 29—COMMISSIONS, OATHS, RECORDS, AND REPORTS

SUBCHAPTER I—COMMISSIONS, OATHS, AND RECORDS

Sec.	
2901.	Commission of an officer.
2902.	Commission; where recorded.
2903.	Oath; authority to administer.
2904.	Oath; administered without fees.
2905.	Oath; renewal.
2906.	Oath; custody.

SUBCHAPTER II—REPORTS

2951.	Reports to the Office of Personnel Management.
2952.	Time of making annual reports.
2953.	Reports to Congress on additional employee requirements.

Sec.

2954. Information to committees of Congress on request.

AMENDMENTS

1978—Pub. L. 95-454, title IX, § 906(a)(16), Oct. 13, 1978, 92 Stat. 1226, substituted “Office of Personnel Management” for “Civil Service Commission” in item 2951.

SUBCHAPTER I—COMMISSIONS, OATHS, AND RECORDS

§ 2901. Commission of an officer

The President may make out and deliver, after adjournment of the Senate, the commission of an officer whose appointment has been confirmed by the Senate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 411.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	5 U.S.C. 10.	R.S. § 1773.

The words “confirmed by” are substituted for “advised and consented to”.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 2902. Commission; where recorded

(a) Except as provided by subsections (b) and (c) of this section, the Secretary of State shall make out and record, and affix the seal of the United States to, the commission of an officer appointed by the President. The seal of the United States may not be affixed to the commission before the commission has been signed by the President.

(b) The commission of an officer in the civil service or uniformed services under the control of the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Secretary of a military department, the Secretary of the Interior, the Secretary of Homeland Security, or the Secretary of the Treasury shall be made out and recorded in the department in which he is to serve under the seal of that department. The departmental seal may not be affixed to the commission before the commission has been signed by the President.

(c) The commissions of judicial officers and United States attorneys and marshals, appointed by the President, by and with the advice and consent of the Senate, and other commissions which before August 8, 1888, were prepared at the Department of State on the requisition of the Attorney General, shall be made out and recorded in the Department of Justice under the seal of that department and countersigned by the Attorney General. The departmental seal may not be affixed to the commission before the commission has been signed by the President.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 411; Pub. L. 94-183, § 2(3), Dec. 31, 1975, 89 Stat. 1057; Pub. L. 109-241, title IX, § 902(a)(2), July 11, 2006, 120 Stat. 566.)

SUBCHAPTER VII—MANDATORY REMOVAL FROM EMPLOYMENT OF CONVICTED LAW ENFORCEMENT OFFICERS

§ 7371. Mandatory removal from employment of law enforcement officers convicted of felonies

(a) In this section, the term—

(1) “conviction notice date” means the date on which an agency that employs a law enforcement officer has notice that the officer has been convicted of a felony that is entered by a Federal or State court, regardless of whether that conviction is appealed or is subject to appeal; and

(2) “law enforcement officer” has the meaning given that term under section 8331(20) or 8401(17).

(b) Any law enforcement officer who is convicted of a felony shall be removed from employment as a law enforcement officer on the last day of the first applicable pay period following the conviction notice date.

(c)(1) This section does not prohibit the removal of an individual from employment as a law enforcement officer before a conviction notice date if the removal is properly effected other than under this section.

(2) This section does not prohibit the employment of any individual in any position other than that of a law enforcement officer.

(d) If the conviction is overturned on appeal, the removal shall be set aside retroactively to the date on which the removal occurred, with back pay under section 5596 for the period during which the removal was in effect, unless the removal was properly effected other than under this section.

(e)(1) If removal is required under this section, the agency shall deliver written notice to the employee as soon as practicable, and not later than 5 calendar days after the conviction notice date. The notice shall include a description of the specific reasons for the removal, the date of removal, and the procedures made applicable under paragraph (2).

(2) The procedures under section 7513(b)(2), (3), and (4), (c), (d), and (e) shall apply to any removal under this section. The employee may use the procedures to contest or appeal a removal, but only with respect to whether—

(A) the employee is a law enforcement officer;

(B) the employee was convicted of a felony; or

(C) the conviction was overturned on appeal.

(3) A removal required under this section shall occur on the date specified in subsection (b) regardless of whether the notice required under paragraph (1) of this subsection and the procedures made applicable under paragraph (2) of this subsection have been provided or completed by that date.

(Added Pub. L. 106-554, §1(a)(3) [title VI, §639(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-168.)

EFFECTIVE DATE

Pub. L. 106-554, §1(a)(3) [title VI, §639(c)], Dec. 21, 2000, 114 Stat. 2763, 2763A-168, provided that: “The amendments made by this section [enacting this sub-

chapter] shall take effect 30 days after the date of enactment of this Act [Dec. 21, 2000] and shall apply to any conviction of a felony entered by a Federal or State court on or after that date.”

CHAPTER 75—ADVERSE ACTIONS

SUBCHAPTER I—SUSPENSION OF¹ 14 DAYS OR LESS

Sec.

7501.	Definitions.
7502.	Actions covered.
7503.	Cause and procedure.
7504.	Regulations.

SUBCHAPTER II—REMOVAL, SUSPENSION FOR MORE THAN 14 DAYS, REDUCTION IN GRADE OR PAY, OR FURLough FOR 30 DAYS OR LESS

7511.	Definitions; application.
7512.	Actions covered.
7513.	Cause and procedure.
7514.	Regulations.

SUBCHAPTER III—ADMINISTRATIVE LAW JUDGES

7521.	Actions against administrative law judges.
-------	--

SUBCHAPTER IV—NATIONAL SECURITY

7531.	Definitions.
7532.	Suspension and removal.
7533.	Effect on other statutes.

SUBCHAPTER V—SENIOR EXECUTIVE SERVICE

7541.	Definitions.
7542.	Actions covered.
7543.	Cause and procedure.

AMENDMENTS

1978—Pub. L. 95-454, title II, §204(b), title IV, §411(1), Oct. 13, 1978, 92 Stat. 1137, 1173, substituted “SUSPENSION OF 14 DAYS OR LESS” for “COMPETITIVE SERVICE” in subchapter I heading, substituted “Definitions” for “Cause; procedure; exception” in item 7501, added items 7502 to 7504, substituted “REMOVAL, SUSPENSION FOR MORE THAN 14 DAYS, REDUCTION IN GRADE OR PAY, OR FURLough FOR 30 DAYS OR LESS” for “PREFERENCE ELIGIBLES” in subchapter II heading, inserted “; application” in item 7511, substituted “Actions covered” for “Cause; procedure; exception” in item 7512, added items 7513 and 7514, substituted “ADMINISTRATIVE LAW JUDGES” for “HEARING EXAMINERS” in subchapter III heading, substituted “Actions against administrative law judges” for “Removal” in item 7521, and added subchapter V heading and items 7541 to 7543.

SUBCHAPTER I—SUSPENSION FOR 14 DAYS OR LESS

AMENDMENTS

1978—Pub. L. 95-454, title II, §204(a), Oct. 13, 1978, 92 Stat. 1134, substituted “SUSPENSION FOR 14 DAYS OR LESS” for “COMPETITIVE SERVICE” in subchapter heading.

§ 7501. Definitions

For the purpose of this subchapter—

(1) “employee” means an individual in the competitive service who is not serving a probationary or trial period under an initial appointment or who has completed 1 year of current continuous employment in the same or similar positions under other than a temporary appointment limited to 1 year or less; and

(2) “suspension” means the placing of an employee, for disciplinary reasons, in a temporary status without duties and pay.

¹ So in original. Does not conform to subchapter heading.

(Added Pub. L. 95-454, title II, § 204(a), Oct. 13, 1978, 92 Stat. 1134.)

PRIOR PROVISIONS

A prior section 7501, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 527, related to removal or suspension without pay of an individual in the competitive service and procedures applicable to such removal or suspension, prior to repeal by Pub. L. 95-454, § 204(a).

EFFECTIVE DATE

Subchapter effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-376, § 1, Aug. 17, 1990, 104 Stat. 461, provided that: "This Act [amending sections 4303, 7511, and 7701 of this title and enacting provisions set out as notes under section 4303 of this title] may be cited as the 'Civil Service Due Process Amendments'."

§ 7502. Actions covered

This subchapter applies to a suspension for 14 days or less, but does not apply to a suspension under section 7521 or 7532 of this title or any action initiated under section 1215 of this title.

(Added Pub. L. 95-454, title II, § 204(a), Oct. 13, 1978, 92 Stat. 1135; amended Pub. L. 101-12, § 9(a)(2), Apr. 10, 1989, 103 Stat. 35.)

AMENDMENTS

1989—Pub. L. 101-12 substituted "1215" for "1206".

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-12 effective 90 days following Apr. 10, 1989, see section 11 of Pub. L. 101-12, set out as a note under section 1201 of this title.

§ 7503. Cause and procedure

(a) Under regulations prescribed by the Office of Personnel Management, an employee may be suspended for 14 days or less for such cause as will promote the efficiency of the service (including discourteous conduct to the public confirmed by an immediate supervisor's report of four such instances within any one-year period or any other pattern of discourteous conduct).

(b) An employee against whom a suspension for 14 days or less is proposed is entitled to—

- (1) an advance written notice stating the specific reasons for the proposed action;
- (2) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;
- (3) be represented by an attorney or other representative; and
- (4) a written decision and the specific reasons therefor at the earliest practicable date.

(c) Copies of the notice of proposed action, the answer of the employee if written, a summary thereof if made orally, the notice of decision and reasons therefor, and any order effecting¹ the suspension, together with any supporting material, shall be maintained by the agency and shall be furnished to the Merit Systems Protection Board upon its request and to the employee affected upon the employee's request.

(Added Pub. L. 95-454, title II, § 204(a), Oct. 13, 1978, 92 Stat. 1135.)

¹So in original. Probably should be "affecting".

§ 7504. Regulations

The Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter.

(Added Pub. L. 95-454, title II, § 204(a), Oct. 13, 1978, 92 Stat. 1135.)

SUBCHAPTER II—REMOVAL, SUSPENSION FOR MORE THAN 14 DAYS, REDUCTION IN GRADE OR PAY, OR FURLOUGH FOR 30 DAYS OR LESS

AMENDMENTS

1978—Pub. L. 95-454, title II, § 204(a), Oct. 13, 1978, 92 Stat. 1135, substituted "REMOVAL, SUSPENSION FOR MORE THAN 14 DAYS, REDUCTION IN GRADE OR PAY, OR FURLOUGH FOR 30 DAYS OR LESS" for "PREFERENCE ELIGIBLES" in subchapter heading.

§ 7511. Definitions; application

- (a) For the purpose of this subchapter—
 - (1) "employee" means—
 - (A) an individual in the competitive service—
 - (i) who is not serving a probationary or trial period under an initial appointment; or
 - (ii) who has completed 1 year of current continuous service under other than a temporary appointment limited to 1 year or less;
 - (B) a preference eligible in the excepted service who has completed 1 year of current continuous service in the same or similar positions—
 - (i) in an Executive agency; or
 - (ii) in the United States Postal Service or Postal Regulatory Commission; and
 - (C) an individual in the excepted service (other than a preference eligible)—
 - (i) who is not serving a probationary or trial period under an initial appointment pending conversion to the competitive service; or
 - (ii) who has completed 2 years of current continuous service in the same or similar positions in an Executive agency under other than a temporary appointment limited to 2 years or less;
 - (2) "suspension" has the same meaning as set forth in section 7501(2) of this title;
 - (3) "grade" means a level of classification under a position classification system;
 - (4) "pay" means the rate of basic pay fixed by law or administrative action for the position held by an employee; and
 - (5) "furlough" means the placing of an employee in a temporary status without duties and pay because of lack of work or funds or other nondisciplinary reasons.
 - (b) This subchapter does not apply to an employee—
 - (1) whose appointment is made by and with the advice and consent of the Senate;
 - (2) whose position has been determined to be of a confidential, policy-determining, policy-making or policy-advocating character by—
 - (A) the President for a position that the President has excepted from the competitive service;

(B) the Office of Personnel Management for a position that the Office has excepted from the competitive service; or

(C) the President or the head of an agency for a position excepted from the competitive service by statute;

(3) whose appointment is made by the President;

(4) who is receiving an annuity from the Civil Service Retirement and Disability Fund, or the Foreign Service Retirement and Disability Fund, based on the service of such employee;

(5) who is described in section 8337(h)(1), relating to technicians in the National Guard;

(6) who is a member of the Foreign Service, as described in section 103 of the Foreign Service Act of 1980;

(7) whose position is within the Central Intelligence Agency or the Government Accountability Office;

(8) whose position is within the United States Postal Service, the Postal Regulatory Commission, the Panama Canal Commission, the Tennessee Valley Authority, the Federal Bureau of Investigation, an intelligence component of the Department of Defense (as defined in section 1614 of title 10), or an intelligence activity of a military department covered under subchapter I of chapter 83 of title 10, unless subsection (a)(1)(B) of this section or section 1005(a) of title 39 is the basis for this subchapter's applicability;

(9) who is described in section 5102(c)(11) of this title; or

(10) who holds a position within the Veterans Health Administration which has been excluded from the competitive service by or under a provision of title 38, unless such employee was appointed to such position under section 7401(3) of such title.

(c) The Office may provide for the application of this subchapter to any position or group of positions excepted from the competitive service by regulation of the Office which is not otherwise covered by this subchapter.

(Added Pub. L. 95-454, title II, § 204(a), Oct. 13, 1978, 92 Stat. 1135; amended Pub. L. 101-376, § 2(a), Aug. 17, 1990, 104 Stat. 461; Pub. L. 102-378, § 6(a), Oct. 2, 1992, 106 Stat. 1358; Pub. L. 103-359, title V, § 501(l), Oct. 14, 1994, 108 Stat. 3430; Pub. L. 104-201, div. A, title XVI, § 1634(b), Sept. 23, 1996, 110 Stat. 2752; Pub. L. 108-271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 109-435, title VI, § 604(b), (f), Dec. 20, 2006, 120 Stat. 3241, 3242.)

REFERENCES IN TEXT

Section 103 of the Foreign Service Act of 1980, referred to in subsec. (b)(6), is classified to section 3903 of Title 22, Foreign Relations and Intercourse.

PRIOR PROVISIONS

A prior section 7511, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 528; Pub. L. 94-183, § 2(30), Dec. 31, 1975, 89 Stat. 1058, defined "preference eligible employee" and "adverse action" for purposes of this subchapter, prior to repeal by Pub. L. 95-454, § 204(a).

AMENDMENTS

2006—Subsec. (a)(1)(B)(ii). Pub. L. 109-435, § 604(b), substituted "Postal Regulatory Commission" for "Postal Rate Commission".

Subsec. (b)(8). Pub. L. 109-435, § 604(f), substituted "Postal Regulatory Commission" for "Postal Rate Commission".

2004—Subsec. (b)(7). Pub. L. 108-271 substituted "Government Accountability Office" for "General Accounting Office".

1996—Subsec. (b)(8). Pub. L. 104-201 substituted "an intelligence component of the Department of Defense (as defined in section 1614 of title 10), or an intelligence activity of a military department covered under subchapter I of chapter 83 of title 10" for "the National Security Agency, the Defense Intelligence Agency, the Central Imagery Office, or an intelligence activity of a military department covered under section 1590 of title 10".

1994—Subsec. (b)(8). Pub. L. 103-359 inserted "the Central Imagery Office," after "Defense Intelligence Agency".

1992—Subsec. (b)(7). Pub. L. 102-378, § 6(a)(1), amended par. (7) generally. Prior to amendment, par. (7) read as follows: "whose position is with the Central Intelligence Agency, the General Accounting Office, or the Veterans Health Services and Research Administration;".

Subsec. (b)(10). Pub. L. 102-378, § 6(a)(2)-(4), added par. (10).

1990—Pub. L. 101-376 amended section generally. Prior to amendment, section read as follows:

"(a) For the purpose of this subchapter—

"(1) 'employee' means—

"(A) an individual in the competitive service who is not serving a probationary or trial period under an initial appointment or who has completed 1 year of current continuous employment under other than a temporary appointment limited to 1 year or less; and

"(B) a preference eligible in an Executive agency in the excepted service, and a preference eligible in the United States Postal Service or the Postal Rate Commission, who has completed 1 year of current continuous service in the same or similar positions;

"(2) 'suspension' has the meaning as set forth in section 7501(2) of this title;

"(3) 'grade' means a level of classification under a position classification system;

"(4) 'pay' means the rate of basic pay fixed by law or administrative action for the position held by an employee; and

"(5) 'furlough' means the placing of an employee in a temporary status without duties and pay because of lack of work or funds or other nondisciplinary reasons.

"(b) This subchapter does not apply to an employee—

"(1) whose appointment is made by and with the advice and consent of the Senate;

"(2) whose position has been determined to be of a confidential, policy-determining, policy-making or policy-advocating character by—

"(A) the Office of Personnel Management for a position that it has excepted from the competitive service; or

"(B) the President or the head of an agency for a position which is excepted from the competitive service by statute.

"(c) The Office may provide for the application of this subchapter to any position or group of positions excepted from the competitive service by regulation of the Office."

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-201 effective Oct. 1, 1996, see section 1635 of Pub. L. 104-201, set out as a note under section 1593 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 6(b) of Pub. L. 102-378 provided that:

"(1) The amendments made by subsection (a) [amending this section] shall apply with respect to any personnel action taking effect on or after the date of enactment of this Act [Oct. 2, 1992].

“(2) In the case of an employee or former employee of the Veterans Health Administration (or predecessor agency in name)—

“(A) against whom an adverse personnel action was taken before the date of enactment of this Act,

“(B) who, as a result of the enactment of the Civil Service Due Process Amendments (5 U.S.C. 7501 note) [Pub. L. 101-376], became ineligible to appeal such action to the Merit Systems Protection Board.

“(C) as to whom that appeal right is restored as a result of the enactment of subsection (a), or would have been restored but for the passage of time, and

“(D) who is not precluded, by section 7121(e)(1) of title 5, United States Code, from appealing to the Merit Systems Protection Board, the deadline for bringing an appeal under section 7512(d) or section 4303(e) of such title with respect to such action shall be the latter of—

“(i) the 60th day after the date of enactment of this Act; or

“(ii) the deadline which would otherwise apply if this paragraph had not been enacted.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-376 applicable with respect to any personnel action taking effect on or after Aug. 17, 1990, see section 2(c) of Pub. L. 101-376, set out as a note under section 4303 of this title.

EFFECTIVE DATE

Subchapter effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

§ 7512. Actions covered

This subchapter applies to—

- (1) a removal;
- (2) a suspension for more than 14 days;
- (3) a reduction in grade;
- (4) a reduction in pay; and
- (5) a furlough of 30 days or less;

but does not apply to—

(A) a suspension or removal under section 7532 of this title,

(B) a reduction-in-force action under section 3502 of this title,

(C) the reduction in grade of a supervisor or manager who has not completed the probationary period under section 3321(a)(2) of this title if such reduction is to the grade held immediately before becoming such a supervisor or manager,

(D) a reduction in grade or removal under section 4303 of this title, or

(E) an action initiated under section 1215 or 7521 of this title.

(Added Pub. L. 95-454, title II, §204(a), Oct. 13, 1978, 92 Stat. 1136; amended Pub. L. 101-12, §9(a)(2), Apr. 10, 1989, 103 Stat. 35.)

PRIOR PROVISIONS

A prior section 7512, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 528, related to adverse action against a preference eligible employee and procedures applicable to such adverse action, prior to repeal by Pub. L. 95-454, §204(a).

AMENDMENTS

1989—Par. (E). Pub. L. 101-12 substituted “1215” for “1206”.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-12 effective 90 days following Apr. 10, 1989, see section 11 of Pub. L. 101-12, set out as a note under section 1201 of this title.

§ 7513. Cause and procedure

(a) Under regulations prescribed by the Office of Personnel Management, an agency may take an action covered by this subchapter against an employee only for such cause as will promote the efficiency of the service.

(b) An employee against whom an action is proposed is entitled to—

(1) at least 30 days' advance written notice, unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, stating the specific reasons for the proposed action;

(2) a reasonable time, but not less than 7 days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

(3) be represented by an attorney or other representative; and

(4) a written decision and the specific reasons therefor at the earliest practicable date.

(c) An agency may provide, by regulation, for a hearing which may be in lieu of or in addition to the opportunity to answer provided under subsection (b)(2) of this section.

(d) An employee against whom an action is taken under this section is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title.

(e) Copies of the notice of proposed action, the answer of the employee when written, a summary thereof when made orally, the notice of decision and reasons therefor, and any order effecting an action covered by this subchapter, together with any supporting material, shall be maintained by the agency and shall be furnished to the Board upon its request and to the employee affected upon the employee's request.

(Added Pub. L. 95-454, title II, §204(a), Oct. 13, 1978, 92 Stat. 1136.)

§ 7514. Regulations

The Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter, except as it concerns any matter with respect to which the Merit Systems Protection Board may prescribe regulations.

(Added Pub. L. 95-454, title II, §204(a), Oct. 13, 1978, 92 Stat. 1137.)

SUBCHAPTER III—ADMINISTRATIVE LAW JUDGES

AMENDMENTS

1978—Pub. L. 95-454, title II, §204(a), Oct. 13, 1978, 92 Stat. 1137, substituted “ADMINISTRATIVE LAW JUDGES” for “HEARING EXAMINERS” in subchapter heading.

§ 7521. Actions against administrative law judges

(a) An action may be taken against an administrative law judge appointed under section 3105 of this title by the agency in which the administrative law judge is employed only for good cause established and determined by the Merit Systems Protection Board on the record after opportunity for hearing before the Board.

(b) The actions covered by this section are—

- (1) a removal;
- (2) a suspension;
- (3) a reduction in grade;
- (4) a reduction in pay; and
- (5) a furlough of 30 days or less;

but do not include—

- (A) a suspension or removal under section 7532 of this title;
- (B) a reduction-in-force action under section 3502 of this title; or
- (C) any action initiated under section 1215 of this title.

(Added Pub. L. 95-454, title II, § 204(a), Oct. 13, 1978, 92 Stat. 1137; amended Pub. L. 101-12, § 9(a)(2), Apr. 10, 1989, 103 Stat. 35.)

PRIOR PROVISIONS

A prior section 7521, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 528; Pub. L. 95-251, § 2(a)(1), Mar. 27, 1978, 92 Stat. 183, related to removal of an administrative law judge appointed under section 3105 of this title, prior to repeal by Pub. L. 95-454, § 204(a).

AMENDMENTS

1989—Subsec. (b)(C). Pub. L. 101-12 substituted “1215” for “1206”.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-12 effective 90 days following Apr. 10, 1989, see section 11 of Pub. L. 101-12, set out as a note under section 1201 of this title.

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

SUBCHAPTER IV—NATIONAL SECURITY

§ 7531. Definitions

For the purpose of this subchapter, “agency” means—

- (1) the Department of State;
- (2) the Department of Commerce;
- (3) the Department of Justice;
- (4) the Department of Defense;
- (5) a military department;
- (6) the Coast Guard;
- (7) the Atomic Energy Commission;
- (8) the National Aeronautics and Space Administration; and
- (9) such other agency of the Government of the United States as the President designates in the best interests of national security.

The President shall report any designation to the Committees on the Armed Services of the Congress.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 528.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	5 U.S.C. 22-3.	Aug. 26, 1950, ch. 823, § 3, 64 Stat. 477.

Paragraphs (1)-(8) are supplied on authority of former section 22-1, which is carried in part into section 7532. The references to “the Foreign Service of the United States” and “several field services” are omitted as unnecessary since they are within the agencies concerned. The words “military departments” are substituted for

the enumeration of the military departments in view of the definition of “military department” in section 102.

The reference to the National Security Resources Board is omitted as the Board was abolished by 1953 Reorg. Plan No. 3, § 6, eff. June 12, 1953, 67 Stat. 636.

Paragraph (9) is restated to conform to the style of this title.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

ABOLITION OF ATOMIC ENERGY COMMISSION

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See, also, Transfer of Functions notes set out under those sections.

PANAMA CANAL AND PANAMA RAILROAD COMPANY

Ex. Ord. No. 10237, Apr. 27, 1951, 16 F.R. 3627, made the provisions of former sections 22-1 and 22-3 of this title [see Disposition Table preceding section 101 of this title] applicable to the Panama Canal Government and to the Panama Canal Company.

DESIGNATION OF NATIONAL SECURITY AGENCY, DEFENSE INTELLIGENCE AGENCY, AND DEFENSE MAPPING AGENCY AS “AGENCIES”

Memorandum of the President of the United States, May 23, 1988, 53 F.R. 26023, provided:

Memorandum for the Secretary of Defense

I have reviewed the personnel security requirements of the National Security Agency, the Defense Intelligence Agency, and the Defense Mapping Agency and the termination provisions of 5 U.S.C. Section 7532. I have determined that these Agencies are sensitive agencies and that it is in the best interests of national security that they be designated “agencies” within the meaning of that section.

Therefore, pursuant to the authority set forth in 5 U.S.C. Section 7531(9), I hereby designate the National Security Agency, the Defense Intelligence Agency, and the Defense Mapping Agency as “agencies” within the meaning of 5 U.S.C. Section 7532.

You are hereby authorized and directed to report these designations to the Committees on Armed Services of the Congress and to publish this memorandum in the Federal Register.

RONALD REAGAN.

§ 7532. Suspension and removal

(a) Notwithstanding other statutes, the head of an agency may suspend without pay an employee of his agency when he considers that action necessary in the interests of national security. To the extent that the head of the agency determines that the interests of national security permit, the suspended employee shall be notified of the reasons for the suspension. Within 30 days after the notification, the suspended employee is entitled to submit to the official designated by the head of the agency statements or affidavits to show why he should be restored to duty.

(b) Subject to subsection (c) of this section, the head of an agency may remove an employee

suspended under subsection (a) of this section when, after such investigation and review as he considers necessary, he determines that removal is necessary or advisable in the interests of national security. The determination of the head of the agency is final.

(c) An employee suspended under subsection (a) of this section who—

- (1) has a permanent or indefinite appointment;
- (2) has completed his probationary or trial period; and
- (3) is a citizen of the United States;

is entitled, after suspension and before removal, to—

(A) a written statement of the charges against him within 30 days after suspension, which may be amended within 30 days thereafter and which shall be stated as specifically as security considerations permit;

(B) an opportunity within 30 days thereafter, plus an additional 30 days if the charges are amended, to answer the charges and submit affidavits;

(C) a hearing, at the request of the employee, by an agency authority duly constituted for this purpose;

(D) a review of his case by the head of the agency or his designee, before a decision adverse to the employee is made final; and

(E) a written statement of the decision of the head of the agency.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 529.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 22–1 (less 3d–5th provisos).	Aug. 26, 1950, ch. 803, § 1 (less 3d–5th provisos), 64 Stat. 476. July 29, 1958, Pub. L. 85–568, § 301(c), 72 Stat. 432.

The application of this section is covered by the definition in section 7531.

In subsection (a), the words “Notwithstanding the provisions of section 652 of this title” are omitted but are carried into section 7501(c). The words “in his absolute discretion” are omitted as unnecessary in view of the permissive grant of authority. The word “reinstated” is omitted as it is commonly used in other statutes to denote action different from that referred to here.

In subsections (b) and (c), the words “remove” and “removal” are coextensive with and substituted for “terminate the employment”, “termination”, and “employment is terminated”, as appropriate.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 7533. Effect on other statutes

This subchapter does not impair the powers vested in the Atomic Energy Commission by chapter 23 of title 42, or the requirement in section 2201(d) of title 42 that adequate provision be made for administrative review of a determination to dismiss an employee of the Atomic Energy Commission.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 529.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 22–2.	Aug. 26, 1950, ch. 803, § 2, 64 Stat. 477.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See, also, Transfer of Functions notes set out under those sections.

SUBCHAPTER V—SENIOR EXECUTIVE SERVICE

§ 7541. Definitions

For the purpose of this subchapter—

(1) “employee” means a career appointee in the Senior Executive Service who—

(A) has completed the probationary period prescribed under section 3393(d) of this title; or

(B) was covered by the provisions of subchapter II of this chapter immediately before appointment to the Senior Executive Service; and

(2) “suspension” has the meaning set forth in section 7501(2) of this title.

(Added Pub. L. 95–454, title IV, § 411(2), Oct. 13, 1978, 92 Stat. 1174.)

EFFECTIVE DATE

Subchapter effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95–454, see section 415 of Pub. L. 95–454, set out as a note under section 3131 of this title.

§ 7542. Actions covered

This subchapter applies to a removal from the civil service or suspension for more than 14 days, but does not apply to an action initiated under section 1215 of this title, to a suspension or removal under section 7532 of this title, or to a removal under section 3592 or 3595 of this title.

(Added Pub. L. 95–454, title IV, § 411(2), Oct. 13, 1978, 92 Stat. 1174; amended Pub. L. 97–35, title XVII, § 1704(d)(1), Aug. 13, 1981, 95 Stat. 758; Pub. L. 101–12, § 9(a)(2), Apr. 10, 1989, 103 Stat. 35.)

AMENDMENTS

1989—Pub. L. 101–12 substituted “1215” for “1206”.

1981—Pub. L. 97–35 inserted reference to section 3595 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–12 effective 90 days following Apr. 10, 1989, see section 11 of Pub. L. 101–12, set out as a note under section 1201 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective June 1, 1981, with certain exceptions and conditions, see section 1704(e) of Pub. L. 97–35, set out as an Effective Date note under section 3595 of this title.

§ 7543. Cause and procedure

(a) Under regulations prescribed by the Office of Personnel Management, an agency may take

an action covered by this subchapter against an employee only for misconduct, neglect of duty, malfeasance, or failure to accept a directed reassignment or to accompany a position in a transfer of function.

(b) An employee against whom an action covered by this subchapter is proposed is entitled to—

(1) at least 30 days' advance written notice, unless there is reasonable cause to believe that the employee has committed a crime for which a sentence of imprisonment can be imposed, stating specific reasons for the proposed action;

(2) a reasonable time, but not less than 7 days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

(3) be represented by an attorney or other representative; and

(4) a written decision and specific reasons therefor at the earliest practicable date.

(c) An agency may provide, by regulation, for a hearing which may be in lieu of or in addition to the opportunity to answer provided under subsection (b)(2) of this section.

(d) An employee against whom an action is taken under this section is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title.

(e) Copies of the notice of proposed action, the answer of the employee when written, and a summary thereof when made orally, the notice of decision and reasons therefor, and any order effecting an action covered by this subchapter, together with any supporting material, shall be maintained by the agency and shall be furnished to the Merit Systems Protection Board upon its request and to the employee affected upon the employee's request.

(Added Pub. L. 95-454, title IV, § 411(2), Oct. 13, 1978, 92 Stat. 1174; amended Pub. L. 97-35, title XVII, § 1704(d)(2), Aug. 13, 1981, 95 Stat. 758; Pub. L. 98-615, title III, § 304(c), Nov. 8, 1984, 98 Stat. 3219.)

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-615 inserted reference to failure to accept a directed reassignment or to accompany a position in a transfer of function.

1981—Subsec. (a). Pub. L. 97-35 substituted “misconduct, neglect of duty, or malfeasance” for “such cause as will promote the efficiency of the service”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-615 effective Nov. 8, 1984, see section 307 of Pub. L. 98-615, set out as a note under section 3393 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective June 1, 1981, with certain exceptions and conditions, see section 1704(e) of Pub. L. 97-35, set out as an Effective Date note under section 3395 of this title.

CHAPTER 77—APPEALS

Sec.	
7701.	Appellate procedures.
7702.	Actions involving discrimination.
7703.	Judicial review of decisions of the Merit Systems Protection Board.

AMENDMENTS

1978—Pub. L. 95-454, title II, § 205, Oct. 13, 1978, 92 Stat. 1138, substituted “Appellate procedures” for “Appeals of preference eligibles” in item 7701, and added items 7702 and 7703.

§ 7701. Appellate procedures

(a) An employee, or applicant for employment, may submit an appeal to the Merit Systems Protection Board from any action which is appealable to the Board under any law, rule, or regulation. An appellant shall have the right—

(1) to a hearing for which a transcript will be kept; and

(2) to be represented by an attorney or other representative.

Appeals shall be processed in accordance with regulations prescribed by the Board.

(b)(1) The Board may hear any case appealed to it or may refer the case to an administrative law judge appointed under section 3105 of this title or other employee of the Board designated by the Board to hear such cases, except that in any case involving a removal from the service, the case shall be heard by the Board, an employee experienced in hearing appeals, or an administrative law judge. The Board, administrative law judge, or other employee (as the case may be) shall make a decision after receipt of the written representations of the parties to the appeal and after opportunity for a hearing under subsection (a)(1) of this section. A copy of the decision shall be furnished to each party to the appeal and to the Office of Personnel Management.

(2)(A) If an employee or applicant for employment is the prevailing party in an appeal under this subsection, the employee or applicant shall be granted the relief provided in the decision effective upon the making of the decision, and remaining in effect pending the outcome of any petition for review under subsection (e), unless—

(i) the deciding official determines that the granting of such relief is not appropriate; or

(ii)(I) the relief granted in the decision provides that such employee or applicant shall return or be present at the place of employment during the period pending the outcome of any petition for review under subsection (e); and

(II) the employing agency, subject to the provisions of subparagraph (B), determines that the return or presence of such employee or applicant is unduly disruptive to the work environment.

(B) If an agency makes a determination under subparagraph (A)(ii)(II) that prevents the return or presence of an employee at the place of employment, such employee shall receive pay, compensation, and all other benefits as terms and conditions of employment during the period pending the outcome of any petition for review under subsection (e).

(C) Nothing in the provisions of this paragraph may be construed to require any award of back pay or attorney fees be paid before the decision is final.

(3) With respect to an appeal from an adverse action covered by subchapter V of chapter 75, authority to mitigate the personnel action involved shall be available, subject to the same

From: **femamax@gmail.com** <femamax@gmail.com>
To: **Meindl, Max** <max.meindl@fema.dhs.gov>
Subject: PART 752-ADVERSE ACTIONS
Date: 23.12.2019 02:10:21 (+01:00)
Attachments: PART 752-ADVERSE ACTIONS.pdf (9 pages)

§ 736.201

Subpart B—Investigative Requirements

§ 736.201 Responsibilities of OPM and other Federal agencies.

(a) Unless provided otherwise by law, the investigation of persons entering or employed in the competitive service, or by career appointment in the Senior Executive Service, is the responsibility of OPM.

(b) Requests for delegated investigating authority. Agencies may request delegated authority from OPM to conduct or contract out investigations of persons entering or employed in the competitive service or by career appointment in the Senior Executive Service. Such requests shall be made in writing by agency heads, or designees, and specify the reason(s) for the request.

(c) Timing of investigations. Investigations required for positions must be initiated within 14 days of placement in the position except for: Positions designated Critical-Sensitive under part 732 of this chapter must be completed preplacement, or post-placement with approval of a waiver in accordance with § 732.202(a) of this chapter; and for positions designated Special-Sensitive under part 732 of this chapter must be completed preplacement.

PART 752—ADVERSE ACTIONS

Subpart A [Reserved]

Subpart B—Regulatory Requirements for Suspension for 14 Days or Less

Sec.

- 752.201 Coverage.
- 752.202 Standard for action.
- 752.203 Procedures.

Subpart C [Reserved]

Subpart D—Regulatory Requirements for Removal, Suspension for More Than 14 Days, Reduction in Grade or Pay, or Furlough for 30 Days or Less

- 752.401 Coverage.
- 752.402 Definitions.
- 752.403 Standard for action.
- 752.404 Procedures.
- 752.405 Appeal and grievance rights.
- 752.406 Agency records.

5 CFR Ch. I (1-1-12 Edition)

Subpart E [Reserved]

Subpart F—Regulatory Requirements for Taking Adverse Actions Under the Senior Executive Service

- 752.601 Coverage.
- 752.602 Definitions.
- 752.603 Standard for action.
- 752.604 Procedures.
- 752.605 Appeal rights.
- 752.606 Agency records.

AUTHORITY: 5 U.S.C. 7504, 7514, and 7543.

SOURCE: 74 FR 63532, Dec. 4, 2009, unless otherwise noted.

Subpart A [Reserved]

Subpart B—Regulatory Requirements for Suspension for 14 Days or Less

§ 752.201 Coverage.

(a) *Adverse actions covered.* This subpart covers suspension for 14 days or less.

(b) *Employees covered.* This subpart covers:

(1) An employee in the competitive service who has completed a probationary or trial period;

(2) An employee in the competitive service serving in an appointment which requires no probationary or trial period, and who has completed 1 year of current continuous employment in the same or similar positions under other than a temporary appointment limited to 1 year or less;

(3) An employee with competitive status who occupies a position under Schedule B of part 213 of this chapter;

(4) An employee who was in the competitive service at the time his or her position was first listed under Schedule A, B, or C of the excepted service and still occupies that position;

(5) An employee of the Department of Veterans Affairs appointed under section 7401(3) of title 38, United States Code; and

(6) An employee of the Government Printing Office.

(c) *Exclusions.* This subpart does not apply to a suspension for 14 days or less:

(1) Of an administrative law judge under 5 U.S.C. 7521;

Office of Personnel Management**§ 752.203**

(2) Taken for national security reasons under 5 U.S.C. 7532;

(3) Taken under any other provision of law which excepts the action from subchapter I, chapter 75, of title 5, U.S. Code;

- (4) Of a reemployed annuitant; or
- (5) Of a National Guard Technician.

(d) *Definitions.* In this subpart—

Current continuous employment means a period of employment immediately preceding a suspension action without a break in Federal civilian employment of a workday.

Day means a calendar day.

Similar positions means positions in which the duties performed are similar in nature and character and require substantially the same or similar qualifications, so that the incumbent could be interchanged between the positions without significant training or undue interruption to the work.

Suspension means the placing of an employee, for disciplinary reasons, in a temporary status without duties and pay.

§ 752.202 Standard for action.

(a) An agency may take action under this subpart for such cause as will promote the efficiency of the service as set forth in 5 U.S.C. 7503(a).

(b) An agency may not take a suspension against an employee on the basis of any reason prohibited by 5 U.S.C. 2302.

§ 752.203 Procedures.

(a) *Statutory entitlements.* An employee under this subpart whose suspension is proposed under this subpart is entitled to the procedures provided in 5 U.S.C. 7503(b).

(b) *Notice of proposed action.* The notice must state the specific reason(s) for the proposed action, and inform the employee of his or her right to review the material which is relied on to support the reasons for action given in the notice.

(c) *Employee's answer.* The employee must be given a reasonable time, but not less than 24 hours, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer.

(d) *Representation.* An employee covered by this subpart is entitled to be

represented by an attorney or other representative. An agency may disallow as an employee's representative an individual whose activities as representative would cause a conflict of interest or position, or an employee of the agency whose release from his or her official position would give rise to unreasonable costs or whose priority work assignments preclude his or her release.

(e) *Agency decision.* (1) In arriving at its decision, the agency will consider only the reasons specified in the notice of proposed action and any answer of the employee or his or her representative, or both, made to a designated official.

(2) The agency must specify in writing the reason(s) for the decision and advise the employee of any grievance rights under paragraph (f) of this section. The agency must deliver the notice of decision to the employee on or before the effective date of the action.

(f) *Grievances.* The employee may file a grievance through an agency administrative grievance system (if applicable) or, if the suspension falls within the coverage of an applicable negotiated grievance procedure, an employee in an exclusive bargaining unit may file a grievance only under that procedure. Sections 7114(a)(5) and 7121(b)(1)(C) of title 5, U.S. Code, and the terms of any collective bargaining agreement, govern representation for employees in an exclusive bargaining unit who grieve a suspension under this subpart through the negotiated grievance procedure.

(g) *Agency records.* The agency must maintain copies of, and will furnish to the Merit Systems Protection Board and to the employee upon their request, the following documents:

- (1) Notice of the proposed action;
- (2) Employee's written reply, if any;
- (3) Summary of the employee's oral reply, if any;
- (4) Notice of decision; and
- (5) Any order effecting the suspension, together with any supporting material.

Subpart C [Reserved]

§ 752.401

Subpart D—Regulatory Requirements for Removal, Suspension for More Than 14 Days, Reduction in Grade or Pay, or Furlough for 30 Days or Less

§ 752.401 Coverage.

- (a) *Adverse actions covered.* This subpart applies to the following actions:
- (1) Removals;
 - (2) Suspensions for more than 14 days, including indefinite suspensions;
 - (3) Reductions in grade;
 - (4) Reductions in pay; and
 - (5) Furloughs of 30 days or less.
- (b) *Actions excluded.* This subpart does not apply to:
- (1) An action imposed by the Merit Systems Protection Board under the authority of 5 U.S.C. 1215;
 - (2) The reduction in grade of a supervisor or manager who has not completed the probationary period under 5 U.S.C. 3321(a)(2) if such a reduction is to the grade held immediately before becoming a supervisor or manager;
 - (3) A reduction-in-force action under 5 U.S.C. 3502;
 - (4) A reduction in grade or removal under 5 U.S.C. 4303;
 - (5) An action against an administrative law judge under 5 U.S.C. 7521;
 - (6) A suspension or removal under 5 U.S.C. 7532;
 - (7) Actions taken under any other provision of law which excepts the action from subchapter II of chapter 75 of title 5, United States Code;
 - (8) Action that entitles an employee to grade retention under part 536 of this chapter, and an action to terminate this entitlement;
 - (9) A voluntary action by the employee;
 - (10) Action taken or directed by the Office of Personnel Management under part 731 of this chapter;
 - (11) Termination of appointment on the expiration date specified as a basic condition of employment at the time the appointment was made;
 - (12) Action that terminates a temporary or term promotion and returns the employee to the position from which temporarily promoted, or to a different position of equivalent grade and pay, if the agency informed the employee that it was to be of limited duration;

5 CFR Ch. I (1-1-12 Edition)

(13) Cancellation of a promotion to a position not classified prior to the promotion;

(14) Placement of an employee serving on an intermittent or seasonal basis in a temporary nonduty, nonpay status in accordance with conditions established at the time of appointment; or

(15) Reduction of an employee's rate of basic pay from a rate that is contrary to law or regulation, including a reduction necessary to comply with the amendments made by Public Law 108-411, regarding pay-setting under the General Schedule and Federal Wage System and regulations implementing those amendments.

(c) *Employees covered.* This subpart covers:

(1) A career or career conditional employee in the competitive service who is not serving a probationary or trial period;

(2) An employee in the competitive service who has completed 1 year of current continuous service under other than a temporary appointment limited to 1 year or less;

(3) An employee in the excepted service who is a preference eligible in an Executive agency as defined at section 105 of title 5, United States Code, the U.S. Postal Service, or the Postal Regulatory Commission and who has completed 1 year of current continuous service in the same or similar positions;

(4) A Postal Service employee covered by Public Law 100-90 who has completed 1 year of current continuous service in the same or similar positions and who is either a supervisory or management employee or an employee engaged in personnel work in other than a purely nonconfidential clerical capacity;

(5) An employee in the excepted service who is a nonpreference eligible in an Executive agency as defined at section 105 of title 5, United States Code, and who has completed 2 years of current continuous service in the same or similar positions under other than a temporary appointment limited to 2 years or less;

(6) An employee with competitive status who occupies a position in Schedule B of part 213 of this chapter;

Office of Personnel Management**§ 752.402**

(7) An employee who was in the competitive service at the time his or her position was first listed under Schedule A, B, or C of the excepted service and who still occupies that position;

(8) An employee of the Department of Veterans Affairs appointed under section 7401(3) of title 38, United States Code; and

(9) An employee of the Government Printing Office.

(d) *Employees excluded.* This subpart does not apply to:

(1) An employee whose appointment is made by and with the advice and consent of the Senate;

(2) An employee whose position has been determined to be of a confidential, policy-determining, policy-making, or policy-advocating character by the President for a position that the President has excepted from the competitive service; the Office of Personnel Management for a position that the Office has excepted from the competitive service (Schedule C); or the President or the head of an agency for a position excepted from the competitive service by statute;

(3) A Presidential appointee;

(4) A reemployed annuitant;

(5) A technician in the National Guard described in section 8337(h)(1) of title 5, United States Code, who is employed under section 709(a) of title 32, United States Code;

(6) A Foreign Service member as described in section 103 of the Foreign Service Act of 1980;

(7) An employee of the Central Intelligence Agency or the Government Accountability Office;

(8) An employee of the Veterans Health Administration (Department of Veterans Affairs) in a position which has been excluded from the competitive service by or under a provision of title 38, United States Code, unless the employee was appointed to the position under section 7401(3) of title 38, United States Code;

(9) A nonpreference eligible employee with the U.S. Postal Service, the Postal Regulatory Commission, the Panama Canal Commission, the Tennessee Valley Authority, the Federal Bureau of Investigation, the National Security Agency, the Defense Intelligence Agency, or any other intelligence compo-

nent of the Department of Defense (as defined in section 1614 of title 10, United States Code), or an intelligence activity of a military department covered under subchapter I of chapter 83 of title 10, United States Code;

(10) An employee described in section 5102(c)(11) of title 5, United States Code, who is an alien or noncitizen occupying a position outside the United States;

(11) A nonpreference eligible employee serving a probationary or trial period under an initial appointment in the excepted service pending conversion to the competitive service, unless he or she meets the requirements of paragraph (c)(5) of this section;

(12) An employee whose agency or position has been excluded from the appointing provisions of title 5, United States Code, by separate statutory authority in the absence of any provision to place the employee within the coverage of chapter 75 of title 5, United States Code; and

(13) An employee in the competitive service serving a probationary or trial period, unless he or she meets the requirements of paragraph (c)(2) of this section.

§ 752.402 Definitions.

In this subpart—

Current continuous employment means a period of employment or service immediately preceding an adverse action without a break in Federal civilian employment of a workday.

Day means a calendar day.

Furlough means the placing of an employee in a temporary status without duties and pay because of lack of work or funds or other nondisciplinary reasons.

Grade means a level of classification under a position classification system.

Indefinite suspension means the placing of an employee in a temporary status without duties and pay pending investigation, inquiry, or further agency action. The indefinite suspension continues for an indeterminate period of time and ends with the occurrence of the pending conditions set forth in the notice of action which may include the completion of any subsequent administrative action.

§ 752.403

Pay means the rate of basic pay fixed by law or administrative action for the position held by the employee, that is, the rate of pay before any deductions and exclusive of additional pay of any kind.

Similar positions means positions in which the duties performed are similar in nature and character and require substantially the same or similar qualifications, so that the incumbent could be interchanged between the positions without significant training or undue interruption to the work.

Suspension means the placing of an employee, for disciplinary reasons, in a temporary status without duties and pay for more than 14 days.

§ 752.403 Standard for action.

(a) An agency may take an adverse action, including a performance-based adverse action or an indefinite suspension, under this subpart only for such cause as will promote the efficiency of the service.

(b) An agency may not take an adverse action against an employee on the basis of any reason prohibited by 5 U.S.C. 2302.

§ 752.404 Procedures.

(a) *Statutory entitlements.* An employee against whom action is proposed under this subpart is entitled to the procedures provided in 5 U.S.C. 7513(b).

(b) *Notice of proposed action.* (1) An employee against whom an action is proposed is entitled to at least 30 days' advance written notice unless there is an exception pursuant to paragraph (d) of this section. The notice must state the specific reason(s) for the proposed action, and inform the employee of his or her right to review the material which is relied on to support the reasons for action given in the notice.

(2) When some but not all employees in a given competitive level are being furloughed, the notice of proposed action must state the basis for selecting a particular employee for furlough, as well as the reasons for the furlough.

(3) Under ordinary circumstances, an employee whose removal or suspension, including indefinite suspension, has been proposed will remain in a duty status in his or her regular position during the advance notice period. In

5 CFR Ch. I (1-1-12 Edition)

those rare circumstances where the agency determines that the employee's continued presence in the workplace during the notice period may pose a threat to the employee or others, result in loss of or damage to Government property, or otherwise jeopardize legitimate Government interests, the agency may elect one or a combination of the following alternatives:

(i) Assigning the employee to duties where he or she is no longer a threat to safety, the agency mission, or to Government property;

(ii) Allowing the employee to take leave, or carrying him or her in an appropriate leave status (annual, sick, leave without pay, or absence without leave) if the employee has absented himself or herself from the worksite without requesting leave;

(iii) Curtailing the notice period when the agency can invoke the provisions of paragraph (d)(1) of this section; or

(iv) Placing the employee in a paid, nonduty status for such time as is necessary to effect the action.

(c) *Employee's answer.* (1) An employee may answer orally and in writing except as provided in paragraph (c)(2) of this section. The agency must give the employee a reasonable amount of official time to review the material relied on to support its proposed action, to prepare an answer orally and in writing, and to secure affidavits, if the employee is in an active duty status. The agency may require the employee to furnish any answer to the proposed action, and affidavits and other documentary evidence in support of the answer, within such time as would be reasonable, but not less than 7 days.

(2) The agency will designate an official to hear the employee's oral answer who has authority either to make or recommend a final decision on the proposed adverse action. The right to answer orally in person does not include the right to a formal hearing with examination of witnesses unless the agency provides for such hearing in its regulations. Under 5 U.S.C. 7513(c), the agency may, in its regulations, provide a hearing in place of or in addition to the opportunity for written and oral answer.

Office of Personnel Management**§ 752.406**

(3) If the employee wishes the agency to consider any medical condition which may contribute to a conduct, performance, or leave problem, the employee must be given a reasonable time to furnish medical documentation (as defined in § 339.104 of this chapter) of the condition. Whenever possible, the employee will supply such documentation within the time limits allowed for an answer.

(d) *Exceptions.* (1) Section 7513(b) of title 5, U.S. Code, authorizes an exception to the 30 days' advance written notice when the agency has reasonable cause to believe that the employee has committed a crime for which a sentence of imprisonment may be imposed and is proposing a removal or suspension, including indefinite suspension. This notice exception is commonly referred to as the "crime provision." This provision may be invoked even in the absence of judicial action.

(2) The advance written notice and opportunity to answer are not required for furlough without pay due to unforeseeable circumstances, such as sudden breakdowns in equipment, acts of God, or sudden emergencies requiring immediate curtailment of activities.

(e) *Representation.* Section 7513(b)(3) of title 5, U.S. Code, provides that an employee covered by this part is entitled to be represented by an attorney or other representative. An agency may disallow as an employee's representative an individual whose activities as representative would cause a conflict of interest or position, or an employee of the agency whose release from his or her official position would give rise to unreasonable costs or whose priority work assignments preclude his or her release.

(f) *Agency review of medical information.* When medical information is supplied by the employee pursuant to paragraph (c)(3) of this section, the agency may, if authorized, require a medical examination under the criteria of § 339.301 of this chapter, or otherwise, at its option, offer a medical examination in accordance with the criteria of § 339.302 of this chapter. If the employee has the requisite years of service under the Civil Service Retirement System or the Federal Employees' Retirement System, the agency must provide infor-

mation concerning disability retirement. The agency must be aware of the affirmative obligations of the provisions of 29 CFR 1614.203, which require reasonable accommodation of a qualified individual with a disability.

(g) *Agency decision.* (1) In arriving at its decision, the agency will consider only the reasons specified in the notice of proposed action and any answer of the employee or his or her representative, or both, made to a designated official and any medical documentation reviewed under paragraph (f) of this section.

(2) The notice must specify in writing the reasons for the decision and advise the employee of any appeal or grievance rights under § 752.405 of this part. The agency must deliver the notice of decision to the employee on or before the effective date of the action.

(h) *Applications for disability retirement.* Section 831.1204(e) of this chapter provides that an employee's application for disability retirement need not delay any other appropriate personnel action. Section 831.1205 and § 844.202 of this chapter set forth the basis under which an agency must file an application for disability retirement on behalf of an employee.

§ 752.405 Appeal and grievance rights.

(a) *Appeal rights.* Under the provisions of 5 U.S.C. 7513(d), an employee against whom an action is taken under this subpart is entitled to appeal to the Merit Systems Protection Board.

(b) *Grievance rights.* As provided at 5 U.S.C. 7121(e)(1), if a matter covered by this subpart falls within the coverage of an applicable negotiated grievance procedure, an employee may elect to file a grievance under that procedure or appeal to the Merit Systems Protection Board under 5 U.S.C. 7701, but not both. Sections 7114(a)(5) and 7121(b)(1)(C) of title 5, U.S. Code, and the terms of an applicable collective bargaining agreement, govern representation for employees in an exclusive bargaining unit who grieve a matter under this subpart through the negotiated grievance procedure.

§ 752.406 Agency records.

The agency must maintain copies of, and will furnish to the Merit Systems

§ 752.601

Protection Board and to the employee upon his or her request, the following documents:

- (a) Notice of the proposed action;
- (b) Employee's written reply, if any;
- (c) Summary of the employee's oral reply, if any;
- (d) Notice of decision; and
- (e) Any order effecting the action, together with any supporting material.

Subpart E [Reserved]

Subpart F—Regulatory Requirements for Taking Adverse Action Under the Senior Executive Service

§ 752.601 Coverage.

(a) *Adverse actions covered.* This subpart applies to suspensions for more than 14 days and removals from the civil service as set forth in 5 U.S.C. 7542.

(b) *Actions excluded.* (1) An agency may not take a suspension action of 14 days or less.

(2) This subpart does not apply to actions taken under 5 U.S.C. 1215, 3592, 3595, or 7532.

(c) *Employees covered.* This subpart covers the following appointees:

(1) A career appointee—

(i) Who has completed the probationary period in the Senior Executive Service;

(ii) Who is not required to serve a probationary period in the Senior Executive Service; or

(iii) Who was covered under 5 U.S.C. 7511 immediately before appointment to the Senior Executive Service.

(2) A limited term or limited emergency appointee—

(i) Who received the limited appointment without a break in service in the same agency as the one in which the employee held a career or career-conditional appointment (or an appointment of equivalent tenure as determined by the Office of Personnel Management) in a permanent civil service position outside the Senior Executive Service; and

(ii) Who was covered under 5 U.S.C. 7511 immediately before appointment to the Senior Executive Service.

5 CFR Ch. I (1-1-12 Edition)

(d) *Employees excluded.* This subpart does not cover an appointee who is serving as a reemployed annuitant.

§ 752.602 Definitions.

In this subpart—

Career appointee, *limited term appointee*, and *limited emergency appointee* have the meaning given in 5 U.S.C. 3132(a).

Day means calendar day.

Suspension has the meaning given in 5 U.S.C. 7501(2).

§ 752.603 Standard for action.

(a) An agency may take an adverse action under this subpart only for reasons of misconduct, neglect of duty, malfeasance, or failure to accept a directed reassignment or to accompany a position in a transfer of function.

(b) An agency may not take an adverse action under this subpart on the basis of any reason prohibited by 5 U.S.C. 2302.

§ 752.604 Procedures.

(a) *Statutory entitlements.* An appointee against whom action is proposed under this subpart is entitled to the procedures provided in 5 U.S.C. 7543(b).

(b) *Notice of proposed action.* (1) An appointee against whom an action is proposed is entitled to at least 30 days' advance written notice unless there is an exception pursuant to paragraph (d) of this section. The notice must state the specific reason(s) for the proposed action, and inform the appointee of his or her right to review the material that is relied on to support the reasons for action given in the notice.

(2) Under ordinary circumstances, an appointee whose removal has been proposed will remain in a duty status in his or her regular position during the advance notice period. In those rare circumstances where the agency determines that the appointee's continued presence in the work place during the notice period may pose a threat to the appointee or others, result in loss of or damage to Government property, or otherwise jeopardize legitimate Government interests, the agency may elect one or a combination of the following alternatives:

Office of Personnel Management**§ 752.604**

(i) Assigning the appointee to duties where he or she is no longer a threat to safety, the agency mission, or Government property;

(ii) Allowing the appointee to take leave, or carrying him or her in an appropriate leave status (annual, sick, leave without pay, or absence without leave) if the appointee has absented himself or herself from the worksite without requesting leave;

(iii) Curtailing the notice period when the agency can invoke the provisions of paragraph (d) of this section; or

(iv) Placing the appointee in a paid, nonduty status for such time as is necessary to effect the action.

(c) *Appointee's answer.* (1) The appointee may answer orally and in writing except as provided in paragraph (c)(2) of this section. The agency must give the appointee a reasonable amount of official time to review the material relied on to support its proposed action, to prepare an answer orally and in writing, and to secure affidavits, if the appointee is in an active duty status. The agency may require the appointee to furnish any answer to the proposed action, and affidavits and other documentary evidence in support of the answer, within such time as would be reasonable, but not less than 7 days.

(2) The agency will designate an official to hear the appointee's oral answer who has authority either to make or to recommend a final decision on the proposed adverse action. The right to answer orally in person does not include the right to a formal hearing with examination of witnesses unless the agency provides for such hearing in its regulations. Under 5 U.S.C. 7543(c), the agency may in its regulations provide a hearing in place of or in addition to the opportunity for written and oral answer.

(3) If the appointee wishes the agency to consider any medical condition that may have affected the basis for the adverse action, the appointee must be given reasonable time to furnish medical documentation (as defined in § 339.104 of this chapter) of the condition. Whenever possible, the appointee will supply such documentation within the time limits allowed for an answer.

(d) *Exception.* Section 7543(b)(1) of title 5, U.S. Code, authorizes an exception to the 30 days' advance written notice when the agency has reasonable cause to believe that the appointee has committed a crime for which a sentence of imprisonment may be imposed and is proposing a removal or suspension. This notice exception is commonly referred to as the "crime provision." This provision may be invoked even in the absence of judicial action.

(e) *Representation.* Section 7543(b)(3) of title 5, U.S. Code, provides that an appointee covered by this part is entitled to be represented by an attorney or other representative. An agency may disallow as an appointee's representative an individual whose activities as representative would cause a conflict of interest or position, or an employee of the agency whose release from his or her official position would give rise to unreasonable costs or whose priority work assignments preclude his or her release.

(f) *Agency review of medical information.* When medical information is supplied by the appointee pursuant to paragraph (c)(3) of this section, the agency may, if authorized, require a medical examination under the criteria of § 339.301 of this chapter, or otherwise, at its option, offer a medical examination in accordance with the criteria of § 339.302 of this chapter. If the appointee has the requisite years of service under the Civil Service Retirement System or the Federal Employees' Retirement System, the agency must provide information concerning disability retirement. The agency must be aware of the affirmative obligations of the provisions of 29 CFR 1614.203, which require reasonable accommodation of a qualified individual with a disability.

(g) *Agency decision.* (1) In arriving at its decision, the agency will consider only the reasons specified in the notice of proposed action and any answer of the appointee or the appointee's representative, or both, made to a designated official and any medical documentation reviewed under paragraph (f) of this section.

(2) The notice must specify in writing the reasons for the decision and advise the appointee of any appeal rights under § 752.605 of this part. The agency

§ 752.605

must deliver the notice of decision to the appointee on or before the effective date of the action.

(h) *Applications for disability retirement.* Section 831.1204(e) of this chapter provides that an appointee's application for disability retirement need not delay any other appropriate personnel action. Section 831.1205 and § 844.202 of this chapter set forth the basis under which an agency must file an application for disability retirement on behalf of an appointee.

§ 752.605 Appeal rights.

(a) Under 5 U.S.C. 7543(d), a career appointee against whom an action is taken under this subpart is entitled to appeal to the Merit Systems Protection Board.

(b) A limited term or limited emergency appointee who is covered under § 752.601(c)(2) also may appeal an action taken under this subpart to the Merit Systems Protection Board.

§ 752.606 Agency records.

The agency must maintain copies of, and will furnish to the Merit Systems Protection Board and to the appointee upon his or her request, the following documents:

- (a) Notice of the proposed action;
- (b) Appointee's written reply, if any;
- (c) Summary of the appointee's oral reply, if any;
- (d) Notice of decision; and
- (e) Any order effecting the action, together with any supporting material.

PART 754 [RESERVED]

PART 771—AGENCY ADMINISTRATIVE GRIEVANCE SYSTEM

AUTHORITY: 5 U.S.C. 1302, 3301, 3302, 7301; E.O. 9830, 3 CFR 1945–1948 Comp., pp. 606–624; E.O. 11222, 3 CFR 1964–1969 Comp., p. 306.

§ 771.101 Continuation of Grievance Systems.

Each administrative grievance system in operation as of October 11, 1995, that has been established under former regulations under this part must remain in effect until the system is either modified by the agency or re-

5 CFR Ch. I (1-1-12 Edition)

placed with another dispute resolution process.

[60 FR 47040, Sept. 11, 1995]

PART 772—INTERIM RELIEF

Subpart A—General

Sec.

772.101 Basic authority.

772.102 Interim personnel actions.

AUTHORITY: 5 U.S.C. 1302, 3301, 3302, and 7301; Pub. L. 101-12.

SOURCE: 57 FR 3712, Jan. 31, 1992, unless otherwise noted.

Subpart A—General

§ 772.101 Basic authority.

This part establishes a mechanism for agencies to provide interim relief to employees and applicants for employment who prevail in an initial decision issued by the Merit Systems Protection Board (MSPB) as required by the *Whistleblower Protection Act of 1989*, Pub. L. 101-12 (codified at 5 U.S.C. 7701(b)(2)(A)). The interim relief provisions of the law are applicable whether or not alleged reprisal for whistleblowing is at issue in an appeal to MSPB.

§ 772.102 Interim personnel actions.

When an employee or applicant for employment appeals an action to MSPB and the appeal results in an initial decision by an MSPB administrative judge granting interim relief under 5 U.S.C. 7701(b)(2)(A) and a petition for review of the initial decision is filed (or will be filed) with the full Board under 5 U.S.C. 7701(e)(1)(A), the agency shall provide the relief ordered in the initial decision by taking an interim personnel action subject to the following terms:

(a) Interim personnel actions shall be made effective upon the date of issuance of the initial decision and must be initiated on or before the date of a petition for review by the agency or within a reasonable period after the date it becomes aware of a petition for review by the appellant;

(b) The relief provided by interim personnel actions shall end:

From: **femamax@gmail.com** <femamax@gmail.com>
To: **Meindl, Max** <max.meindl@fema.dhs.gov>
Subject: statute
Date: 23.12.2019 01:56:56 (+01:00)
Attachments: CFR-2012-title5-vol1-part432-highlighted.pdf (6 pages)

the rate of basic pay for a senior executive covered by the provisionally certified system at a rate that does not exceed the rate for level II of the Executive Schedule (consistent with 5 CFR part 534, subpart D, when effective) and pay senior employees covered by provisionally certified systems aggregate compensation in the certified calendar year in an amount up to the Vice President's salary under 3 U.S.C. 104 (consistent with 5 CFR part 530, subpart B).

(3) An agency must resubmit an application requesting provisional certification for every calendar year for which it intends to maintain provisional certification. An agency with a provisionally certified appraisal system(s) may request that OPM, with OMB concurrence, grant full certification upon a showing that its performance appraisal systems for senior executives and senior professionals, as applicable, meet the certification criteria in § 430.404 and the documentation requirements in this section, particularly with respect to the implementation and administration of the system(s) over at least two consecutive performance appraisal periods.

(g) *Annual reporting requirement.* Agencies with certified appraisal systems must provide OPM with a general summary of the annual summary ratings and ratings of record, as applicable, and rates of basic pay, pay adjustments, cash awards, and aggregate total compensation (including any lump-sum payments in excess of the applicable aggregate limitation on pay that were paid in the current calendar year as required by § 530.204) for their senior employees covered by a certified appraisal system at the conclusion of each appraisal period that ends during a calendar year for which the certification is in effect, in accordance with OPM instructions.

(h) *Suspension of certification.* (1) When OPM determines that an agency's certified appraisal system is no longer in compliance with certification criteria, OPM, with OMB concurrence, may suspend such certification, as provided in paragraph (c)(3) of this section.

(2) An agency's system certification is automatically suspended when OPM

withdraws performance appraisal system approval or mandates corrective action because of misapplication of the system as authorized under §§ 430.210(c), 430.312(c), and 430.403(e).

(3) OPM will notify the head of the agency at least 30 calendar days in advance of the suspension and the reason(s) for the suspension, as well as any expected corrective action. Upon such notice, and until its system certification is reinstated, the agency must set a senior executive's rate of basic pay under 5 CFR part 534, subpart D, when effective, at a rate that does not exceed the rate for level III of the Executive Schedule. While certification is suspended, an agency must limit aggregate compensation received in a calendar year by a senior employee to the rate for level I of the Executive Schedule. Pay adjustments, cash awards, and levels of pay in effect prior to that notice will remain in effect unless OPM finds that any such decision and subsequent action was in violation of law, rule, or regulation.

(4) OPM, with OMB concurrence, may reinstate an agency's suspended certification only after the agency has taken appropriate corrective action.

(5) OPM may reinstate the certification of an appraisal system that has been automatically suspended under paragraph (h)(2) of this section upon the agency's compliance with the applicable OPM-mandated corrective action(s).

PART 432—PERFORMANCE BASED REDUCTION IN GRADE AND REMOVAL ACTIONS

Sec.

- 432.101 Statutory authority.
- 432.102 Coverage.
- 432.103 Definitions.
- 432.104 Addressing unacceptable performance.
- 432.105 Proposing and taking action based on unacceptable performance.
- 432.106 Appeal and grievance rights.
- 432.107 Agency records.

AUTHORITY: 5 U.S.C. 4303, 4305.

SOURCE: 54 FR 26179, June 21, 1989, unless otherwise noted.

§ 432.101

§ 432.101 Statutory authority.

This part applies to reduction in grade and removal of employees covered by the provisions of this part based solely on performance at the unacceptable level. 5 U.S.C. 4305 authorizes the Office of Personnel Management to prescribe regulations to carry out the purposes of title 5, chapter 43, United States Code, including 5 U.S.C. 4303, which covers agency actions to reduce in grade or remove employees for unacceptable performance. (The provisions of 5 U.S.C. 7501 *et seq.*, may also be used to reduce in grade or remove employees. See part 752 of this chapter.)

[58 FR 65533, Dec. 15, 1993]

§ 432.102 Coverage.

(a) *Actions covered.* This part covers reduction in grade and removal of employees based on unacceptable performance.

(b) *Actions excluded.* This part does not apply to:

(1) The reduction in grade of a supervisor or manager who has not completed the probationary period under 5 U.S.C. 3321(a)(2) if such a reduction is based on supervisory or managerial performance and the reduction is to the grade held immediately before becoming a supervisor or manager in accordance with 5 U.S.C. 3321(b);

(2) The reduction in grade or removal of an employee in the competitive service who is serving a probationary or trial period under an initial appointment;

(3) The reduction in grade or removal of an employee in the competitive service serving in an appointment that requires no probationary or trial period who has not completed 1 year of current continuous employment in the same or similar position under other than a temporary appointment limited to 1 year or less;

(4) The reduction in grade or removal of an employee in the excepted service who has not completed 1 year of current continuous employment in the same or similar positions;

(5) An action imposed by the Merit Systems Protection Board under the authority of 5 U.S.C. 1206;

5 CFR Ch. I (1-1-12 Edition)

(6) An action taken under 5 U.S.C. 7521 against an administrative law judge;

(7) An action taken under 5 U.S.C. 7532 in the interest of national security;

(8) An action taken under a provision of statute, other than one codified in title 5 of the U.S. Code, which excepts the action from the provisions of title 5 of the U.S. Code;

(9) A removal from the Senior Executive Service to a civil service position outside the Senior Executive Service under part 359 of this chapter;

(10) A reduction-in-force governed by part 351 of this chapter;

(11) A voluntary action by the employee;

(12) A performance-based action taken under part 752 of this chapter;

(13) An action that terminates a temporary or term promotion and returns the employee to the position from which temporarily promoted, or to a different position of equivalent grade and pay if the agency informed the employee that it was to be of limited duration;

(14) A termination in accordance with terms specified as conditions of employment at the time the appointment was made; and

(15) An involuntary retirement because of disability under part 831 of this chapter.

(c) *Agencies covered.* This part applies to:

(1) The executive departments listed at 5 U.S.C. 101;

(2) The military departments listed at 5 U.S.C. 102;

(3) Independent establishments in the executive branch as described at 5 U.S.C. 104, except for a Government corporation; and

(4) The Government Printing Office.

(d) *Agencies excluded.* This part does not apply to:

(1) A Government corporation;

(2) The Central Intelligence Agency;

(3) The Defense Intelligence Agency;

(4) The National Security Agency;

(5) Any executive agency or unit thereof which is designated by the President and the principal function of which is the conduct of foreign intelligence or counterintelligence activities;

Office of Personnel Management**§ 432.103**

- (6) The General Accounting Office;
 - (7) The U.S. Postal Service; and
 - (8) The Postal Rate Commission.
- (e) *Employees covered.* This part applies to individuals employed in or under a covered agency as specified at § 432.102(c) except as listed in § 432.102(f).
- (f) *Employees excluded.* This part does not apply to:
- (1) An employee in the competitive service who is serving a probationary or trial period under an initial appointment;
 - (2) An employee in the competitive service serving in an appointment that requires no probationary or trial period, who has not completed 1 year of current continuous employment in the same or similar positions under other than a temporary appointment limited to 1 year or less;
 - (3) An employee in the excepted service who has not completed 1 year of current continuous employment in the same or similar positions;
 - (4) An employee outside the United States who is paid in accordance with local native prevailing wage rates for the area in which employed;
 - (5) An individual in the Foreign Service of the United States;
 - (6) An employee who holds a position with the Veterans Health Administration which has been excluded from the competitive service by or under a provision of title 38, United States Code, unless such employee was appointed to such a position under section 7401(3) of title 38;
 - (7) An administrative law judge appointed under 5 U.S.C. 3105;
 - (8) An individual in the Senior Executive Service;
 - (9) An individual appointed by the President;
 - (10) An employee occupying a position in Schedule C as authorized under part 213 of this chapter;
 - (11) A reemployed annuitant;
 - (12) A technician in the National Guard described in 5 U.S.C. 8337(h)(1), employed under section 709(b) of title 32;
 - (13) An individual occupying a position in the excepted service for which employment is not reasonably expected to exceed 120 calendar days in a consecutive 12 month period; and

(14) A manager or supervisor returned to his or her previously held grade pursuant to 5 U.S.C. 3321 (a)(2) and (b).

[54 FR 26179, June 21, 1989, as amended at 57 FR 10125, Mar. 24, 1992; 57 FR 20042, May 11, 1992; 58 FR 13192, Mar. 10, 1993; 58 FR 65533, Dec. 15, 1993]

§ 432.103 Definitions.

For the purpose of this part—

(a) *Acceptable performance* means performance that meets an employee's performance requirement(s) or standard(s) at a level of performance above "unacceptable" in the critical element(s) at issue.

(b) *Critical element* means a work assignment or responsibility of such importance that unacceptable performance on the element would result in a determination that an employee's overall performance is unacceptable.

(c) *Current continuous employment* means a period of employment or service immediately preceding an action under this part in the same or similar positions without a break in Federal civilian employment of a workday.

(d) *Opportunity to demonstrate acceptable performance* means a reasonable chance for the employee whose performance has been determined to be unacceptable in one or more critical elements to demonstrate acceptable performance in the critical element(s) at issue.

(e) *Reduction in grade* means the involuntary assignment of an employee to a position at a lower classification or job grading level.

(f) *Removal* means the involuntary separation of an employee from employment with an agency.

(g) *Similar positions* mean positions in which the duties performed are similar in nature and character and require substantially the same or similar qualifications, so that the incumbents could be interchanged without significant training or undue interruption to the work.

(h) *Unacceptable performance* means performance of an employee that fails

§ 432.104

to meet established performance standards in one or more critical elements of such employee's position.

[54 FR 26179, June 21, 1989, as amended at 54 FR 49076, Nov. 29, 1989; 55 FR 25950, June 26, 1990; 57 FR 23045, June 1, 1992; 57 FR 60717, Dec. 22, 1992; 58 FR 65534, Dec. 15, 1993; 60 FR 43946, Aug. 23, 1995]

§ 432.104 Addressing unacceptable performance.

At any time during the performance appraisal cycle that an employee's performance is determined to be unacceptable in one or more critical elements, the agency shall notify the employee of the critical element(s) for which performance is unacceptable and inform the employee of the performance requirement(s) or standard(s) that must be attained in order to demonstrate acceptable performance in his or her position. The agency should also inform the employee that unless his or her performance in the critical element(s) improves to and is sustained at an acceptable level, the employee may be reduced in grade or removed. For each critical element in which the employee's performance is unacceptable, the agency shall afford the employee a reasonable opportunity to demonstrate acceptable performance, commensurate with the duties and responsibilities of the employee's position. As part of the employee's opportunity to demonstrate acceptable performance, the agency shall offer assistance to the employee in improving unacceptable performance.

[55 FR 25950, June 26, 1990, as amended at 58 FR 65534, Dec. 15, 1993]

§ 432.105 Proposing and taking action based on unacceptable performance.

(a) *Proposing action based on unacceptable performance.* (1) Once an employee has been afforded a reasonable opportunity to demonstrate acceptable performance pursuant to § 432.104, an agency may propose a reduction-in-grade or removal action if the employee's performance during or following the opportunity to demonstrate acceptable performance is unacceptable in 1 or more of the critical elements for which the employee was afforded an oppor-

5 CFR Ch. I (1-1-12 Edition)

tunity to demonstrate acceptable performance.

(2) If an employee has performed acceptably for 1 year from the beginning of an opportunity to demonstrate acceptable performance (in the critical element(s) for which the employee was afforded an opportunity to demonstrate acceptable performance), and the employee's performance again becomes unacceptable, the agency shall afford the employee an additional opportunity to demonstrate acceptable performance before determining whether to propose a reduction in grade or removal under this part.

(3) A proposed action may be based on instances of unacceptable performance which occur within a 1 year period ending on the date of the notice of proposed action.

(4) An employee whose reduction in grade or removal is proposed under this part is entitled to:

(i) *Advance notice.* (A) The agency shall afford the employee a 30 day advance notice of the proposed action that identifies both the specific instances of unacceptable performance by the employee on which the proposed action is based and the critical element(s) of the employee's position involved in each instance of unacceptable performance.

(B) An agency may extend this advance notice period for a period not to exceed 30 days under regulations prescribed by the head of the agency. An agency may extend this notice period further without prior OPM approval for the following reasons:

(1) To obtain and/or evaluate medical information when the employee has raised a medical issue in the answer to a proposed reduction in grade or removal;

(2) To arrange for the employee's travel to make an oral reply to an appropriate agency official, or the travel of an agency official to hear the employee's oral reply;

(3) To consider the employee's answer if an extension to the period for an answer has been granted (e.g., because of the employee's illness or incapacitation);

(4) To consider reasonable accommodation of a handicapping condition;

Office of Personnel Management**§ 432.106**

(5) If agency procedures so require, to consider positions to which the employee might be reassigned or reduced in grade; or

(6) To comply with a stay ordered by a member of the Merit Systems Protection Board under 5 U.S.C. 1208(b).

(C) If an agency believes that an extension of the advance notice period is necessary for another reason, it may request prior approval for such extension from the Chief, Family Programs and Employee Relations Division, Office of Labor Relations and Workforce Performance, Personnel Systems and Oversight Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

(ii) *Opportunity to answer.* The agency shall afford the employee a reasonable time to answer the agency's notice of proposed action orally and in writing.

(iii) *Representation.* The agency shall allow the employee to be represented by an attorney or other representative. An agency may disallow as an employee's representative an individual whose activities as a representative would cause a conflict of interest or position or an employee whose release from his or her official position would give rise to unreasonable costs to the Government or whose priority work assignment precludes his or her release from official duties.

(iv) *Consideration of medical conditions.* The agency shall allow an employee who wishes to raise a medical condition which may have contributed to his or her unacceptable performance to furnish medical documentation (as defined in § 339.102 of this chapter) of the condition for the agency's consideration. Whenever possible, the employee shall supply this documentation following the agency's notification of unacceptable performance under § 432.104. If the employee offers such documentation after the agency has proposed a reduction in grade or removal, he or she shall supply this information in accordance with § 432.105(a)(4)(ii). In considering documentation submitted in connection with the employee's claim of a medical condition, the agency may require or offer a medical examination in accordance with the criteria and procedures of part 339 of this chapter, and shall be aware of the affirmative

obligations of 29 CFR 1613.704. If the employee who raises a medical condition has the requisite years of service under the Civil Service Retirement System or the Federal Employees Retirement System, the agency shall provide information concerning application for disability retirement. As provided at § 831.501(d) of this chapter, an employee's application for disability retirement shall not preclude or delay any other appropriate agency decision or personnel action.

(b) *Final written decision.* The agency shall make its final decision within 30 days after expiration of the advance notice period. Unless proposed by the head of the agency, such written decision shall be concurred in by an employee who is in a higher position than the person who proposed the action. In arriving at its decision, the agency shall consider any answer of the employee and/or his or her representative furnished in response to the agency's proposal. A decision to reduce in grade or remove an employee for unacceptable performance may be based only on those instances of unacceptable performance that occurred during the 1 year period ending on the date of issuance of the advance notice of proposed action under § 432.105(a)(4)(i). The agency shall issue written notice of its decision to the employee at or before the time the action will be effective. Such notice shall specify the instances of unacceptable performance by the employee on which the action is based and shall inform the employee of any applicable appeal and/or grievance rights.

[54 FR 26179, June 21, 1989. Redesignated and amended at 54 FR 49076, Nov. 29, 1989. Redesignated and amended at 58 FR 65534, Dec. 15, 1993]

§ 432.106 Appeal and grievance rights.

(a) *Appeal rights.* An employee covered under § 432.102(e) who has been removed or reduced in grade under this part may appeal to the Merit Systems Protection Board if the employee is:

(1) In the competitive service and has completed a probationary or trial period;

(2) In the competitive service serving in an appointment which is not subject to a probationary or trial period, and

§ 432.107

has completed 1 year of current continuous employment in the same or similar position(s) under other than a temporary appointment limited to 1 year or less;

(3) A preference eligible in the excepted service who has completed 1 year of current continuous employment in the same or similar position(s); or

(4) A nonpreference eligible in the excepted service who is covered by subparts C and D of part 752 of this chapter.

(b) *Grievance rights.* (1) A bargaining unit employee covered under § 432.102(e) who has been removed or reduced in grade under this part may file a grievance under an applicable negotiated grievance procedure if the removal or reduction in grade action falls within its coverage (*i.g.*, is not excluded by the parties to the collective bargaining agreement) and the employee is:

(i) In the competitive service and has completed a probationary or trial period.

(ii) In the competitive service, serving in an appointment which is not subject to a probationary or trial period, and has completed 1 year of current continuous employment in the same or similar position(s) under other than a temporary appointment limited to 1 year or less;

(iii) A preference eligible in the excepted service who has completed 1 year of current continuous employment in the same or similar position(s); or

(iv) A nonpreference eligible in the excepted service who is covered by subparts C and D of part 752 of the chapter.

(2) 5 U.S.C. 7114(a)(5) and 7121(b)(3), and the terms of an applicable collective bargaining agreement govern representation for employees in an exclusive bargaining unit who grieve a matter under this section through the negotiated grievance process.

(c) *Selection of forum.* As provided at 5 U.S.C. 7121(e)(1), a bargaining unit employee who by law may file an appeal or a grievance, and who has exercised his or her option to appeal an action taken under this part to the Merit Systems Protection Board, may not also file a grievance on the matter under a negotiated grievance procedure. Like-

5 CFR Ch. I (1-1-12 Edition)

wise, a bargaining unit employee who has exercised his or her option to grieve an action taken under this part may not also file an appeal on the matter with the Merit Systems Protection Board.

[54 FR 26179, June 21, 1989. Redesignated at 54 FR 49076, Nov. 29, 1989; 57 FR 20043, May 11, 1992; 58 FR 13192, Mar. 10, 1993. Redesignated at 58 FR 65534, Dec. 15, 1993]

§ 432.107 Agency records.

(a) *When the action is effected.* The agency shall preserve all relevant documentation concerning a reduction in grade or removal which is based on unacceptable performance and make it available for review by the affected employee or his or her representative. At a minimum, the agency's records shall consist of a copy of the notice of proposed action, the answer of the employee when it is in writing, a summary thereof when the employee makes an oral reply, the written notice of decision and the reasons therefor, and any supporting material including documentation regarding the opportunity afforded the employee to demonstrate acceptable performance.

(b) *When the action is not affected.* As provided at 5 U.S.C. 4303(d), if, because of performance improvement by the employee during the notice period, the employee is not reduced in grade or removed, and the employee's performance continues to be acceptable for 1 year from the date of the advanced written notice provided in accordance with § 432.105(a)(4)(i), any entry or other notation of the unacceptable performance for which the action was proposed shall be removed from any agency record relating to the employee.

[55 FR 25950, June 26, 1990, as amended at 58 FR 65534, Dec. 15, 1993]

PART 451—AWARDS

Subpart A—Agency Awards

Sec.

- 451.101 Authority and coverage.
- 451.102 Definitions.
- 451.103 Agency award program(s).
- 451.104 Awards.
- 451.105 Award restrictions.
- 451.106 Agency responsibilities.
- 451.107 OPM responsibilities.

From: **Meindl, Max** <max.meindl@fema.dhs.gov>
To: **Gause, Jacqueline** <jacqueline.gause@fema.dhs.gov>; **David, Patricia** <Patricia.David@fema.dhs.gov>
Wick, Timothy <Timothy.Wick@fema.dhs.gov>; **Terry, Detra** <detra.terry@fema.dhs.gov>; **Alexander, Dennis** <dennis.alexander@fema.dhs.gov>; **brent@guerradays.com** <brent@guerradays.com>; **FEMA-EqualRights** <FEMA-EqualRights@fema.dhs.gov>
CC:
Subject: RE: FMLA Recertification - M. Meindl
Date: 23.10.2019 18:37:12 (+02:00)

Thanks JG, no problem, I'm working on an update with my providers, to appropriately capture/document/list all of the existing/new/challenging/interesting, issues that have manifested since the surgery. Appreciate your assistance..

Max J Meindl, PMP
Program Delivery Manager | Houston TRO
DHS | FEMA-Recovery Directorate
Public Assistance Division
FEMA/HQ
202-374-9426
max.meindl@fema.dhs.gov



FEMA

WARNING: This email contains FOR OFFICIAL USE ONLY (FOUO) OR PRIVACY DATA.

It may contain information exempt from public release under the Freedom of Information Act (5 U.S.C. 552).

The information contained herein must be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO/PII information and is not to be released to the public or other personnel who do not have a valid "need-to-know" without prior approval of an authorized DHS official.

From: Gause, Jacqueline <jacqueline.gause@fema.dhs.gov>
Sent: Wednesday, October 23, 2019 1:09 PM
To: Meindl, Max <max.meindl@fema.dhs.gov>; David, Patricia <Patricia.David@fema.dhs.gov>
Cc: Wick, Timothy <Timothy.Wick@fema.dhs.gov>; Terry, Detra <detra.terry@fema.dhs.gov>; Alexander, Dennis <dennis.alexander@fema.dhs.gov>; brent@guerradays.com; FEMA-EqualRights <FEMA-EqualRights@fema.dhs.gov>
Subject: RE: FMLA Recertification - M. Meindl

Good afternoon,

The FMLA update process being applied in this situation is consistent with policy. Your approved FMLA condition of record is the matter being addressed as it relates to the updates being requested. You have said in your response that you are not scheduled to see the physician until next year and that you will request an appointment and attempt to get one as soon as possible. I will follow up with you in seven (7) days to see if you were able to get an appointment for this matter.

In the meantime I will recommend to your supervisor to continue to approve your current FMLA request for the said condition until you have an appointment scheduled. The specifics of the concerns is that your current FMLA is approved for 1-3 occurrences every month and you have exceeded the frequency so your management is attempting to obtain updated information.

Thanks for your cooperation with this matter. Please let me know if you have additional questions or concerns.

Regards,

Jacqueline Gause, MSc

Human Resources
Federal Emergency Management Agency
Department of Homeland Security
Hurricane Harvey-DR4332-TX
Texas Recovery Office
Houston, TX
Mobile: 202-322-6241

From: Meindl, Max <max.meindl@fema.dhs.gov>
Sent: Tuesday, October 22, 2019 4:22 PM
To: Gause, Jacqueline <jacqueline.gause@fema.dhs.gov>; David, Patricia <Patricia.David@fema.dhs.gov>
Cc: Wick, Timothy <Timothy.Wick@fema.dhs.gov>; Terry, Detra <detra.terry@fema.dhs.gov>; Alexander, Dennis <dennis.alexander@fema.dhs.gov>; brent@guerradays.com; FEMA-EqualRights <FEMA-EqualRights@fema.dhs.gov>
Subject: RE: FMLA Recertification - M. Meindl

JG,

My next appointment with the VA is 10/29/2019 with the ENT (ear, nose, throat) group at the DeBakey VA hospital to attempt to ascertain the source for my recurring dizzy spells.

My next appointment with my primary care physician is next Feb, 2020.

My next appointment with my pulmonary care specialist for my COPD (Chronic Obstructive Pulmonary Disease) is also next year.

I will do an online request to see my primary at the Katy VA outpatient clinic, but I'm not sure if that can happen within 15 days, it is the VA, so nothing is for certain.

I will also attempt to get an appointment with my primary care private physician in Bellville.

I must admit that as an senior citizen and as an individual who has identified, in the onboarding process, as an individual with a disability and when factoring in the very problematic heart surgery and subsequent associated health issues, I am concerned about the way the institution and/or individuals within the institution, treat those identified as disabled, more specifically, myself.

If my work was lacking, maybe I could understand, but it isn't and I don't understand.

It does seem that personalities have drifted in to the equation, in my opinion.

I appreciate your assistance and efforts with my disability and during my recovery but, I must admit that it has been an extremely distasteful experience with other FEMA personnel.

I will endeavor to get the paperwork returned in a timely manner but I am concerned about the 15 day window.

Please advise.

Max J Meindl, PMP
Program Delivery Manager | Houston TRO
DHS | FEMA-Recovery Directorate
Public Assistance Division
FEMA/HQ
202-374-9426
max.meindl@fema.dhs.gov



FEMA

WARNING: This email contains FOR OFFICIAL USE ONLY (FOUO) OR PRIVACY DATA.

It may contain information exempt from public release under the Freedom of Information Act (5 U.S.C. 552).

The information contained herein must be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO/PII information and is not to be released to the public or other personnel who do not have a valid "need-to-know" without prior approval of an authorized DHS official.

From: Gause, Jacqueline <jacqueline.gause@fema.dhs.gov>
Sent: Tuesday, October 22, 2019 3:13 PM
To: Meindl, Max <max.meindl@fema.dhs.gov>
Cc: Wick, Timothy <Timothy.Wick@fema.dhs.gov>
Subject: FMLA Recertification - M. Meindl

Good afternoon Max,

On May 1, 2019 you were initially approved for FMLA due to a serious/chronic health condition. Given that it has now been more than thirty (30) calendar days since your last medical update for your current FMLA condition, I am requesting that you provide me with an FMLA recertification as it relates to your current FMLA condition of record. The recertification is now necessary to ensure that the workload on your team can be planned and managed effectively while assisting you during your time of recovery. Therefore, I am requesting that you work with your physician to respond to all questions where appropriate especially those related to the questions identified below. These questions are not separate and apart from the recertification form but can be responded to within the context of the questions already provided on the form. (29 CFR 825.308(a), permits recertification every 30 days for chronic or permanent/long-term conditions.)

Purpose of this FMLA Recertification Update:

1. To validate if you are continuing to see the physician for the specific condition listed on your FMLA application dated and signed by your physician, on 4/11/2019.
2. Request that you provide an estimate of the duration of your condition & if you will be incapacitated for a single continuous period of time. (See questions #1 & #4).
3. Request that you specify what dates, if any, you will have planned appointments within the next 30 days. (See Question #5)
4. Request that your physician state whether or not you require care on an intermittent or reduced schedule basis, including any time for recovery. (See Question #6)
5. Request that your physician provide an estimate of when you will have flare-ups during your recovery period (if known) that will prevent you from performing your job functions. (See question #7).

Your health remains of paramount concern to me as well as our mission. My goal remains to work cooperatively with you and your physician in a manner which affords you the best opportunity to recover and return to full time employment status. However, failure to provide this requested FMLA Recertification information within fifteen (15) working days of receipt will result in the denial of any FMLA related leave until the information is provided.

If you experience difficulty providing this information within the specified period, please see me, or in my absence Patricia David, and provide a brief written statement documenting your hardship and your request for extension will be responded to within three (3) working days.

Regards,

Jacqueline Gause, MSc

Human Resources
Federal Emergency Management Agency
Department of Homeland Security
Hurricane Harvey-DR4332-TX
Texas Recovery Office
Houston, TX
Mobile: 202-322-6241

From: **Max** <femamax@gmail.com>
To: **Max Meindl** <max.meindl@fema.dhs.gov>
Subject: FMLA
Date: 16.09.2020 14:16:36 (+02:00)
Attachments: FMLA-09-16-2020-MEINDL.pdf (4 pages)

--
Regards,

Max J. Meindl III

"Exuberance is easily corrected; dullness is incurable." Quintilian

"I don't make mistakes. I have unintentional improvisations." ~unknown

Texas
832-293-3671

**Certification of Health Care Provider for
Family Member's Serious Health Condition
(Family and Medical Leave Act)**

U.S. Department of Labor
Wage and Hour Division



DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT.

OMB Control Number: 1235-0003
Expires: 8/31/2021

SECTION I: For Completion by the EMPLOYER

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave to care for a covered family member with a serious health condition to submit a medical certification issued by the health care provider of the covered family member. Please complete Section I before giving this form to your employee. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees' family members, created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies, and in accordance with 29 C.F.R. § 1635.9, if the Genetic Information Nondiscrimination Act applies.

Employer name and contact: DHS/FEMA, 500 C St SW, Washington, DC 20024, Jacqueline Gause, MSc
Texas Recovery Office Houston, TX Mobile: 202-322-6241

SECTION II: For Completion by the EMPLOYEE

INSTRUCTIONS to the EMPLOYEE: Please complete Section II before giving this form to your family member or his/her medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave to care for a covered family member with a serious health condition. If requested by your employer, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 29 C.F.R. § 825.313. Your employer must give you at least 15 calendar days to return this form to your employer. 29 C.F.R. § 825.305.

Your name: Max J Meindl

First Middle Last

Name of family member for whom you will provide care: Rachel P Meindl

First Middle Last

Relationship of family member to you: Spouse

If family member is your son or daughter, date of birth: _____

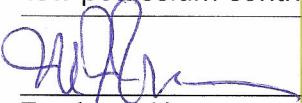
Describe care you will provide to your family member and estimate leave needed to provide care:

Currently in critical condition, 50% mortality rate, previously undetected diabetes, blood poisoning,

Sepsis is a life-threatening condition in which the body is fighting a severe infection that has spread via the bloodstream,

low potassium contributing to heart conditions.

03/11/2020


Employee Signature

Date

SECTION III: For Completion by the HEALTH CARE PROVIDER

INSTRUCTIONS to the HEALTH CARE PROVIDER: The employee listed above has requested leave under the FMLA to care for your patient. Answer, fully and completely, all applicable parts below. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the patient needs leave. Do not provide information about genetic tests, as defined in 29 C.F.R. § 1635.3(f), or genetic services, as defined in 29 C.F.R. § 1635.3(e). Page 3 provides space for additional information, should you need it. Please be sure to sign the form on the last page.

Provider's name and business address: Gay C Christoph MD, 235 W Palm St # 102, Bellville, TX 77418

Type of practice / Medical specialty: Family Medicine

Telephone: (979) 865-8484 Fax: ()

PART A: MEDICAL FACTS

1. Approximate date condition commenced: 10 Mar 20

Probable duration of condition: ~

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?

No Yes. If so, dates of admission: 10 Mar 20

Date(s) you treated the patient for condition: 10 Mar 20 to present

Was medication, other than over-the-counter medication, prescribed? No Yes.

Will the patient need to have treatment visits at least twice per year due to the condition? No Yes

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?

No Yes. If so, state the nature of such treatments and expected duration of treatment:

2. Is the medical condition pregnancy? No Yes. If so, expected delivery date: _____

3. Describe other relevant medical facts, if any, related to the condition for which the patient needs care (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

Sepsis

DKA

PART B: AMOUNT OF CARE NEEDED: When answering these questions, keep in mind that your patient's need for care by the employee seeking leave may include assistance with basic medical, hygienic, nutritional, safety or transportation needs, or the provision of physical or psychological care:

4. Will the patient be incapacitated for a single continuous period of time, including any time for treatment and recovery? No Yes.

Estimate the beginning and ending dates for the period of incapacity: 10 Mar 20 - 24 Mar 20

During this time, will the patient need care? No Yes.

Explain the care needed by the patient and why such care is medically necessary:

Pt. has high risk of Death

5. Will the patient require follow-up treatments, including any time for recovery? No Yes.

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

initially 1-2 x/month

Explain the care needed by the patient, and why such care is medically necessary:

Severe DM

6. Will the patient require care on an intermittent or reduced schedule basis, including any time for recovery? No Yes.

Estimate the hours the patient needs care on an intermittent basis, if any:

8 hour(s) per day; 2 days per week from Mar 20 through Dec 20

Explain the care needed by the patient, and why such care is medically necessary:

Debility from Severe Illness

7. Will the condition cause episodic flare-ups periodically preventing the patient from participating in normal daily activities? No Yes.

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency: 2 times per 1 week(s) month(s)

Duration: 4 hours or day(s) per episode

Does the patient need care during these flare-ups? No Yes.

Explain the care needed by the patient, and why such care is medically necessary: _____

Monitoring for uncontrolled
Diabetes

ADDITIONAL INFORMATION: IDENTIFY QUESTION NUMBER WITH YOUR ADDITIONAL ANSWER.

Signature of Health Care Provider

Date

11 Mar 20

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210.

DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT.

From: **Meindl, Max** <max.meindl@fema.dhs.gov>
To: **Max** <femamax@gmail.com>
Subject: RA
Date: 09.11.2021 13:51:27 (+01:00)
Attachments: RELIGIOUS FROM WEB PAGE.docx (29 pages), RA-MEDICAL-FROM WEB SITE CLIP.docx (14 pages)

The screenshot shows the DHS ServiceNow OAST homepage. At the top, there's a navigation bar with links for 'OAST HOMEPAGE', 'MY TICKETS', 'MY APPROVALS', 'GET HELP', 'CREATE NEW REQUEST', and 'Tours'. A user profile for 'Meindl, Max' is visible on the right. Below the header, the page title is 'My Tickets'. A sub-header says 'My Tickets' and provides instructions: 'Search and review your requests and incidents. Select the dropdown on an item to preview information or click into it to review the details and current status.' A message indicates 'You have 2 open service requests'. Below this, there's a search bar labeled 'Search requests' with filters: 'Open' (checked), 'Closed', 'My Requests' (checked), and 'Requests for others'. Two service requests are listed: 'Reasonable Accommodation Request - RAR0023278' and 'Reasonable Accommodation Request - RAR0023261', both of which are 'State: Open'. At the bottom of this section, it says 'You have 0 open incidents'.

This screenshot shows the 'Reasonable Accommodation Request Summary' page for request RAR0023278. The top header includes the OAST logo and navigation links. The main content area has a sub-header 'Reasonable Accommodation Request Summary'. It states 'Your request (RAR0023278) is currently Open' and 'Your request was most recently worked on by DHS OAST - FEMA Reasonable Accommodation Admin'. Below this, there are two sections: 'Connect About Your Request' and 'Information About Your Request'. In 'Connect About Your Request', there's a message from 'Meindl, Max' dated 12d ago, and a text input field with a placeholder 'Type your message here...'. In 'Information About Your Request', there's a table with columns for 'Number' (RAR0023278), 'State' (Open), and 'Created' (12d ago). There are also buttons for 'Additional Request Details' and 'Cancel Request'. At the bottom, there's a section titled 'Attachments'.

Max J Meindl, PMP
Program Delivery Task Force Lead | DR-4611-LA Debris Task Force | Emergency Management Specialist
Duty Station: 4611DR DR - Baton Rouge, Louisiana - JFO ROR | Region 6

Mobile: 202-374-9426
max.meindl@fema.dhs.gov

Federal Emergency Management Agency
www.FEMA.gov



FEMA

WARNING: This email contains FOR OFFICIAL USE ONLY (FOUO) OR PRIVACY DATA.

It may contain information exempt from public release under the Freedom of Information Act (5 U.S.C. 552).

The information contained herein must be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO/PII information and is not to be released to the public or other personnel who do not have a valid “need-to-know” without prior approval of an authorized DHS official.



-
-
-
- CREATE NEW REQUEST

•

- [Home](#)
- /
- [My Tickets](#)

- /
- RAR0023278

DHS Request

Reasonable Accommodation Request Summary

Your request (RAR0023278) is currently **Open**

Your request was most recently worked on by **DHS OAST - FEMA Reasonable Accommodation Admin**

Connect About Your Request

Have a question? Use the chat box below to ask questions about your request

RAR0023278: COVID-19 Vaccine Exemption (for RELIGIOUS reasons)

-
-
-

• MM

Meindl, Max 12d ago

RAR0023278 Created

• MM

Meindl, Max 12d ago

Journal type:

RELIGIOUS EXEMPTION REQUEST.pdf

1.2 MB

• MM

Meindl, Max 14m ago

Journal type:

Pages from MEINDL REASONABLE ACCOMMODATION-EXEMPTION REQUEST-VACCINE MANDATE-10-25-2021-REV2.pdf

2.9 MB

• MM

Meindl, Max 13m ago

Journal type: Additional comments

RA form

• MM

Meindl, Max 13m ago

Journal type: Additional comments

RA form

• MM

Meindl, Max 13m ago

Journal type: Additional comments

RA form

• MM

Meindl, Max 13m ago

Journal type: Additional comments

RA form



Information About Your Request

Number

RAR0023278

State

Open

Created

12d ago

Updated

13m ago

Additional Request Details

If you would like to edit your request, send a message describing your desired changes using the chat box to the left.

Hidden Name

Meindl, Max

Who is submitting this request?

Recipient of the request (Myself)

First Name

Max

Last Name

Meindl

Work Phone

202-374-9426

Email Address

max.meindl@fema.dhs.gov

Position Title

Emergency Management Specialist

Component

FEMA

What is the Employee Type of Person to be Accommodated?

Federal Employee

Pay Plan/Grade of Person to be Accommodated

GS 11/10

Series of Person to be Accommodated

0089

Choose the Employee Subtype

FEMA

What is your FEMA Employee Type?

CORE (Cadre on Call Employee)

Are you deployed?

Yes

Disaster Number

4611

Deployment Location

Baton Rouge (ROR)

What is your Official Duty Station?

Houston TX

Supervisor

Bergin, John

Supervisor's First Name

John

Supervisor's Last Name

Bergin

Supervisor's Email

john.bergin@fema.dhs.gov

Please select all reasonable accommodation items being requested

COVID-19 Vaccine Exemption (for RELIGIOUS reasons)

Please describe the nature of your objection to the COVID-19 vaccination requirement.

QUESTIONING THE ORTHODOXY OF SINCERELY HELD RELIGIOUS BELIEFS OR REQUIRING A CLERGY, PLACE OF WORSHIP, OR A THIRD PARTY TO AGREE WITH OR AFFIRM SUCH RELIGIOUS BELIEFS IS UNLAWFUL Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating against its employees on the basis of their sincerely held religious beliefs. See 42 U.S.C. §2000e-2(a) ("It shall be an unlawful employment practice for an employer . . . to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, or national origin"); see also EEOC v. Abercrombie & Fitch Stores, Inc., 575 U.S. 768 (2015) (same). Title VII defines "religion" as "all aspects of religious observance and practice, as well as belief." 42 U.S.C. §2000e(j). Moreover, as the EEOC has made clear, Title VII's protections also extend nonreligious beliefs if related to morality, ultimate ideas about life, purpose, and death. See EEOC, Questions and Answers: Religious Discrimination in the Workplace (June 7, 2008), ("Title VII's protections also extend to those who are discriminated against or need accommodation because they profess no religious beliefs Religious beliefs include theistic beliefs, i.e. those that include a belief in God as well as non-theistic 'moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views.' Although courts generally resolve doubts about particular beliefs in favor of finding that they are

religious, beliefs are not protected merely because they are strongly held. Rather, religion typically concerns ‘ultimate ideas’ about ‘life, purpose, and death’). As the Supreme Court has recognized, employees’ “religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit [legal] protection.” Thomas v. Review Bd. of Ind. Emp’t Sec. Div., 450 U.S. 707, 714 (1981); see also Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520, 531 (1993) (same). Additionally, though membership in or adherence to the tenets of an organized religion is plainly sufficient to provide protection for an individual’s sincerely held religious beliefs, it is not a necessary precondition. See Frazee v. Ill. Dep’t of Emp’t Sec., 489 U.S. 829, 834 (1989) (“Undoubtedly, membership in an organized religious denomination, especially one with a specific tenet forbidding members to work on Sunday, would simplify the problem of identifying sincerely held religious beliefs, but we reject the notion that to claim the protection [for sincerely held religious beliefs], one must be responding to the commands of a particular religious organization.” (emphasis added)); see also Office of Foreign Assets Control v. Voices in the Wilderness, 329 F. Supp. 2d 71, 81 (D.D.C. 2004) (noting that the law provides protection for “sincerely held religious beliefs,” “not just tenets of organized religion”). In fact, the law provides protection for sincerely held religious beliefs even when some members of the same religious organization, sect, or denomination disagree with the beliefs espoused by the individual. That some individuals may have sincerely held religious beliefs which differ from those sincerely held by the employees requesting accommodation is irrelevant to whether the employees’ sincerely held religious beliefs are entitled to protection under Title VII. Department of Health, in its handout literature for those considering one of the COVID-19 vaccines, notes the following: “The non-replicating viral vector vaccine produced by Johnson & Johnson did require the use of fetal cell cultures, specifically PER.C6, in order to produce and manufacture the vaccine.” N.D. Health, COVID-19 Vaccines & Fetal Cell Lines (Apr. 20, 2021), https://www.health.nd.gov/sites/www/files/documents/COVID%20Vaccine%20Page/COVID-19_Vaccine_Fetal_Cell_Handout.pdf (emphasis added) (last visited Aug. 27, 2021). The Louisiana Department of Health likewise confirms that the Johnson & Johnson COVID-19 vaccine used the PER.C6 fetal cell line, which “is a retinal cell line that was isolated from a terminated fetus in 1985.” La. Dep’t of Public Health, You Have Questions, We Have Answers: COVID-19 Vaccine FAQ (Dec. 21, 2020), https://ldh.la.gov/assets/oph/Center-PHCH/Center-PH/immunizations/You_Have_Qs_COVID-19_Vaccine_FAQ.pdf (emphasis added) (last visited Aug. 27, 2021). The same is true of the Moderna and Pfizer-BioNTech mRNA vaccines. The Louisiana Department of Health’s publications again confirm that aborted fetal cell lines were used in the “proof of concept” phase of the development of their COVID-19 mRNA vaccines. See La. Dep’t of Public Health, *supra*. The North Dakota Department of Health likewise confirms: “Early in the development of mRNA vaccine technology, fetal cells were used for ‘proof of concept’ (to demonstrate how a cell could take up mRNA and produce the SARS-CoV-2 spike protein) or to characterize the SARS-CoV-2 spike protein.” N.D. Health, *supra* (emphasis added). Because all three of the currently available COVID-19 vaccines are developed and produced from, tested with, researched on, or otherwise connected with the aborted fetal cell lines HEK-293 and PER.C6, many employees’ sincerely held religious beliefs compel them to abstain from accepting or injecting any of these products into their bodies, regardless of the perceived benefits or rationales. Thus, while there may be some faith leaders and other adherents whose understanding of Scripture is different, and who may be willing to accept one of the three currently available COVID-19 vaccines despite their connection with aborted fetal cell lines, any employee is entitled to interpret the Scriptural command against murder differently, which many indisputably do. Many employees have sincerely held religious beliefs that God forms children in the womb and knows them prior to their birth, and that because of this, life is sacred from the moment of conception to natural death. See Psalm 139:13-14 (ESV) (“For you formed my inward parts; you knitted me together in my mother’s womb. I praise you, for I am fearfully and wonderfully made.”); Psalm 139:16 (ESV) (“Your eyes saw my unformed substance; in your book were written, every one of them, the days that were formed for me, when as yet there was none of them.”); Isaiah 44:2 (“Thus says the Lord who made you, who formed you from the womb”); Isaiah 44:24 (“Thus says the Lord, your Redeemer, who formed you from the womb: ‘I am the Lord, who made all things’”); Isaiah 49:1 (“The Lord called me from the womb, from the body of my mother he named my name”); Isaiah 49:5 (“And now the Lord says, he who formed me from the womb to be his servant.”); Jeremiah 1:5 (“Before I formed you in the womb I knew you, and before you were born I consecrated you; I appointed you a prophet to the nations”). As the Supreme Court has recognized, employees’ “religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit [legal] protection.” Thomas v. Review Bd. of Ind. Emp’t Sec. Div.,

450 U.S. 707, 714 (1981); see also Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520, 531 (1993) (same). Additionally, though membership in or adherence to the tenets of an organized religion is plainly sufficient to provide protection for an individual's sincerely held religious beliefs, it is not a necessary precondition. See Frazee v. Ill. Dep't of Empl Sec., 489 U.S. 829, 834 (1989) ("Undoubtedly, membership in an organized religious denomination, especially one with a specific tenet forbidding members to work on Sunday, would simplify the problem of identifying sincerely held religious beliefs, but we reject the notion that to claim the protection [for sincerely held religious beliefs], one must be responding to the commands of a particular religious organization." (emphasis added)); see also Office of Foreign Assets Control v. Voices in the Wilderness, 329 F. Supp. 2d 71, 81 (D.D.C. 2004) (noting that the law provides protection for "sincerely held religious beliefs," "not just tenets of organized religion"). The Emergency Use Authorization Statute Prohibits Mandating the Currently Available COVID-19 Vaccines: The United States Code provides: [S]ubject to the provisions of this section, the Secretary (of the Department of Health and Human Services) may authorize the introduction into interstate commerce, during the effective period of a declaration under subsection (b), of a drug, device, or biological product intended for use in an actual or potential emergency (referred to in thiPsasgeec t2i6o nofa 6s3an "emergency use." 21 U.S.C. § 360bbb-3(a)(1) (emphasis added) [hereinafter EUA Statute]. As an essential part of the explicit statutory conditions for EUA, the EUA Statute mandates that all individuals to whom the EUA product may be administered be given the option to accept or refuse administration of the product. See 21 U.S.C. § 360bbb-3(e)(1)(A)(ii)(III) (requiring that "individual to whom the product is administered are informed . . . of the option to accept or refuse administration of the product" (emphasis added)). The only currently available COVID-19 vaccines (Janssen/Johnson & Johnson, Moderna, and Pfizer-BioNTech) are only authorized for use under the EUA Statute and have no general approval under federal law. Thus, the administration of such vaccines cannot be mandatory under the plain text of the EUA Statute. The statutorily required Fact Sheets for each of the EUA COVID-19 vaccines acknowledge that individuals cannot be compelled to accept or receive the vaccine. See Moderna, Fact Sheet for Recipients and Caregivers (June 24, 2021), <https://www.fda.gov/media/144638/download> ("It is your choice to receive or not to receive the Moderna COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care." (emphasis added)); Pfizer-BioNTech, Fact Sheet for Recipients and Caregivers (June 25, 2021), <https://www.fda.gov/media/144414/download> ("It is your choice to receive or not to receive the Pfizer-BioNTech COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care." (emphasis added)); Janssen, Fact Sheet for Recipients and Caregivers (July 8, 2021), <https://www.fda.gov/media/146305/download> ("It is your choice to receive or not to receive the Janssen COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care." (emphasis added)). I have a strong moral and sincere religious beliefs and objection to vaccines that were derived from aborted fetal cells. It is my sincerely held religious belief that, in being vaccinated with any of the currently available alleged COVID-19 vaccines, I would be cooperating with and complicit in abortion – the ending of an innocent human life – and that such would constitute a sin against God and a violation of His Commandments, for which I would be held morally accountable by God. For that reason, I am demanding a medical and a religious accommodation, under Title VII and any similar Texas and or Washington DC state (district) law(s), that will excuse me from having to receive a COVID-19 vaccine, and further request that no adverse employment action be taken against me on account of my religious beliefs. A. Pfizer and BioNTech – The Pfizer Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [3]. B. Moderna – The Moderna Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is cited by the vaccine researchers Kizzmekia S. Corbett, Darin K. Edwards, and Sarah R. Leist [4]. C. Johnson & Johnson – The J&J Vaccine has publicly admitted to using a cell line called PER.C6. This is published on the Janssen website [5]. This information is enumerated by the Lozier Institute [2]. D. Sputnik V – The Sputnik V Vaccine cites their manufacturers as using the abortion-derived cell line HEK-293 [6][7]. E. AstraZeneca – AstraZeneca was developed using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is also contained in documents permitting its emergency use in the United Kingdom [8]. F. Vaxart – Vaxart was produced with the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [9]. G. Altimmune – The Altimmune vaccine was produced and

developed with the abortion-derived cell line PER.C6. This information is recorded by Altimmune's own Clinical Trial Protocol [10]. This information is enumerated by the Lozier Institute [2]. H. COVAXX and United Biomedical – COVAXX was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [11]. I. Medicago – The Medicago Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [12]. J. Novavax – The Novavax Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researchers at ScienceMag [13]. K. University of Pittsburgh "PittCoVacc" – PittCoVacc was produced with the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by EBioMedicine at the Lancet [14]. L. Walter Reed Army Institute – The Walter Reed Vaccine was produced with the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [15]. M. Sanofi Pasteur and Translate Bio – The Sanofi Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the vaccine researchers at NPJ Vaccines [16]. N. Inovio Pharmaceuticals – The Inovio Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researchers at ScienceMag [17]. O. Arcturus Therapeutics – The Arcturus Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [18]. P. Imperial College London – The Imperial College Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [19]. Q. Providence Therapeutics – The Providence Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [20]. R. CoronaVac – CoronaVac was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researchers at ScienceMag [21]. S. CanSino Biologics – The CanSino Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researchers at BioSpace [22]. T. ImmunityBio and NantKwest – The ImmunityBio Vaccine was developed, produced, and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [23]. U. Institut Pasteur and Themis and Merck – The Institut Pasteur Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Proceedings of the National Academy of Sciences of the United States of America [24]. V. Rega Institute, KU Leuven – The Rega Vaccine protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Global Virus Network [25]. W. Anhui Zhifei – The Anhui Zhifei Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cell Press Journal [26]. I Max J Meindl do hereby stipulate: "I understand the above is your position. I am signing this document without waiver of y legal right to seek religious exemption and accommodation from any requirement that conflicts with my sincerely held religious beliefs, and without waiver of the right to seek legal redress from any wrongful denial of such exemption or accommodation."

Would complying with the COVID-19 vaccination requirement substantially burden your religious exercise or conflict with your sincerely held religious beliefs, practices, or observances? If so, please explain how.

QUESTIONING THE ORTHODOXY OF SINCELY HELD RELIGIOUS BELIEFS OR REQUIRING A CLERGY, PLACE OF WORSHIP, OR A THIRD PARTY TO AGREE WITH OR AFFIRM SUCH RELIGIOUS BELIEFS IS UNLAWFUL Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating against its employees on the basis of their sincerely held religious beliefs. See 42 U.S.C. §2000e-2(a) ("It shall be an unlawful employment practice for an employer . . . to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such

individual's race, color, religion, sex, or national origin"); see also EEOC v. Abercrombie & Fitch Stores, Inc., 575 U.S. 768 (2015) (same). Title VII defines "religion" as "all aspects of religious observance and practice, as well as belief." 42 U.S.C. §2000e(j). Moreover, as the EEOC has made clear, Title VII's protections also extend nonreligious beliefs if related to morality, ultimate ideas about life, purpose, and death. See EEOC, Questions and Answers: Religious Discrimination in the Workplace (June 7, 2008), ("Title VII's protections also extend to those who are discriminated against or need accommodation because they profess no religious beliefs Religious beliefs include theistic beliefs, i.e. those that include a belief in God as well as non-theistic 'moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views.' Although courts generally resolve doubts about particular beliefs in favor of finding that they are religious, beliefs are not protected merely because they are strongly held. Rather, religion typically concerns 'ultimate ideas' about 'life, purpose, and death'). As the Supreme Court has recognized, employees' "religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit [legal] protection." Thomas v. Review Bd. of Ind. Emp't Sec. Div., 450 U.S. 707, 714 (1981); see also Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520, 531 (1993) (same). Additionally, though membership in or adherence to the tenets of an organized religion is plainly sufficient to provide protection for an individual's sincerely held religious beliefs, it is not a necessary precondition. See Frazee v. Ill. Dep't of Emp't Sec., 489 U.S. 829, 834 (1989) ("Undoubtedly, membership in an organized religious denomination, especially one with a specific tenet forbidding members to work on Sunday, would simplify the problem of identifying sincerely held religious beliefs, but we reject the notion that to claim the protection [for sincerely held religious beliefs], one must be responding to the commands of a particular religious organization." (emphasis added)); see also Office of Foreign Assets Control v. Voices in the Wilderness, 329 F. Supp. 2d 71, 81 (D.D.C. 2004) (noting that the law provides protection for "sincerely held religious beliefs," "not just tenets of organized religion"). In fact, the law provides protection for sincerely held religious beliefs even when some members of the same religious organization, sect, or denomination disagree with the beliefs espoused by the individual. That some individuals may have sincerely held religious beliefs which differ from those sincerely held by the employees requesting accommodation is irrelevant to whether the employees' sincerely held religious beliefs are entitled to protection under Title VII. Department of Health, in its handout literature for those considering one of the COVID-19 vaccines, notes the following: "The non-replicating viral vector vaccine produced by Johnson & Johnson did require the use of fetal cell cultures, specifically PER.C6, in order to produce and manufacture the vaccine." N.D. Health, COVID-19 Vaccines & Fetal Cell Lines (Apr. 20, 2021), https://www.health.nd.gov/sites/www/files/documents/COVID%20Vaccine%20Page/COVID-19_Vaccine_Fetal_Cell_Handout.pdf (emphasis added) (last visited Aug. 27, 2021). The Louisiana Department of Health likewise confirms that the Johnson & Johnson COVID-19 vaccine used the PER.C6 fetal cell line, which "is a retinal cell line that was isolated from a terminated fetus in 1985." La. Dep't of Public Health, You Have Questions, We Have Answers: COVID-19 Vaccine FAQ (Dec. 21, 2020), https://ldh.la.gov/assets/oph/Center-PHCH/Center-PH/immunizations/You_Have_Qs_COVID-19_Vaccine_FAQ.pdf (emphasis added) (last visited Aug. 27, 2021). The same is true of the Moderna and Pfizer-BioNTech mRNA vaccines. The Louisiana Department of Health's publications again confirm that aborted fetal cell lines were used in the "proof of concept" phase of the development of their COVID-19 mRNA vaccines. See La. Dep't of Public Health, *supra*. The North Dakota Department of Health likewise confirms: "Early in the development of mRNA vaccine technology, fetal cells were used for 'proof of concept' (to demonstrate how a cell could take up mRNA and produce the SARS-CoV-2 spike protein) or to characterize the SARS-CoV-2 spike protein." N.D. Health, *supra* (emphasis added). Because all three of the currently available COVID-19 vaccines are developed and produced from, tested with, researched on, or otherwise connected with the aborted fetal cell lines HEK-293 and PER.C6, many employees' sincerely held religious beliefs compel them to abstain from accepting or injecting any of these products into their bodies, regardless of the perceived benefits or rationales. Thus, while there may be some faith leaders and other adherents whose understanding of Scripture is different, and who may be willing to accept one of the three currently available COVID-19 vaccines despite their connection with aborted fetal cell lines, any employee is entitled to interpret the Scriptural command against murder differently, which many indisputably do. Many employees have sincerely held religious beliefs that God forms children in the womb and knows them prior to their birth, and that because of this, life is sacred from the moment of conception to natural death. See Psalm 139:13-14 (ESV) ("For you formed my inward parts; you knitted me together in my mother's womb. I praise you,

for I am fearfully and wonderfully made."); Psalm 139:16 (ESV) ("Your eyes saw my unformed substance; in your book were written, every one of them, the days that were formed for me, when as yet there was none of them."); Isaiah 44:2 ("Thus says the Lord who made you, who formed you from the womb"); Isaiah 44:24 ("Thus says the Lord, your Redeemer, who formed you from the womb: 'I am the Lord, who made all things'"); Isaiah 49:1 ("The Lord called me from the womb, from the body of my mother he named my name"); Isaiah 49:5 ("And now the Lord says, he who formed me from the womb to be his servant,"); Jeremiah 1:5 ("Before I formed you in the womb I knew you, and before you were born I consecrated you; I appointed you a prophet to the nations"). As the Supreme Court has recognized, employees' "religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit [legal] protection." Thomas v. Review Bd. of Ind. Emp't Sec. Div., 450 U.S. 707, 714 (1981); see also Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520, 531 (1993) (same). Additionally, though membership in or adherence to the tenets of an organized religion is plainly sufficient to provide protection for an individual's sincerely held religious beliefs, it is not a necessary precondition. See Frazee v. Ill. Dep't of Empt' Sec., 489 U.S. 829, 834 (1989) ("Undoubtedly, membership in an organized religious denomination, especially one with a specific tenet forbidding members to work on Sunday, would simplify the problem of identifying sincerely held religious beliefs, but we reject the notion that to claim the protection [for sincerely held religious beliefs], one must be responding to the commands of a particular religious organization." (emphasis added)); see also Office of Foreign Assets Control v. Voices in the Wilderness, 329 F. Supp. 2d 71, 81 (D.D.C. 2004) (noting that the law provides protection for "sincerely held religious beliefs," "not just tenets of organized religion").

The Emergency Use Authorization Statute Prohibits Mandating the Currently Available COVID-19 Vaccines: The United States Code provides: [S]ubject to the provisions of this section, the Secretary (of the Department of Health and Human Services) may authorize the introduction into interstate commerce, during the effective period of a declaration under subsection (b), of a drug, device, or biological product intended for use in an actual or potential emergency (referred to in thiPsasgeec t2i6o nofa 6s3an "emergency use." 21 U.S.C. § 360bbb-3(a)(1) (emphasis added) [hereinafter EUA Statute]. As an essential part of the explicit statutory conditions for EUA, the EUA Statute mandates that all individuals to whom the EUA product may be administered be given the option to accept or refuse administration of the product. See 21 U.S.C. § 360bbb-3(e)(1)(A)(ii)(III) (requiring that "individual to whom the product is administered are informed . . . of the option to accept or refuse administration of the product" (emphasis added)). The only currently available COVID-19 vaccines (Janssen/Johnson & Johnson, Moderna, and Pfizer-BioNTech) are only authorized for use under the EUA Statute and have no general approval under federal law. Thus, the administration of such vaccines cannot be mandatory under the plain text of the EUA Statute. The statutorily required Fact Sheets for each of the EUA COVID-19 vaccines acknowledge that individuals cannot be compelled to accept or receive the vaccine. See Moderna, Fact Sheet for Recipients and Caregivers (June 24, 2021), <https://www.fda.gov/media/144638/download> ("It is your choice to receive or not to receive the Moderna COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care." (emphasis added)); Pfizer-BioNTech, Fact Sheet for Recipients and Caregivers (June 25, 2021), <https://www.fda.gov/media/144414/download> ("It is your choice to receive or not to receive the Pfizer-BioNTech COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care." (emphasis added)); Janssen, Fact Sheet for Recipients and Caregivers (July 8, 2021), <https://www.fda.gov/media/146305/download> ("It is your choice to receive or not to receive the Janssen COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care." (emphasis added)). I have a strong moral and sincere religious beliefs and objection to vaccines that were derived from aborted fetal cells. It is my sincerely held religious belief that, in being vaccinated with any of the currently available alleged COVID-19 vaccines, I would be cooperating with and complicit in abortion – the ending of an innocent human life –and that such would constitute a sin against God and a violation of His Commandments, for which I would be held morally accountable by God. For that reason, I am demanding a medical and a religious accommodation, under Title VII and any similar Texas and or Washington DC state (district) law(s), that will excuse me from having to receive a COVID-19 vaccine, and further request that no adverse employment action be taken against me on account of my religious beliefs. A. Pfizer and BioNTech – The Pfizer Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [3]. B. Moderna – The Moderna Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the

Lozier Institute [2]. This information is cited by the vaccine researchers Kizzmekia S. Corbett, Darin K. Edwards, and Sarah R. Leist [4]. C. Johnson & Johnson – The J&J Vaccine has publicly admitted to using a cell line called PER.C6. This is published on the Janssen website [5]. This information is enumerated by the Lozier Institute [2]. D. Sputnik V – The Sputnik V Vaccine cites their manufacturers as using the abortion-derived cell line HEK-293 [6][7]. E. AstraZeneca – AstraZeneca was developed using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is also contained in documents permitting its emergency use in the United Kingdom [8]. F. Vaxart – Vaxart was produced with the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [9]. G. Altimmune – The Altimmune vaccine was produced and developed with the abortion-derived cell line PER.C6. This information is recorded by Altimmune's own Clinical Trial Protocol [10]. This information is enumerated by the Lozier Institute [2]. H. COVAXX and United Biomedical – COVAXX was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [11]. I. Medicago – The Medicago Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [12]. J. Novavax – The Novavax Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researchers at ScienceMag [13]. K. University of Pittsburgh "PittCoVacc" – PittCoVacc was produced with the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by EBioMedicine at the Lancet [14]. L. Walter Reed Army Institute – The Walter Reed Vaccine was produced with the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [15]. M. Sanofi Pasteur and Translate Bio – The Sanofi Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the vaccine researchers at NPJ Vaccines [16]. N. Inovio Pharmaceuticals – The Inovio Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researchers at ScienceMag [17]. O. Arcturus Therapeutics – The Arcturus Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [18]. P. Imperial College London – The Imperial College Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [19]. Q. Providence Therapeutics – The Providence Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [20]. R. CoronaVac – CoronaVac was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researchers at ScienceMag [21]. S. CanSino Biologics – The CanSino Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researchers at BioSpace [22]. T. ImmunityBio and NantKwest – The ImmunityBio Vaccine was developed, produced, and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [23]. U. Institut Pasteur and Themis and Merck – The Institut Pasteur Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Proceedings of the National Academy of Sciences of the United States of America [24]. V. Rega Institute, KU Leuven – The Rega Vaccine protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Global Virus Network [25]. W. Anhui Zhifei – The Anhui Zhifei Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cell Press Journal [26]. I Max J Meindl do hereby stipulate: "I understand the above is your position. I am signing this document without waiver of y legal right to seek religious exemption and accommodation from any requirement that conflicts with my sincerely held religious beliefs, and without waiver of the right to seek legal redress from any wrongful denial of such exemption or accommodation."

How long have you held the religious belief underlying your objection?

QUESTIONING THE ORTHODOXY OF SINERELY HELD RELIGIOUS BELIEFS OR REQUIRING A CLERGY, PLACE OF WORSHIP, OR A THIRD PARTY TO AGREE WITH OR AFFIRM SUCH RELIGIOUS BELIEFS IS UNLAWFUL Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating against its employees on the basis of their sincerely held religious beliefs. See 42 U.S.C. §2000e-2(a) ("It shall be an unlawful employment practice for an employer . . . to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, or national origin"); see also EEOC v. Abercrombie & Fitch Stores, Inc., 575 U.S. 768 (2015) (same). Title VII defines "religion" as "all aspects of religious observance and practice, as well as belief." 42 U.S.C. §2000e(j). Moreover, as the EEOC has made clear, Title VII's protections also extend nonreligious beliefs if related to morality, ultimate ideas about life, purpose, and death. See EEOC, Questions and Answers: Religious Discrimination in the Workplace (June 7, 2008), ("Title VII's protections also extend to those who are discriminated against or need accommodation because they profess no religious beliefs Religious beliefs include theistic beliefs, i.e. those that include a belief in God as well as non-theistic 'moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views.' Although courts generally resolve doubts about particular beliefs in favor of finding that they are religious, beliefs are not protected merely because they are strongly held. Rather, religion typically concerns 'ultimate ideas' about 'life, purpose, and death'"). As the Supreme Court has recognized, employees' "religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit [legal] protection." Thomas v. Review Bd. of Ind. Emp't Sec. Div., 450 U.S. 707, 714 (1981); see also Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520, 531 (1993) (same). Additionally, though membership in or adherence to the tenets of an organized religion is plainly sufficient to provide protection for an individual's sincerely held religious beliefs, it is not a necessary precondition. See Frazee v. Ill. Dep't of Emp't Sec., 489 U.S. 829, 834 (1989) ("Undoubtedly, membership in an organized religious denomination, especially one with a specific tenet forbidding members to work on Sunday, would simplify the problem of identifying sincerely held religious beliefs, but we reject the notion that to claim the protection [for sincerely held religious beliefs], one must be responding to the commands of a particular religious organization." (emphasis added)); see also Office of Foreign Assets Control v. Voices in the Wilderness, 329 F. Supp. 2d 71, 81 (D.D.C. 2004) (noting that the law provides protection for "sincerely held religious beliefs," "not just tenets of organized religion"). In fact, the law provides protection for sincerely held religious beliefs even when some members of the same religious organization, sect, or denomination disagree with the beliefs espoused by the individual. That some individuals may have sincerely held religious beliefs which differ from those sincerely held by the employees requesting accommodation is irrelevant to whether the employees' sincerely held religious beliefs are entitled to protection under Title VII. Department of Health, in its handout literature for those considering one of the COVID-19 vaccines, notes the following: "The non-replicating viral vector vaccine produced by Johnson & Johnson did require the use of fetal cell cultures, specifically PER.C6, in order to produce and manufacture the vaccine." N.D. Health, COVID-19 Vaccines & Fetal Cell Lines (Apr. 20, 2021), https://www.health.nd.gov/sites/www/files/documents/COVID%20Vaccine%20Page/COVID-19_Vaccine_Fetal_Cell_Handout.pdf (emphasis added) (last visited Aug. 27, 2021). The Louisiana Department of Health likewise confirms that the Johnson & Johnson COVID-19 vaccine used the PER.C6 fetal cell line, which "is a retinal cell line that was isolated from a terminated fetus in 1985." La. Dep't of Public Health, You Have Questions, We Have Answers: COVID-19 Vaccine FAQ (Dec. 21, 2020), https://ldh.la.gov/assets/oph/Center-PHCH/Center-PH/immunizations/You_Have_Qs_COVID-19_Vaccine_FAQ.pdf (emphasis added) (last visited Aug. 27, 2021). The same is true of the Moderna and Pfizer-BioNTech mRNA vaccines. The Louisiana Department of Health's publications again confirm that aborted fetal cell lines were used in the "proof of concept" phase of the development of their COVID-19 mRNA vaccines. See La. Dep't of Public Health, *supra*. The North Dakota Department of Health likewise confirms: "Early in the development of mRNA vaccine technology, fetal cells were used for 'proof of concept' (to demonstrate how a cell could take up mRNA and produce the SARS-CoV-2 spike protein) or to characterize the SARS-CoV-2 spike protein." N.D. Health, *supra* (emphasis added). Because all three of the currently available COVID-19 vaccines are developed and produced from, tested with, researched on, or otherwise connected with the aborted fetal cell lines HEK-293 and PER.C6, many employees' sincerely

held religious beliefs compel them to abstain from accepting or injecting any of these products into their bodies, regardless of the perceived benefits or rationales. Thus, while there may be some faith leaders and other adherents whose understanding of Scripture is different, and who may be willing to accept one of the three currently available COVID-19 vaccines despite their connection with aborted fetal cell lines, any employee is entitled to interpret the Scriptural command against murder differently, which many indisputably do. Many employees have sincerely held religious beliefs that God forms children in the womb and knows them prior to their birth, and that because of this, life is sacred from the moment of conception to natural death. See Psalm 139:13–14 (ESV) (“For you formed my inward parts; you knitted me together in my mother’s womb. I praise you, for I am fearfully and wonderfully made.”); Psalm 139:16 (ESV) (“Your eyes saw my unformed substance; in your book were written, every one of them, the days that were formed for me, when as yet there was none of them.”); Isaiah 44:2 (“Thus says the Lord who made you, who formed you from the womb”); Isaiah 44:24 (“Thus says the Lord, your Redeemer, who formed you from the womb: ‘I am the Lord, who made all things’”); Isaiah 49:1 (“The Lord called me from the womb, from the body of my mother he named my name”); Isaiah 49:5 (“And now the Lord says, he who formed me from the womb to be his servant,”); Jeremiah 1:5 (“Before I formed you in the womb I knew you, and before you were born I consecrated you; I appointed you a prophet to the nations”). As the Supreme Court has recognized, employees’ “religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit [legal] protection.” Thomas v. Review Bd. of Ind. Emp’t Sec. Div., 450 U.S. 707, 714 (1981); see also Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520, 531 (1993) (same). Additionally, though membership in or adherence to the tenets of an organized religion is plainly sufficient to provide protection for an individual’s sincerely held religious beliefs, it is not a necessary precondition. See Frazee v. Ill. Dep’t of Emp’t Sec., 489 U.S. 829, 834 (1989) (“Undoubtedly, membership in an organized religious denomination, especially one with a specific tenet forbidding members to work on Sunday, would simplify the problem of identifying sincerely held religious beliefs, but we reject the notion that to claim the protection [for sincerely held religious beliefs], one must be responding to the commands of a particular religious organization.” (emphasis added)); see also Office of Foreign Assets Control v. Voices in the Wilderness, 329 F. Supp. 2d 71, 81 (D.D.C. 2004) (noting that the law provides protection for “sincerely held religious beliefs,” “not just tenets of organized religion”). The Emergency Use Authorization Statute Prohibits Mandating the Currently Available COVID-19 Vaccines: The United States Code provides: [S]ubject to the provisions of this section, the Secretary (of the Department of Health and Human Services) may authorize the introduction into interstate commerce, during the effective period of a declaration under subsection (b), of a drug, device, or biological product intended for use in an actual or potential emergency (referred to in thiPsasgeec t2i6o nofa 6s3an “emergency use.” 21 U.S.C. § 360bbb-3(a)(1) (emphasis added) [hereinafter EUA Statute]. As an essential part of the explicit statutory conditions for EUA, the EUA Statute mandates that all individuals to whom the EUA product may be administered be given the option to accept or refuse administration of the product. See 21 U.S.C. § 360bbb-3(e)(1)(A)(ii)(III) (requiring that “individual to whom the product is administered are informed . . . of the option to accept or refuse administration of the product” (emphasis added)). The only currently available COVID-19 vaccines (Janssen/Johnson & Johnson, Moderna, and Pfizer-BioNTech) are only authorized for use under the EUA Statute and have no general approval under federal law. Thus, the administration of such vaccines cannot be mandatory under the plain text of the EUA Statute. The statutorily required Fact Sheets for each of the EUA COVID-19 vaccines acknowledge that individuals cannot be compelled to accept or receive the vaccine. See Moderna, Fact Sheet for Recipients and Caregivers (June 24, 2021), <https://www.fda.gov/media/144638/download> (“It is your choice to receive or not to receive the Moderna COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care.” (emphasis added)); Pfizer-BioNTech, Fact Sheet for Recipients and Caregivers (June 25, 2021), <https://www.fda.gov/media/144414/download> (“It is your choice to receive or not to receive the Pfizer-BioNTech COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care.” (emphasis added)); Janssen, Fact Sheet for Recipients and Caregivers (July 8, 2021), <https://www.fda.gov/media/146305/download> (“It is your choice to receive or not to receive the Janssen COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care.” (emphasis added)). I have a strong moral and sincere religious beliefs and objection to vaccines that were derived from aborted fetal cells. It is my sincerely held religious belief that, in being vaccinated with any of the currently available alleged COVID-19 vaccines, I would be cooperating with and complicit in abortion – the ending of an

innocent human life –and that such would constitute a sin against God and a violation of His Commandments, for which I would be held morally accountable by God. For that reason, I am demanding a medical and a religious accommodation, under Title VII and any similar Texas and or Washington DC state (district) law(s), that will excuse me from having to receive a COVID-19 vaccine, and further request that no adverse employment action be taken against me on account of my religious beliefs. A. Pfizer and BioNTech – The Pfizer Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [3]. B. Moderna – The Moderna Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is cited by the vaccine researchers Kizzmekia S. Corbett, Darin K. Edwards, and Sarah R. Leist [4]. C. Johnson & Johnson – The J&J Vaccine has publicly admitted to using a cell line called PER.C6. This is published on the Janssen website [5]. This information is enumerated by the Lozier Institute [2]. D. Sputnik V – The Sputnik V Vaccine cites their manufacturers as using the abortion-derived cell line HEK-293 [6][7]. E. AstraZeneca – AstraZeneca was developed using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is also contained in documents permitting its emergency use in the United Kingdom [8]. F. Vaxart – Vaxart was produced with the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [9]. G. Altimmune – The Altimmune vaccine was produced and developed with the abortion-derived cell line PER.C6. This information is recorded by Altimmune's own Clinical Trial Protocol [10]. This information is enumerated by the Lozier Institute [2]. H. COVAXX and United Biomedical – COVAXX was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [11]. I. Medicago – The Medicago Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [12]. J. Novavax – The Novavax Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researchers at ScienceMag [13]. K. University of Pittsburgh “PittCoVacc” – PittCoVacc was produced with the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by EBioMedicine at the Lancet [14]. L. Walter Reed Army Institute – The Walter Reed Vaccine was produced with the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [15]. M. Sanofi Pasteur and Translate Bio – The Sanofi Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the vaccine researchers at NPJ Vaccines [16]. N. Inovio Pharmaceuticals – The Inovio Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researchers at ScienceMag [17]. O. Arcturus Therapeutics – The Arcturus Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [18]. P. Imperial College London – The Imperial College Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [19]. Q. Providence Therapeutics – The Providence Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [20]. R. CoronaVac – CoronaVac was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researchers at ScienceMag [21]. S. CanSino Biologics – The CanSino Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researchers at BioSpace [22]. T. ImmunityBio and NantKwest – The ImmunityBio Vaccine was developed, produced, and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [23]. U. Institut Pasteur and Themis and Merck – The Institut Pasteur Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Proceedings of the National Academy of Sciences of the United States of America [24]. V. Rega Institute, KU Leuven – The Rega Vaccine protein tested using the abortion-derived cell line

HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Global Virus Network [25]. W. Anhui Zhifei – The Anhui Zhifei Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cell Press Journal [26]. I Max J Meindl do hereby stipulate: "I understand the above is your position. I am signing this document without waiver of y legal right to seek religious exemption and accommodation from any requirement that conflicts with my sincerely held religious beliefs, and without waiver of the right to seek legal redress from any wrongful denial of such exemption or accommodation."

Please describe whether, as an adult, you have received any vaccines against any other diseases(such as a flu vaccine or a tetanus vaccine) and, if so, what vaccine you most recently received and when, to the best of your recollection.

1969 while in the US Navy, defending your right to be free. QUESTIONING THE ORTHODOXY OF SINCELY HELD RELIGIOUS BELIEFS OR REQUIRING A CLERGY, PLACE OF WORSHIP, OR A THIRD PARTY TO AGREE WITH OR AFFIRM SUCH RELIGIOUS BELIEFS IS UNLAWFUL Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating against its employees on the basis of their sincerely held religious beliefs. See 42 U.S.C. §2000e-2(a) ("It shall be an unlawful employment practice for an employer . . . to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, or national origin"); see also EEOC v. Abercrombie & Fitch Stores, Inc., 575 U.S. 768 (2015) (same). Title VII defines "religion" as "all aspects of religious observance and practice, as well as belief." 42 U.S.C. §2000e(j). Moreover, as the EEOC has made clear, Title VII's protections also extend nonreligious beliefs if related to morality, ultimate ideas about life, purpose, and death. See EEOC, Questions and Answers: Religious Discrimination in the Workplace (June 7, 2008), ("Title VII's protections also extend to those who are discriminated against or need accommodation because they profess no religious beliefs . . . Religious beliefs include theistic beliefs, i.e. those that include a belief in God as well as non-theistic 'moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views.' Although courts generally resolve doubts about particular beliefs in favor of finding that they are religious, beliefs are not protected merely because they are strongly held. Rather, religion typically concerns 'ultimate ideas' about 'life, purpose, and death'"). As the Supreme Court has recognized, employees' "religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit [legal] protection." Thomas v. Review Bd. of Ind. Emp't Sec. Div., 450 U.S. 707, 714 (1981); see also Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520, 531 (1993) (same). Additionally, though membership in or adherence to the tenets of an organized religion is plainly sufficient to provide protection for an individual's sincerely held religious beliefs, it is not a necessary precondition. See Frazee v. Ill. Dep't of Empt Sec., 489 U.S. 829, 834 (1989) ("Undoubtedly, membership in an organized religious denomination, especially one with a specific tenet forbidding members to work on Sunday, would simplify the problem of identifying sincerely held religious beliefs, but we reject the notion that to claim the protection [for sincerely held religious beliefs], one must be responding to the commands of a particular religious organization." (emphasis added)); see also Office of Foreign Assets Control v. Voices in the Wilderness, 329 F. Supp. 2d 71, 81 (D.D.C. 2004) (noting that the law provides protection for "sincerely held religious beliefs," "not just tenets of organized religion"). In fact, the law provides protection for sincerely held religious beliefs even when some members of the same religious organization, sect, or denomination disagree with the beliefs espoused by the individual. That some individuals may have sincerely held religious beliefs which differ from those sincerely held by the employees requesting accommodation is irrelevant to whether the employees' sincerely held religious beliefs are entitled to protection under Title VII. Department of Health, in its handout literature for those considering one of the COVID-19 vaccines, notes the following: "The non-replicating viral vector vaccine produced by Johnson & Johnson did require the use of fetal cell cultures, specifically PER.C6, in order to produce and manufacture the vaccine." N.D. Health, COVID-19 Vaccines & Fetal Cell Lines (Apr. 20, 2021), https://www.health.nd.gov/sites/www/files/documents/COVID%20Vaccine%20Page/COVID-19_Vaccine_Fetal_Cell_Handout.pdf (emphasis added) (last visited Aug. 27, 2021). The Louisiana Department of Health likewise confirms that the Johnson & Johnson COVID-19 vaccine used the PER.C6 fetal cell line, which "is a retinal cell line that was isolated from a terminated fetus in 1985." La. Dep't of Public Health, You Have

Questions, We Have Answers: COVID-19 Vaccine FAQ (Dec. 21, 2020), https://ldh.la.gov/assets/oph/Center-PHCH/Center-PH/immunizations/You_Have_Qs_COVID-19_Vaccine_FAQ.pdf (emphasis added) (last visited Aug. 27, 2021). The same is true of the Moderna and Pfizer-BioNTech mRNA vaccines. The Louisiana Department of Health's publications again confirm that aborted fetal cell lines were used in the "proof of concept" phase of the development of their COVID-19 mRNA vaccines. See La. Dep't of Public Health, *supra*. The North Dakota Department of Health likewise confirms: "Early in the development of mRNA vaccine technology, fetal cells were used for 'proof of concept' (to demonstrate how a cell could take up mRNA and produce the SARS-CoV-2 spike protein) or to characterize the SARS-CoV-2 spike protein." N.D. Health, *supra* (emphasis added). Because all three of the currently available COVID-19 vaccines are developed and produced from, tested with, researched on, or otherwise connected with the aborted fetal cell lines HEK-293 and PER.C6, many employees' sincerely held religious beliefs compel them to abstain from accepting or injecting any of these products into their bodies, regardless of the perceived benefits or rationales. Thus, while there may be some faith leaders and other adherents whose understanding of Scripture is different, and who may be willing to accept one of the three currently available COVID-19 vaccines despite their connection with aborted fetal cell lines, any employee is entitled to interpret the Scriptural command against murder differently, which many indisputably do. Many employees have sincerely held religious beliefs that God forms children in the womb and knows them prior to their birth, and that because of this, life is sacred from the moment of conception to natural death. See Psalm 139:13-14 (ESV) ("For you formed my inward parts; you knitted me together in my mother's womb. I praise you, for I am fearfully and wonderfully made."); Psalm 139:16 (ESV) ("Your eyes saw my unformed substance; in your book were written, every one of them, the days that were formed for me, when as yet there was none of them."); Isaiah 44:2 ("Thus says the Lord who made you, who formed you from the womb"); Isaiah 44:24 ("Thus says the Lord, your Redeemer, who formed you from the womb: 'I am the Lord, who made all things'"); Isaiah 49:1 ("The Lord called me from the womb, from the body of my mother he named my name"); Isaiah 49:5 ("And now the Lord says, he who formed me from the womb to be his servant,"); Jeremiah 1:5 ("Before I formed you in the womb I knew you, and before you were born I consecrated you; I appointed you a prophet to the nations"). As the Supreme Court has recognized, employees' "religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit [legal] protection." *Thomas v. Review Bd. of Ind. Emp't Sec. Div.*, 450 U.S. 707, 714 (1981); see also *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 531 (1993) (same). Additionally, though membership in or adherence to the tenets of an organized religion is plainly sufficient to provide protection for an individual's sincerely held religious beliefs, it is not a necessary precondition. See *Frazee v. Ill. Dep't of Emp't Sec.*, 489 U.S. 829, 834 (1989) ("Undoubtedly, membership in an organized religious denomination, especially one with a specific tenet forbidding members to work on Sunday, would simplify the problem of identifying sincerely held religious beliefs, but we reject the notion that to claim the protection [for sincerely held religious beliefs], one must be responding to the commands of a particular religious organization." (emphasis added)); see also *Office of Foreign Assets Control v. Voices in the Wilderness*, 329 F. Supp. 2d 71, 81 (D.D.C. 2004) (noting that the law provides protection for "sincerely held religious beliefs," "not just tenets of organized religion").

Currently Available COVID-19 Vaccines: The United States Code provides: [S]ubject to the provisions of this section, the Secretary (of the Department of Health and Human Services) may authorize the introduction into interstate commerce, during the effective period of a declaration under subsection (b), of a drug, device, or biological product intended for use in an actual or potential emergency (referred to in thiPsasgeec t2i6o nofa 6s3an "emergency use." 21 U.S.C. § 360bbb-3(a)(1) (emphasis added) [hereinafter EUA Statute]. As an essential part of the explicit statutory conditions for EUA, the EUA Statute mandates that all individuals to whom the EUA product may be administered be given the option to accept or refuse administration of the product. See 21 U.S.C. § 360bbb-3(e)(1)(A)(ii)(III) (requiring that "individual to whom the product is administered are informed . . . of the option to accept or refuse administration of the product" (emphasis added)). The only currently available COVID-19 vaccines (Janssen/Johnson & Johnson, Moderna, and Pfizer-BioNTech) are only authorized for use under the EUA Statute and have no general approval under federal law. Thus, the administration of such vaccines cannot be mandatory under the plain text of the EUA Statute. The statutorily required Fact Sheets for each of the EUA COVID-19 vaccines acknowledge that individuals cannot be compelled to accept or receive the vaccine. See Moderna, Fact Sheet for Recipients and Caregivers (June 24, 2021), <https://www.fda.gov/media/144638/download> ("It is your choice to receive or not to receive the Moderna

COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care." (emphasis added)); Pfizer-BioNTech, Fact Sheet for Recipients and Caregivers (June 25, 2021), <https://www.fda.gov/media/144414/download> ("It is your choice to receive or not to receive the Pfizer-BioNTech COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care." (emphasis added)); Janssen, Fact Sheet for Recipients and Caregivers (July 8, 2021), <https://www.fda.gov/media/146305/download> ("It is your choice to receive or not to receive the Janssen COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care." (emphasis added)). I have a strong moral and sincere religious beliefs and objection to vaccines that were derived from aborted fetal cells. It is my sincerely held religious belief that, in being vaccinated with any of the currently available alleged COVID-19 vaccines, I would be cooperating with and complicit in abortion – the ending of an innocent human life –and that such would constitute a sin against God and a violation of His Commandments, for which I would be held morally accountable by God. For that reason, I am demanding a medical and a religious accommodation, under Title VII and any similar Texas and or Washington DC state (district) law(s), that will excuse me from having to receive a COVID-19 vaccine, and further request that no adverse employment action be taken against me on account of my religious beliefs. A. Pfizer and BioNTech – The Pfizer Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [3]. B. Moderna – The Moderna Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is cited by the vaccine researchers Kizzmekia S. Corbett, Darin K. Edwards, and Sarah R. Leist [4]. C. Johnson & Johnson – The J&J Vaccine has publicly admitted to using a cell line called PER.C6. This is published on the Janssen website [5]. This information is enumerated by the Lozier Institute [2]. D. Sputnik V – The Sputnik V Vaccine cites their manufacturers as using the abortion-derived cell line HEK-293 [6][7]. E. AstraZeneca – AstraZeneca was developed using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is also contained in documents permitting its emergency use in the United Kingdom [8]. F. Vaxart – Vaxart was produced with the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [9]. G. Altimmune – The Altimmune vaccine was produced and developed with the abortion-derived cell line PER.C6. This information is recorded by Altimmune's own Clinical Trial Protocol [10]. This information is enumerated by the Lozier Institute [2]. H. COVAXX and United Biomedical – COVAXX was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [11]. I. Medicago – The Medicago Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [12]. J. Novavax – The Novavax Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researches at ScienceMag [13]. K. University of Pittsburgh "PittCoVacc" – PittCoVacc was produced with the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by EBioMedicine at the Lancet [14]. L. Walter Reed Army Institute – The Walter Reed Vaccine was produced with the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [15]. M. Sanofi Pasteur and Translate Bio – The Sanofi Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the vaccine researchers at NPJ Vaccines [16]. N. Inovio Pharmaceuticals – The Inovio Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researches at ScienceMag [17]. O. Arcturus Therapeutics – The Arcturus Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [18]. P. Imperial College London – The Imperial College Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [19]. Q. Providence Therapeutics – The Providence Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [20]. R. CoronaVac – CoronaVac was protein tested using the abortion-derived cell

line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researches at ScienceMag [21]. S. CanSino Biologics – The CanSino Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researches at BioSpace [22]. T. ImmunityBio and NantKwest – The ImmunityBio Vaccine was developed, produced, and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [23]. U. Institut Pasteur and Themis and Merck – The Institut Pasteur Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Proceedings of the National Academy of Sciences of the United States of America [24]. V. Rega Institute, KU Leuven – The Rega Vaccine protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Global Virus Network [25]. W. Anhui Zhifei – The Anhui Zhifei Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cell Press Journal [26]. I Max J Meindl do hereby stipulate: "I understand the above is your position. I am signing this document without waiver of y legal right to seek religious exemption and accommodation from any requirement that conflicts with my sincerely held religious beliefs, and without waiver of the right to seek legal redress from any wrongful denial of such exemption or accommodation."

If you do not have a religious objection to the use of all vaccines, please explain why your objection is limited to particular vaccines.

QUESTIONING THE ORTHODOXY OF SINCERELY HELD RELIGIOUS BELIEFS OR REQUIRING A CLERGY, PLACE OF WORSHIP, OR A THIRD PARTY TO AGREE WITH OR AFFIRM SUCH RELIGIOUS BELIEFS IS UNLAWFUL Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating against its employees on the basis of their sincerely held religious beliefs. See 42 U.S.C. §2000e-2(a) ("It shall be an unlawful employment practice for an employer . . . to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, or national origin"); see also EEOC v. Abercrombie & Fitch Stores, Inc., 575 U.S. 768 (2015) (same). Title VII defines "religion" as "all aspects of religious observance and practice, as well as belief." 42 U.S.C. §2000e(j). Moreover, as the EEOC has made clear, Title VII's protections also extend nonreligious beliefs if related to morality, ultimate ideas about life, purpose, and death. See EEOC, Questions and Answers: Religious Discrimination in the Workplace (June 7, 2008), ("Title VII's protections also extend to those who are discriminated against or need accommodation because they profess no religious beliefs Religious beliefs include theistic beliefs, i.e. those that include a belief in God as well as non-theistic 'moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views.' Although courts generally resolve doubts about particular beliefs in favor of finding that they are religious, beliefs are not protected merely because they are strongly held. Rather, religion typically concerns 'ultimate ideas' about 'life, purpose, and death'"). As the Supreme Court has recognized, employees' "religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit [legal] protection." Thomas v. Review Bd. of Ind. Emp't Sec. Div., 450 U.S. 707, 714 (1981); see also Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520, 531 (1993) (same). Additionally, though membership in or adherence to the tenets of an organized religion is plainly sufficient to provide protection for an individual's sincerely held religious beliefs, it is not a necessary precondition. See Frazee v. Ill. Dep't of Emp't Sec., 489 U.S. 829, 834 (1989) ("Undoubtedly, membership in an organized religious denomination, especially one with a specific tenet forbidding members to work on Sunday, would simplify the problem of identifying sincerely held religious beliefs, but we reject the notion that to claim the protection [for sincerely held religious beliefs], one must be responding to the commands of a particular religious organization." (emphasis added)); see also Office of Foreign Assets Control v. Voices in the Wilderness, 329 F. Supp. 2d 71, 81 (D.D.C. 2004) (noting that the law provides protection for "sincerely held religious beliefs," "not just tenets of organized religion"). In fact, the law provides protection for sincerely held religious beliefs even when some members of the same religious organization, sect, or denomination disagree with the beliefs espoused by the individual. That some individuals may have sincerely held religious beliefs which differ from those sincerely held by the employees requesting

accommodation is irrelevant to whether the employees' sincerely held religious beliefs are entitled to protection under Title VII. Department of Health, in its handout literature for those considering one of the COVID-19 vaccines, notes the following: "The non-replicating viral vector vaccine produced by Johnson & Johnson did require the use of fetal cell cultures, specifically PER.C6, in order to produce and manufacture the vaccine." N.D. Health, COVID-19 Vaccines & Fetal Cell Lines (Apr. 20, 2021), https://www.health.nd.gov/sites/www/files/documents/COVID%20Vaccine%20Page/COVID-19_Vaccine_Fetal_Cell_Handout.pdf (emphasis added) (last visited Aug. 27, 2021). The Louisiana Department of Health likewise confirms that the Johnson & Johnson COVID-19 vaccine used the PER.C6 fetal cell line, which "is a retinal cell line that was isolated from a terminated fetus in 1985." La. Dep't of Public Health, You Have Questions, We Have Answers: COVID-19 Vaccine FAQ (Dec. 21, 2020), https://ldh.la.gov/assets/oph/Center-PHCH/Center-PH/immunizations/You_Have_Qs_COVID-19_Vaccine_FAQ.pdf (emphasis added) (last visited Aug. 27, 2021). The same is true of the Moderna and Pfizer-BioNTech mRNA vaccines. The Louisiana Department of Health's publications again confirm that aborted fetal cell lines were used in the "proof of concept" phase of the development of their COVID-19 mRNA vaccines. See La. Dep't of Public Health, *supra*. The North Dakota Department of Health likewise confirms: "Early in the development of mRNA vaccine technology, fetal cells were used for 'proof of concept' (to demonstrate how a cell could take up mRNA and produce the SARS-CoV-2 spike protein) or to characterize the SARS-CoV-2 spike protein." N.D. Health, *supra* (emphasis added). Because all three of the currently available COVID-19 vaccines are developed and produced from, tested with, researched on, or otherwise connected with the aborted fetal cell lines HEK-293 and PER.C6, many employees' sincerely held religious beliefs compel them to abstain from accepting or injecting any of these products into their bodies, regardless of the perceived benefits or rationales. Thus, while there may be some faith leaders and other adherents whose understanding of Scripture is different, and who may be willing to accept one of the three currently available COVID-19 vaccines despite their connection with aborted fetal cell lines, any employee is entitled to interpret the Scriptural command against murder differently, which many indisputably do. Many employees have sincerely held religious beliefs that God forms children in the womb and knows them prior to their birth, and that because of this, life is sacred from the moment of conception to natural death. See Psalm 139:13-14 (ESV) ("For you formed my inward parts; you knitted me together in my mother's womb. I praise you, for I am fearfully and wonderfully made."); Psalm 139:16 (ESV) ("Your eyes saw my unformed substance; in your book were written, every one of them, the days that were formed for me, when as yet there was none of them."); Isaiah 44:2 ("Thus says the Lord who made you, who formed you from the womb"); Isaiah 44:24 ("Thus says the Lord, your Redeemer, who formed you from the womb: 'I am the Lord, who made all things'"); Isaiah 49:1 ("The Lord called me from the womb, from the body of my mother he named my name"); Isaiah 49:5 ("And now the Lord says, he who formed me from the womb to be his servant,"); Jeremiah 1:5 ("Before I formed you in the womb I knew you, and before you were born I consecrated you; I appointed you a prophet to the nations"). As the Supreme Court has recognized, employees' "religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit [legal] protection." *Thomas v. Review Bd. of Ind. Emp't Sec. Div.*, 450 U.S. 707, 714 (1981); see also *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 531 (1993) (same). Additionally, though membership in or adherence to the tenets of an organized religion is plainly sufficient to provide protection for an individual's sincerely held religious beliefs, it is not a necessary precondition. See *Frazee v. Ill. Dep't of Emp't Sec.*, 489 U.S. 829, 834 (1989) ("Undoubtedly, membership in an organized religious denomination, especially one with a specific tenet forbidding members to work on Sunday, would simplify the problem of identifying sincerely held religious beliefs, but we reject the notion that to claim the protection [for sincerely held religious beliefs], one must be responding to the commands of a particular religious organization." (emphasis added)); see also *Office of Foreign Assets Control v. Voices in the Wilderness*, 329 F. Supp. 2d 71, 81 (D.D.C. 2004) (noting that the law provides protection for "sincerely held religious beliefs," "not just tenets of organized religion"). The Emergency Use Authorization Statute Prohibits Mandating the Currently Available COVID-19 Vaccines: The United States Code provides: [S]ubject to the provisions of this section, the Secretary (of the Department of Health and Human Services) may authorize the introduction into interstate commerce, during the effective period of a declaration under subsection (b), of a drug, device, or biological product intended for use in an actual or potential emergency (referred to in thiPsasgeec t2i6o nofa 6s3an "emergency use." 21 U.S.C. § 360bbb-3(a)(1) (emphasis added) [hereinafter EUA Statute]. As an essential part of the explicit statutory conditions for EUA, the EUA Statute mandates that all individuals to whom the EUA

product may be administered be given the option to accept or refuse administration of the product. See 21 U.S.C. § 360bbb-3(e)(1)(A)(ii)(III) (requiring that “individual to whom the product is administered are informed . . . of the option to accept or refuse administration of the product” (emphasis added)). The only currently available COVID-19 vaccines (Janssen/Johnson & Johnson, Moderna, and Pfizer-BioNTech) are only authorized for use under the EUA Statute and have no general approval under federal law. Thus, the administration of such vaccines cannot be mandatory under the plain text of the EUA Statute. The statutorily required Fact Sheets for each of the EUA COVID-19 vaccines acknowledge that individuals cannot be compelled to accept or receive the vaccine. See Moderna, Fact Sheet for Recipients and Caregivers (June 24, 2021), <https://www.fda.gov/media/144638/download> (“It is your choice to receive or not to receive the Moderna COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care.” (emphasis added)); Pfizer-BioNTech, Fact Sheet for Recipients and Caregivers (June 25, 2021), <https://www.fda.gov/media/144414/download> (“It is your choice to receive or not to receive the Pfizer-BioNTech COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care.” (emphasis added)); Janssen, Fact Sheet for Recipients and Caregivers (July 8, 2021), <https://www.fda.gov/media/146305/download> (“It is your choice to receive or not to receive the Janssen COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care.” (emphasis added)). I have a strong moral and sincere religious beliefs and objection to vaccines that were derived from aborted fetal cells. It is my sincerely held religious belief that, in being vaccinated with any of the currently available alleged COVID-19 vaccines, I would be cooperating with and complicit in abortion – the ending of an innocent human life –and that such would constitute a sin against God and a violation of His Commandments, for which I would be held morally accountable by God. For that reason, I am demanding a medical and a religious accommodation, under Title VII and any similar Texas and or Washington DC state (district) law(s), that will excuse me from having to receive a COVID-19 vaccine, and further request that no adverse employment action be taken against me on account of my religious beliefs. A. Pfizer and BioNTech – The Pfizer Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [3]. B. Moderna – The Moderna Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is cited by the vaccine researchers Kizzmekia S. Corbett, Darin K. Edwards, and Sarah R. Leist [4]. C. Johnson & Johnson – The J&J Vaccine has publicly admitted to using a cell line called PER.C6. This is published on the Janssen website [5]. This information is enumerated by the Lozier Institute [2]. D. Sputnik V – The Sputnik V Vaccine cites their manufacturers as using the abortion-derived cell line HEK-293 [6][7]. E. AstraZeneca – AstraZeneca was developed using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is also contained in documents permitting its emergency use in the United Kingdom [8]. F. Vaxart – Vaxart was produced with the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [9]. G. Altimmune – The Altimmune vaccine was produced and developed with the abortion-derived cell line PER.C6. This information is recorded by Altimmune’s own Clinical Trial Protocol [10]. This information is enumerated by the Lozier Institute [2]. H. COVAXX and United Biomedical – COVAXX was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [11]. I. Medicago – The Medicago Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [12]. J. Novavax – The Novavax Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researchers at ScienceMag [13]. K. University of Pittsburgh “PittCoVacc” – PittCoVacc was produced with the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by EBioMedicine at the Lancet [14]. L. Walter Reed Army Institute – The Walter Reed Vaccine was produced with the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [15]. M. Sanofi Pasteur and Translate Bio – The Sanofi Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the vaccine researchers at NPJ Vaccines [16]. N. Inovio Pharmaceuticals – The Inovio Vaccine was protein tested using the abortion-derived cell line HEK-293. This

information is enumerated by the Lozier Institute [2]. This information is recorded by researchers at ScienceMag [17]. O. Arcturus Therapeutics – The Arcturus Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [18]. P. Imperial College London – The Imperial College Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [19]. Q. Providence Therapeutics – The Providence Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [20]. R. CoronaVac – CoronaVac was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researchers at ScienceMag [21]. S. CanSino Biologics – The CanSino Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researchers at BioSpace [22]. T. ImmunityBio and NantKwest – The ImmunityBio Vaccine was developed, produced, and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [23]. U. Institut Pasteur and Themis and Merck – The Institut Pasteur Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Proceedings of the National Academy of Sciences of the United States of America [24]. V. Rega Institute, KU Leuven – The Rega Vaccine protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Global Virus Network [25]. W. Anhui Zhifei – The Anhui Zhifei Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cell Press Journal [26]. I Max J Meindl do hereby stipulate: "I understand the above is your position. I am signing this document without waiver of y legal right to seek religious exemption and accommodation from any requirement that conflicts with my sincerely held religious beliefs, and without waiver of the right to seek legal redress from any wrongful denial of such exemption or accommodation."

If there are any other medicines or products that you do not use because of the religious belief underlying your objection, please identify them.

QUESTIONING THE ORTHODOXY OF SINCERELY HELD RELIGIOUS BELIEFS OR REQUIRING A CLERGY, PLACE OF WORSHIP, OR A THIRD PARTY TO AGREE WITH OR AFFIRM SUCH RELIGIOUS BELIEFS IS UNLAWFUL Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating against its employees on the basis of their sincerely held religious beliefs. See 42 U.S.C. §2000e-2(a) ("It shall be an unlawful employment practice for an employer . . . to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, or national origin"); see also EEOC v. Abercrombie & Fitch Stores, Inc., 575 U.S. 768 (2015) (same). Title VII defines "religion" as "all aspects of religious observance and practice, as well as belief." 42 U.S.C. §2000e(j). Moreover, as the EEOC has made clear, Title VII's protections also extend nonreligious beliefs if related to morality, ultimate ideas about life, purpose, and death. See EEOC, Questions and Answers: Religious Discrimination in the Workplace (June 7, 2008), ("Title VII's protections also extend to those who are discriminated against or need accommodation because they profess no religious beliefs Religious beliefs include theistic beliefs, i.e. those that include a belief in God as well as non-theistic 'moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views.' Although courts generally resolve doubts about particular beliefs in favor of finding that they are religious, beliefs are not protected merely because they are strongly held. Rather, religion typically concerns 'ultimate ideas' about 'life, purpose, and death'"). As the Supreme Court has recognized, employees' "religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit [legal] protection." Thomas v. Review Bd. of Ind. Emp't Sec. Div., 450 U.S. 707, 714 (1981); see also Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520, 531 (1993) (same). Additionally, though membership in or adherence to the tenets of an organized religion is plainly sufficient to provide protection for an individual's sincerely held religious beliefs, it is not a necessary precondition. See Frazee v. Ill. Dep't of Emp't Sec., 489 U.S.

829, 834 (1989) ("Undoubtedly, membership in an organized religious denomination, especially one with a specific tenet forbidding members to work on Sunday, would simplify the problem of identifying sincerely held religious beliefs, but we reject the notion that to claim the protection [for sincerely held religious beliefs], one must be responding to the commands of a particular religious organization." (emphasis added)); see also *Office of Foreign Assets Control v. Voices in the Wilderness*, 329 F. Supp. 2d 71, 81 (D.D.C. 2004) (noting that the law provides protection for "sincerely held religious beliefs," "not just tenets of organized religion"). In fact, the law provides protection for sincerely held religious beliefs even when some members of the same religious organization, sect, or denomination disagree with the beliefs espoused by the individual. That some individuals may have sincerely held religious beliefs which differ from those sincerely held by the employees requesting accommodation is irrelevant to whether the employees' sincerely held religious beliefs are entitled to protection under Title VII. Department of Health, in its handout literature for those considering one of the COVID-19 vaccines, notes the following: "The non-replicating viral vector vaccine produced by Johnson & Johnson did require the use of fetal cell cultures, specifically PER.C6, in order to produce and manufacture the vaccine." N.D. Health, COVID-19 Vaccines & Fetal Cell Lines (Apr. 20, 2021), https://www.health.nd.gov/sites/www/files/documents/COVID%20Vaccine%20Page/COVID-19_Vaccine_Fetal_Cell_Handout.pdf (emphasis added) (last visited Aug. 27, 2021). The Louisiana Department of Health likewise confirms that the Johnson & Johnson COVID-19 vaccine used the PER.C6 fetal cell line, which "is a retinal cell line that was isolated from a terminated fetus in 1985." La. Dep't of Public Health, You Have Questions, We Have Answers: COVID-19 Vaccine FAQ (Dec. 21, 2020), https://ldh.la.gov/assets/oph/Center-PHCH/Center-PH/immunizations/You_Have_Qs_COVID-19_Vaccine_FAQ.pdf (emphasis added) (last visited Aug. 27, 2021). The same is true of the Moderna and Pfizer-BioNTech mRNA vaccines. The Louisiana Department of Health's publications again confirm that aborted fetal cell lines were used in the "proof of concept" phase of the development of their COVID-19 mRNA vaccines. See La. Dep't of Public Health, *supra*. The North Dakota Department of Health likewise confirms: "Early in the development of mRNA vaccine technology, fetal cells were used for 'proof of concept' (to demonstrate how a cell could take up mRNA and produce the SARS-CoV-2 spike protein) or to characterize the SARS-CoV-2 spike protein." N.D. Health, *supra* (emphasis added). Because all three of the currently available COVID-19 vaccines are developed and produced from, tested with, researched on, or otherwise connected with the aborted fetal cell lines HEK-293 and PER.C6, many employees' sincerely held religious beliefs compel them to abstain from accepting or injecting any of these products into their bodies, regardless of the perceived benefits or rationales. Thus, while there may be some faith leaders and other adherents whose understanding of Scripture is different, and who may be willing to accept one of the three currently available COVID-19 vaccines despite their connection with aborted fetal cell lines, any employee is entitled to interpret the Scriptural command against murder differently, which many indisputably do. Many employees have sincerely held religious beliefs that God forms children in the womb and knows them prior to their birth, and that because of this, life is sacred from the moment of conception to natural death. See Psalm 139:13-14 (ESV) ("For you formed my inward parts; you knitted me together in my mother's womb. I praise you, for I am fearfully and wonderfully made."); Psalm 139:16 (ESV) ("Your eyes saw my unformed substance; in your book were written, every one of them, the days that were formed for me, when as yet there was none of them."); Isaiah 44:2 ("Thus says the Lord who made you, who formed you from the womb"); Isaiah 44:24 ("Thus says the Lord, your Redeemer, who formed you from the womb: 'I am the Lord, who made all things'"); Isaiah 49:1 ("The Lord called me from the womb, from the body of my mother he named my name"); Isaiah 49:5 ("And now the Lord says, he who formed me from the womb to be his servant,"); Jeremiah 1:5 ("Before I formed you in the womb I knew you, and before you were born I consecrated you; I appointed you a prophet to the nations"). As the Supreme Court has recognized, employees' "religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit [legal] protection." *Thomas v. Review Bd. of Ind. Emp't Sec. Div.*, 450 U.S. 707, 714 (1981); see also *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 531 (1993) (same). Additionally, though membership in or adherence to the tenets of an organized religion is plainly sufficient to provide protection for an individual's sincerely held religious beliefs, it is not a necessary precondition. See *Frazee v. Ill. Dep't of Emp't Sec.*, 489 U.S. 829, 834 (1989) ("Undoubtedly, membership in an organized religious denomination, especially one with a specific tenet forbidding members to work on Sunday, would simplify the problem of identifying sincerely held religious beliefs, but we reject the notion that to claim the protection [for sincerely held religious beliefs], one must be responding to the commands of a particular

religious organization." (emphasis added)); see also *Office of Foreign Assets Control v. Voices in the Wilderness*, 329 F. Supp. 2d 71, 81 (D.D.C. 2004) (noting that the law provides protection for "sincerely held religious beliefs," "not just tenets of organized religion"). The Emergency Use Authorization Statute Prohibits Mandating the Currently Available COVID-19 Vaccines: The United States Code provides: [S]ubject to the provisions of this section, the Secretary (of the Department of Health and Human Services) may authorize the introduction into interstate commerce, during the effective period of a declaration under subsection (b), of a drug, device, or biological product intended for use in an actual or potential emergency (referred to in thiPsasgeec t2i6o nofa 6s3an "emergency use." 21 U.S.C. § 360bbb-3(a)(1) (emphasis added) [hereinafter EUA Statute]. As an essential part of the explicit statutory conditions for EUA, the EUA Statute mandates that all individuals to whom the EUA product may be administered be given the option to accept or refuse administration of the product. See 21 U.S.C. § 360bbb-3(e)(1)(A)(ii)(III) (requiring that "individual to whom the product is administered are informed . . . of the option to accept or refuse administration of the product" (emphasis added)). The only currently available COVID-19 vaccines (Janssen/Johnson & Johnson, Moderna, and Pfizer-BioNTech) are only authorized for use under the EUA Statute and have no general approval under federal law. Thus, the administration of such vaccines cannot be mandatory under the plain text of the EUA Statute. The statutorily required Fact Sheets for each of the EUA COVID-19 vaccines acknowledge that individuals cannot be compelled to accept or receive the vaccine. See Moderna, Fact Sheet for Recipients and Caregivers (June 24, 2021), <https://www.fda.gov/media/144638/download> ("It is your choice to receive or not to receive the Moderna COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care." (emphasis added)); Pfizer-BioNTech, Fact Sheet for Recipients and Caregivers (June 25, 2021), <https://www.fda.gov/media/144414/download> ("It is your choice to receive or not to receive the Pfizer-BioNTech COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care." (emphasis added)); Janssen, Fact Sheet for Recipients and Caregivers (July 8, 2021), <https://www.fda.gov/media/146305/download> ("It is your choice to receive or not to receive the Janssen COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care." (emphasis added)). I have a strong moral and sincere religious beliefs and objection to vaccines that were derived from aborted fetal cells. It is my sincerely held religious belief that, in being vaccinated with any of the currently available alleged COVID-19 vaccines, I would be cooperating with and complicit in abortion – the ending of an innocent human life –and that such would constitute a sin against God and a violation of His Commandments, for which I would be held morally accountable by God. For that reason, I am demanding a medical and a religious accommodation, under Title VII and any similar Texas and or Washington DC state (district) law(s), that will excuse me from having to receive a COVID-19 vaccine, and further request that no adverse employment action be taken against me on account of my religious beliefs. A. Pfizer and BioNTech – The Pfizer Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [3]. B. Moderna – The Moderna Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is cited by the vaccine researchers Kizzmekia S. Corbett, Darin K. Edwards, and Sarah R. Leist [4]. C. Johnson & Johnson – The J&J Vaccine has publicly admitted to using a cell line called PER.C6. This is published on the Janssen website [5]. This information is enumerated by the Lozier Institute [2]. D. Sputnik V – The Sputnik V Vaccine cites their manufacturers as using the abortion-derived cell line HEK-293 [6][7]. E. AstraZeneca – AstraZeneca was developed using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is also contained in documents permitting its emergency use in the United Kingdom [8]. F. Vaxart – Vaxart was produced with the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [9]. G. Altimmune – The Altimmune vaccine was produced and developed with the abortion-derived cell line PER.C6. This information is recorded by Altimmune's own Clinical Trial Protocol [10]. This information is enumerated by the Lozier Institute [2]. H. COVAXX and United Biomedical – COVAXX was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [11]. I. Medicago – The Medicago Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [12]. J. Novavax – The Novavax Vaccine was protein tested using the abortion-derived cell line HEK-293. This

information is enumerated by the Lozier Institute [2]. This information is recorded by researchers at ScienceMag [13]. K. University of Pittsburgh "PittCoVacc" – PittCoVacc was produced with the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by EBioMedicine at the Lancet [14]. L. Walter Reed Army Institute – The Walter Reed Vaccine was produced with the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [15]. M. Sanofi Pasteur and Translate Bio – The Sanofi Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the vaccine researchers at NPJ Vaccines [16]. N. Inovio Pharmaceuticals – The Inovio Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researchers at ScienceMag [17]. O. Arcturus Therapeutics – The Arcturus Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [18]. P. Imperial College London – The Imperial College Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [19]. Q. Providence Therapeutics – The Providence Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [20]. R. CoronaVac – CoronaVac was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researchers at ScienceMag [21]. S. CanSino Biologics – The CanSino Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researchers at BioSpace [22]. T. ImmunityBio and NantKwest – The ImmunityBio Vaccine was developed, produced, and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [23]. U. Institut Pasteur and Themis and Merck – The Institut Pasteur Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Proceedings of the National Academy of Sciences of the United States of America [24]. V. Rega Institute, KU Leuven – The Rega Vaccine protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Global Virus Network [25]. W. Anhui Zhifei – The Anhui Zhifei Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cell Press Journal [26]. I Max J Meindl do hereby stipulate: "I understand the above is your position. I am signing this document without waiver of my legal right to seek religious exemption and accommodation from any requirement that conflicts with my sincerely held religious beliefs, and without waiver of the right to seek legal redress from any wrongful denial of such exemption or accommodation."

Please provide any additional information that you think may be helpful in reviewing your request.

See attachments QUESTIONING THE ORTHODOXY OF SINCERELY HELD RELIGIOUS BELIEFS OR REQUIRING A CLERGY, PLACE OF WORSHIP, OR A THIRD PARTY TO AGREE WITH OR AFFIRM SUCH RELIGIOUS BELIEFS IS UNLAWFUL Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating against its employees on the basis of their sincerely held religious beliefs. See 42 U.S.C. §2000e-2(a) ("It shall be an unlawful employment practice for an employer . . . to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, or national origin"); see also EEOC v. Abercrombie & Fitch Stores, Inc., 575 U.S. 768 (2015) (same). Title VII defines "religion" as "all aspects of religious observance and practice, as well as belief." 42 U.S.C. §2000e(j). Moreover, as the EEOC has made clear, Title VII's protections also extend nonreligious beliefs if related to morality, ultimate ideas about life, purpose, and death. See EEOC, Questions and Answers: Religious Discrimination in the Workplace (June 7, 2008), ("Title VII's protections also extend to those who are discriminated against or need accommodation because they profess no religious beliefs . . . Religious beliefs include theistic beliefs, i.e. those that include a belief in God as well as non-theistic 'moral or ethical beliefs as to what is right and wrong which are sincerely held with the

strength of traditional religious views.' Although courts generally resolve doubts about particular beliefs in favor of finding that they are religious, beliefs are not protected merely because they are strongly held. Rather, religion typically concerns 'ultimate ideas' about 'life, purpose, and death"). As the Supreme Court has recognized, employees' "religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit [legal] protection." Thomas v. Review Bd. of Ind. Emp't Sec. Div., 450 U.S. 707, 714 (1981); see also Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520, 531 (1993) (same). Additionally, though membership in or adherence to the tenets of an organized religion is plainly sufficient to provide protection for an individual's sincerely held religious beliefs, it is not a necessary precondition. See Frazee v. Ill. Dep't of Emp't Sec., 489 U.S. 829, 834 (1989) ("Undoubtedly, membership in an organized religious denomination, especially one with a specific tenet forbidding members to work on Sunday, would simplify the problem of identifying sincerely held religious beliefs, but we reject the notion that to claim the protection [for sincerely held religious beliefs], one must be responding to the commands of a particular religious organization." (emphasis added)); see also Office of Foreign Assets Control v. Voices in the Wilderness, 329 F. Supp. 2d 71, 81 (D.D.C. 2004) (noting that the law provides protection for "sincerely held religious beliefs," "not just tenets of organized religion"). In fact, the law provides protection for sincerely held religious beliefs even when some members of the same religious organization, sect, or denomination disagree with the beliefs espoused by the individual. That some individuals may have sincerely held religious beliefs which differ from those sincerely held by the employees requesting accommodation is irrelevant to whether the employees' sincerely held religious beliefs are entitled to protection under Title VII. Department of Health, in its handout literature for those considering one of the COVID-19 vaccines, notes the following: "The non-replicating viral vector vaccine produced by Johnson & Johnson did require the use of fetal cell cultures, specifically PER.C6, in order to produce and manufacture the vaccine." N.D. Health, COVID-19 Vaccines & Fetal Cell Lines (Apr. 20, 2021), https://www.health.nd.gov/sites/www/files/documents/COVID%20Vaccine%20Page/COVID-19_Vaccine_Fetal_Cell_Handout.pdf (emphasis added) (last visited Aug. 27, 2021). The Louisiana Department of Health likewise confirms that the Johnson & Johnson COVID-19 vaccine used the PER.C6 fetal cell line, which "is a retinal cell line that was isolated from a terminated fetus in 1985." La. Dep't of Public Health, You Have Questions, We Have Answers: COVID-19 Vaccine FAQ (Dec. 21, 2020), https://ldh.la.gov/assets/oph/Center-PHCH/Center-PH/immunizations/You_Have_Qs_COVID-19_Vaccine_FAQ.pdf (emphasis added) (last visited Aug. 27, 2021). The same is true of the Moderna and Pfizer-BioNTech mRNA vaccines. The Louisiana Department of Health's publications again confirm that aborted fetal cell lines were used in the "proof of concept" phase of the development of their COVID-19 mRNA vaccines. See La. Dep't of Public Health, *supra*. The North Dakota Department of Health likewise confirms: "Early in the development of mRNA vaccine technology, fetal cells were used for 'proof of concept' (to demonstrate how a cell could take up mRNA and produce the SARS-CoV-2 spike protein) or to characterize the SARS-CoV-2 spike protein." N.D. Health, *supra* (emphasis added). Because all three of the currently available COVID-19 vaccines are developed and produced from, tested with, researched on, or otherwise connected with the aborted fetal cell lines HEK-293 and PER.C6, many employees' sincerely held religious beliefs compel them to abstain from accepting or injecting any of these products into their bodies, regardless of the perceived benefits or rationales. Thus, while there may be some faith leaders and other adherents whose understanding of Scripture is different, and who may be willing to accept one of the three currently available COVID-19 vaccines despite their connection with aborted fetal cell lines, any employee is entitled to interpret the Scriptural command against murder differently, which many indisputably do. Many employees have sincerely held religious beliefs that God forms children in the womb and knows them prior to their birth, and that because of this, life is sacred from the moment of conception to natural death. See Psalm 139:13-14 (ESV) ("For you formed my inward parts; you knitted me together in my mother's womb. I praise you, for I am fearfully and wonderfully made."); Psalm 139:16 (ESV) ("Your eyes saw my unformed substance; in your book were written, every one of them, the days that were formed for me, when as yet there was none of them."); Isaiah 44:2 ("Thus says the Lord who made you, who formed you from the womb"); Isaiah 44:24 ("Thus says the Lord, your Redeemer, who formed you from the womb: 'I am the Lord, who made all things'"); Isaiah 49:1 ("The Lord called me from the womb, from the body of my mother he named my name"); Isaiah 49:5 ("And now the Lord says, he who formed me from the womb to be his servant,"); Jeremiah 1:5 ("Before I formed you in the womb I knew you, and before you were born I consecrated you; I appointed you a prophet to the nations"). As the Supreme Court has recognized, employees' "religious beliefs need not be acceptable, logical, consistent,

or comprehensible to others in order to merit [legal] protection." Thomas v. Review Bd. of Ind. Emp't Sec. Div., 450 U.S. 707, 714 (1981); see also Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520, 531 (1993) (same). Additionally, though membership in or adherence to the tenets of an organized religion is plainly sufficient to provide protection for an individual's sincerely held religious beliefs, it is not a necessary precondition. See Frazee v. Ill. Dep't of Empt' Sec., 489 U.S. 829, 834 (1989) ("Undoubtedly, membership in an organized religious denomination, especially one with a specific tenet forbidding members to work on Sunday, would simplify the problem of identifying sincerely held religious beliefs, but we reject the notion that to claim the protection [for sincerely held religious beliefs], one must be responding to the commands of a particular religious organization." (emphasis added)); see also Office of Foreign Assets Control v. Voices in the Wilderness, 329 F. Supp. 2d 71, 81 (D.D.C. 2004) (noting that the law provides protection for "sincerely held religious beliefs," "not just tenets of organized religion").

The Emergency Use Authorization Statute Prohibits Mandating the Currently Available COVID-19 Vaccines: The United States Code provides: [S]ubject to the provisions of this section, the Secretary (of the Department of Health and Human Services) may authorize the introduction into interstate commerce, during the effective period of a declaration under subsection (b), of a drug, device, or biological product intended for use in an actual or potential emergency (referred to in thiPsasgeec t2i6o nofa 6s3an "emergency use." 21 U.S.C. § 360bbb-3(a)(1) (emphasis added) [hereinafter EUA Statute]. As an essential part of the explicit statutory conditions for EUA, the EUA Statute mandates that all individuals to whom the EUA product may be administered be given the option to accept or refuse administration of the product. See 21 U.S.C. § 360bbb-3(e)(1)(A)(ii)(III) (requiring that "individual to whom the product is administered are informed . . . of the option to accept or refuse administration of the product" (emphasis added)). The only currently available COVID-19 vaccines (Janssen/Johnson & Johnson, Moderna, and Pfizer-BioNTech) are only authorized for use under the EUA Statute and have no general approval under federal law. Thus, the administration of such vaccines cannot be mandatory under the plain text of the EUA Statute. The statutorily required Fact Sheets for each of the EUA COVID-19 vaccines acknowledge that individuals cannot be compelled to accept or receive the vaccine. See Moderna, Fact Sheet for Recipients and Caregivers (June 24, 2021), <https://www.fda.gov/media/144638/download> ("It is your choice to receive or not to receive the Moderna COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care." (emphasis added)); Pfizer-BioNTech, Fact Sheet for Recipients and Caregivers (June 25, 2021), <https://www.fda.gov/media/144414/download> ("It is your choice to receive or not to receive the Pfizer-BioNTech COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care." (emphasis added)); Janssen, Fact Sheet for Recipients and Caregivers (July 8, 2021), <https://www.fda.gov/media/146305/download> ("It is your choice to receive or not to receive the Janssen COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care." (emphasis added)). I have a strong moral and sincere religious beliefs and objection to vaccines that were derived from aborted fetal cells. It is my sincerely held religious belief that, in being vaccinated with any of the currently available alleged COVID-19 vaccines, I would be cooperating with and complicit in abortion – the ending of an innocent human life –and that such would constitute a sin against God and a violation of His Commandments, for which I would be held morally accountable by God. For that reason, I am demanding a medical and a religious accommodation, under Title VII and any similar Texas and or Washington DC state (district) law(s), that will excuse me from having to receive a COVID-19 vaccine, and further request that no adverse employment action be taken against me on account of my religious beliefs. A. Pfizer and BioNTech – The Pfizer Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [3]. B. Moderna – The Moderna Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is cited by the vaccine researchers Kizzmekia S. Corbett, Darin K. Edwards, and Sarah R. Leist [4]. C. Johnson & Johnson – The J&J Vaccine has publicly admitted to using a cell line called PER.C6. This is published on the Janssen website [5]. This information is enumerated by the Lozier Institute [2]. D. Sputnik V – The Sputnik V Vaccine cites their manufacturers as using the abortion-derived cell line HEK-293 [6][7]. E. AstraZeneca – AstraZeneca was developed using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is also contained in documents permitting its emergency use in the United Kingdom [8]. F. Vaxart – Vaxart was produced with the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is

recorded by the Cold Spring Harbor Laboratory [9]. G. Altimmune – The Altimmune vaccine was produced and developed with the abortion-derived cell line PER.C6. This information is recorded by Altimmune's own Clinical Trial Protocol [10]. This information is enumerated by the Lozier Institute [2]. H. COVAXX and United Biomedical – COVAXX was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [11]. I. Medicago – The Medicago Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [12]. J. Novavax – The Novavax Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researchers at ScienceMag [13]. K. University of Pittsburgh "PittCoVacc" – PittCoVacc was produced with the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by EBioMedicine at the Lancet [14]. L. Walter Reed Army Institute – The Walter Reed Vaccine was produced with the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [15]. M. Sanofi Pasteur and Translate Bio – The Sanofi Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the vaccine researchers at NPJ Vaccines [16]. N. Inovio Pharmaceuticals – The Inovio Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researchers at ScienceMag [17]. O. Arcturus Therapeutics – The Arcturus Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [18]. P. Imperial College London – The Imperial College Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [19]. Q. Providence Therapeutics – The Providence Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [20]. R. CoronaVac – CoronaVac was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researchers at ScienceMag [21]. S. CanSino Biologics – The CanSino Vaccine was protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by researchers at BioSpace [22]. T. ImmunityBio and NantKwest – The ImmunityBio Vaccine was developed, produced, and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cold Spring Harbor Laboratory [23]. U. Institut Pasteur and Themis and Merck – The Institut Pasteur Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Proceedings of the National Academy of Sciences of the United States of America [24]. V. Rega Institute, KU Leuven – The Rega Vaccine protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Global Virus Network [25]. W. Anhui Zhifei – The Anhui Zhifei Vaccine was developed and protein tested using the abortion-derived cell line HEK-293. This information is enumerated by the Lozier Institute [2]. This information is recorded by the Cell Press Journal [26]. I Max J Meindl do hereby stipulate: "I understand the above is your position. I am signing this document without waiver of y legal right to seek religious exemption and accommodation from any requirement that conflicts with my sincerely held religious beliefs, and without waiver of the right to seek legal redress from any wrongful denial of such exemption or accommodation."

Please describe your job duties.

Program Delivery Manager Task Force Lead, remote/telework for over 20+ months, coordinating/mentoring remote/teleworking employees assigned. delivering services to assist applicants in their recovery.

I declare to the best of my knowledge and ability that the foregoing is true and correct.

true

Do you work in a SCIF?

No

I have read the Privacy Act Statement

true

[Cancel Request](#)

Attachments

Upload attachments

- [Pages from MEINDL REASONABLE ACCOMMODATION-EXEMPTION REQUEST-VACCINE MANDATE-10-25-2021-REV2.pdf \(2.9 MB\)](#)

14m ago

- [RELIGIOUS EXEMPTION REQUEST.pdf \(1.2 MB\)](#)

12d ago



•

- CREATE NEW REQUEST
- - [Home](#)
 - /
 - [My Tickets](#)
 - /
 - RAR0023261

DHS Request

Reasonable Accommodation Request Summary

Your request (RAR0023261) is currently **Open**

Your request was most recently worked on by **DHS OAST - FEMA Reasonable Accommodation Admin**

Connect About Your Request

Have a question? Use the chat box below to ask questions about your request

RAR0023261: COVID-19 Vaccine Exemption (for MEDICAL reasons)

-
-
-

• MM

Meindl, Max 12d ago

RAR0023261 Created

• MM

Meindl, Max 12d ago

Journal type:

[MEINDL-SUBMIT-FINAL MEDICAL EXEMPTION SUBMITTAL-V5A-10-28-](#)

[2021.pdf](#)

5.5 MB

• MM

Meindl, Max 2m ago

Journal type:

[RA FORM- MEINDL REASONABLE ACCOMMODATION-EXEMPTION](#)

[REQUEST-VACCINE MANDATE-10-25-2021-REV2-2.pdf](#)

152.9 KB



Submit RA FORM- MEINDL REASONABLE ACCOMMODATION-EXEMPTION
REQUEST-VACCINE MANDATE-10-25-2021-REV2-2.pdf Attached

Information About Your Request

Number

RAR0023261

State

Open

Created

12d ago

Updated

2m ago

Additional Request Details

If you would like to edit your request, send a message describing your desired changes using the chat box to the left.

Hidden Name

Meindl, Max

Who is submitting this request?

Recipient of the request (Myself)

First Name

Max

Last Name

Meindl

Work Phone

202-374-9426

Email Address

max.meindl@fema.dhs.gov

Position Title

Emergency Management Specialist

Component

FEMA

What is the Employee Type of Person to be Accommodated?

Federal Employee

Pay Plan/Grade of Person to be Accommodated

GS 11/10

Series of Person to be Accommodated

0089

Choose the Employee Subtype

FEMA

What is your FEMA Employee Type?

CORE (Cadre on Call Employee)

Are you deployed?

Yes

Disaster Number

4611

Deployment Location

Baton Rouge (ROR)

What is your Official Duty Station?

Houston TX

Supervisor

Bergin, John

Supervisor's First Name

John

Supervisor's Last Name

Bergin

Supervisor's Email

john.bergin@fema.dhs.gov

Please select all reasonable accommodation items being requested

COVID-19 Vaccine Exemption (for MEDICAL reasons)

What is the expected duration of your medical condition?

Long Term

Please describe your job duties.

Remote/telework program delivery task force lead, coordinating and mentoring assigned program delivery managers also working remotely, assisting applicants with their recovery efforts.

I declare to the best of my knowledge and ability that the foregoing is true and correct.

false

Briefly describe your disability/medical condition.

Disability review regarding Mr. Max Meindl who is a 70-year-old male with CAD, HTN, HLD and severe hypotension following the cardiac surgery...of 04/2019_. He also has had proximal LAD with hematemesis. He has a history of exposure to paint, chemicals and asbestos with additional complications including dizziness since the surgery and wheezing. He has ongoing mild cardiac reduction in diffusion capacity. Additionally he has allergies that include contrast media, amlodipine and lisinopril. Mr. Meindl presently carries a 100% total body disability impairment rating as per his prior evaluations and surgeries. Current Condition: Shortness of breath, hypertensive urgency, other forms of dyspnea, unilateral primary osteoarthritis, right knee, high blood pressure, hypertensive heart disease, lung disorders, supraventricular rapid heart rate, chest pain, angina, abnormal electrocardiogram (ECG), (EKG), atherosclerotic heart disease of native coronary artery causing unspecific angina pectoris. Additionally, he has abnormal results of cardiovascular functional studies. Mr. Meindl's current medical condition and medical history is consistent with Congestive Heart failure. Given Mr. Meindl's Cardiac history of progressive heart disease together with known allergic reactions he therefore should not take any substance internally or intravenously that could cause anaphylaxis shock or could be additionally injurious to his already compromised cardiac function. PEG's have a high correlation between allergies and anaphylaxis shock. This is further complicated in that due to the vaccines spike protein production that is engineered into the user's genome, each such recipient of the Covid-19 Vaccines can produce micro clots in their cardiovascular system, which considering Mr. Meindl's cardiac condition, poses a higher risk of complications and injury.

Briefly describe the specific accommodation requested

Permanent exemption from any vaccine mandate

Please explain how your disability or medical condition prevents you from receiving the COVID-19 vaccine, addressing each type available (Moderna, Johnson & Johnson, and Pfizer).

Due to previous cardiac surgery, hypertensive heart disease causing ongoing cardiac reduction and previously known allergic reactions with a history of exposure to contrast media, amlodipine and lisinopril that there is a high degree of probability that he would be allergic to polyethylene glycol (PEG) and its components as part of the Covid -19 vaccine. Additionally, there is ongoing data that suggests that Covid- 19 Vaccines can damage the cardiovascular system, which is irreparable and irrevocable. Mr. Meindl's current medical condition and medical history is consistent with Congestive Heart failure. Given Mr. Meindl's Cardiac history of progressive heart disease together with known allergic reactions he therefore should not take any substance internally or intravenously that could cause anaphylaxis shock or could be additionally injurious to his already compromised cardiac function. PEG's have a high correlation between allergies and anaphylaxis shock. This is further complicated in that due to the vaccines spike protein production that is engineered into the user's genome, each such recipient of the Covid-19 Vaccines can produce micro clots in their cardiovascular system, which considering Mr. Meindl's cardiac condition, poses a higher risk of complications and injury. Additionally, according to the Covid-19 mRNA Vaccine BNT162b2 Manufacturers package leaflet, revised on 09/09/2021, "Covid-19 mRNA Vaccine should not be given if you are allergic to the active substance or any of the other ingredients of this medicine" stating that inflammation of the heart (myocarditis or pericarditis) have been reported following vaccination. This would certainly apply to Mr. Meindl. Therefore, Mr. Meindl is ineligible for any mRNA or Adenovirus Covid 19 Vaccine. 2.4. Four Immunological Problems with COVID-19 Vaccines. The Emergency Use experimental gene therapy shots, colloquially and collectively called "Covid Vaccines," various parties are requiring you to receive are, in fact, designed to alter, impair and abrogate "normal cell growth" by virtue of the genetic modifications made to your body that cause the production of Spike proteins (sometimes "S-cells");1 and as such may not be administered without express consent, whether the injectables or drugs are

approved by the FDA or not. Broadly, the Act describes rights of disabled persons (the "Disabled") and obligations of persons (legal and natural) interacting with the Disabled under Federal law, which is often further clarified under various States' laws. One such right of the Disabled (such as yourself), provides for certain medical privacy protections that may be additionally regulated in companion statutes such as The Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). The HIPPA statute, inter alia, protects your right for non-disclose of the nature and extent of your medical issues and disabilities to third parties. Once the ADA protections and rights are asserted, all persons, including third-parties and entities conceived or covered by the Act must provide you with "reasonable accommodation" under Section under Sec. 12111 (9) & (10) ibid. The covered entities include effectively all enterprises, schools or offices open to the public or where sufficient elements of interstate commerce are present. This includes all offices of local, state or federal governmental bodies, including but not limited to: detention facilities; government funded health care facilities; regulatory offices open to the public; Law Enforcement facilities; and legislative areas where the public would reasonably be anticipated to occasion or occupy. Likewise, private enterprises such as hospitals, hotels, restaurants, shops and airlines must provide such Reasonable Accommodation to you and your circumstances as a "disabled person" under the Act. In particular, you have suggested the mask mandates cause you medical hardship from the reduced access to and flow of oxygen available to you. Such accommodation certainly includes your ability to breathe freely without impairment, which could or would be caused by mandatory mask or filter apparatus wearing, as mandated by private businesses or public offices that you have occasion to visit. Such accommodations are recognized by the Act and are referred to as "Public Accommodations" under Title III of the Act. Failure to provide such accommodation may give rise, inter alia, to significant penalties (see: Title III supra.) and provide the basis for damage awards. Likewise, you have mentioned that protocols and methodologies relating to the taking of DNA samples for the "Covid 19"Polymerase Chain Reaction ("PCR") test are painful, intrusive and exacerbate existing medical conditions. Recently, the PCR tests were recalled and were never intended for diagnostic purposes to begin with. Certainly DNA material for the tests need not come from your nasal passages alone; therefore you have no reason to undertake such a test as traditionally applied. Clearly there are other ways to accommodate your needs. While the now clearly established widespread cross-immunity against SARS-CoV-2 implies that most of us are safe from severe COVID-19 disease, it also means that we are vulnerable to the harms of gene- based vaccines. Due to recall immunity against the virus, vaccination will cause our immune systems to fight aggressively against not only the SARS-CoV-2 spike protein, but against ourselves. This deleterious autoimmune attack must be expected to intensify with each repeated injection. The COVID-19 vaccine technology's interaction with the immune system creates the following four specific problems: 1. Flying under the immune system's radar with the vaccine's genetic code 2. Delivering the spike protein into the bloodstream 3. Inducing immune attack on the blood vessel lining 4. Enhancing the severity of natural infection 2.4.1. Flying Under the Immune System's Radar with the Vaccine's Genetic Code To understand why COVID-19 vaccine technology is dangerous, it is necessary to first understand how the gene-based vaccines differ from traditional vaccination methods. A conventional viral vaccine can be a live virus strain derived from the pathogenic virus that has been attenuated through one or more genetic mutations, or it can consist of chemically inactivated virus particles that are no longer able to infect any cells. In both cases, protein antigens will be exposed on the surface of the vaccine particles, which can be recognized by antibodies once these have been formed. COVID-19 vaccines, on the other hand, are not protein antigens but the genetic blueprint for the SARS- CoV-2 spike protein antigen. That blueprint comes in the form of mRNA or DNA, which, after vaccination, enters our body's cells and instructs those cells to manufacture the spike protein. The spike protein then protrudes from the cell and induces antibody formation. In response, the immune system will react not only with the spike protein, but will attack and try to destroy the entire cell. If we are injected with a traditional live virus vaccine to which we have no immunity, then these vaccine virus particles will also infect some of our body cells and propagate within them. Two kinds of immune reactions will then occur: 1. Cytotoxic T-lymphocytes (killer T-cells) (see section 2.4.3.1) that recognize viral protein fragments associated with the infected cells will proliferate, attack, and destroy the infected cells. 2. B-lymphocytes that recognize viral proteins (see section 2.4.3.2) will proliferate and start producing antibodies—soluble protein molecules that can recognize and neutralize virus particles. This immune reaction will in principle resemble that to an infection with the corresponding wild-type virus. It will be milder, since the vaccine strain of the virus has been attenuated; however, some cells will get destroyed in the process, which may sometimes cause functional organ damage.

Live virus vaccines therefore tend to be more prone to adverse reactions than are inactivated virus vaccines. Now, a key point to note is that if we inject a live traditional vaccine into a person who is already immune —due to either a previous vaccination, or to prior infection with the corresponding wild-type virus—the extent of cell destruction will be much reduced. Such a person will already have antibodies to the virus; these will recognize the viral protein antigens and will bind and inactivate most of the vaccine virus particles before they manage to infect a cell. Therefore, even though the killer T-cells may be all riled up, they will not find very many infected cells to pounce on. The crucial difference between a conventional live virus vaccine and a gene-based COVID vaccine—and in particular an mRNA vaccine—is that the latter contains no protein antigens whatsoever; instead, it only contains the blueprint for their synthesis inside the infected cells. Therefore, if such a vaccine is injected into a person with antibodies and existing T-cell immunity, the vaccine particles will “fly under the radar” of the antibody defence and reach our body cells unimpeded. The cells will then produce the spike protein, and subsequently be destroyed and attacked by the killer T-cells. The antibodies, rather than preventing the carnage, will join in by also binding to the cell-associated spike protein and directing the complement system (see later) and other immune effector mechanisms against these cells. In a nutshell, pre-existing immunity mitigates the risk of conventional vaccines, but it amplifies the risk of gene-based vaccines. Importantly, before COVID, this risky gene-based vaccine technology had never before been used on a wide scale against infectious disease and is inherently experimental. The COVID-19 vaccination program is thus the largest human experiment ever performed in history.

2.4.2. Delivering the Spike Protein into the Bloodstream

A dire danger of COVID-19 vaccines is that spike proteins produced by myriad endothelial cells, i.e. the innermost cells lining blood vessel walls, will be exported to the cell surface and protrude directly into the bloodstream. Moreover, a fraction of these spikes will be cleaved during their passage to the outside world. They will fall off the cells into the bloodstream and then bind to their receptors on other endothelial cells at distant sites. While at the outset of the vaccination campaign in 2020 it was unknown to what extent COVID vaccines entered the bloodstream, human data from 2021 reveal that the spike protein shows up within the circulation on the very day of the injection [15]. Similarly, animal studies submitted by Pfizer to the Japanese government [24] found that the vaccine appears in the circulation within 15 minutes of intramuscular injection, reaching maximum plasma concentration within just two hours. Very high levels have subsequently been recorded in the liver, the spleen, the adrenal glands, and the ovaries. Vaccine components have also been observed in the central nervous system (the brain and the spinal cord), albeit at lower concentrations. Such widespread distribution throughout the body via the bloodstream is a feat that the SARS-CoV-2 virus does not usually achieve.

2.4.2.1. Open Questions in the Ongoing Experiment

But how do COVID-19 vaccine particles enter the circulation in the first place? The vaccine is injected intramuscularly, and the vaccine particles are too large to passively diffuse across blood vessel walls. Most obviously, the vaccines will follow the conventional, relatively time-consuming path which takes them via the draining lymph nodes to the blood circulation. But additionally, two possibilities for very rapid entry into the bloodstream should be heeded. The first is via direct uptake by vessels that are damaged during insertion of the needle. Secondly, it is possible that the vaccine particles undergo ‘transcytosis’, a process that enables large molecules to be transported across intact cell layers. Whatever the case may be, although Pfizer knew before the onset of clinical trials that their vaccine reached the bloodstream rapidly, either they failed to file these findings with medical regulators in Europe, the US and other Western countries, or the regulators failed to act upon the findings [25]. This is a critical oversight where patient safety is concerned. Given that the gene-based vaccines induce the body's cells to become immune targets, where in the body this takes place is of critical concern. While immune-mediated cell death is never favourable, it is particularly detrimental and dangerous if it afflicts the blood vessel walls.

2.4.3. Attacking the Vessel Walls: Clotting and Leaky Vessels

While all vaccines seek to stimulate an immune response, not all immune responses are created equal. Some are safe and well-modulated whereas others can be misdirected and out of control. Immune responses are problematic when they attack the self, as in autoimmune conditions, and/or when they are excessively intense and severe. COVID-19 vaccines incur problematic immunity in both key ways. First, they can be expected mobilise a self-to-self immune response against the endothelial cells lining blood vessel walls. Second, by boosting SARS-CoV-2 immunity, they can be expected to incite an increasingly aggressive response with each administration of the vaccine. To understand the realities of these processes it is necessary to first understand the basics of the underlying immune response. There are three key components of the immune system relevant to risks from COVID-19 vaccines: T-cells, antibodies and the complement cascade.

2.4.3.1. T-

Once the body's cells have been infected with a virus, immune cells known as cytotoxic T-cells or T-killer cells attack and destroy the infected cells. This prevents infected cells from replicating the virus and spreading the infection throughout the body. After the initial battle with a certain pathogen is over, some of the specifically adapted T-cells enter a state of dormancy to become memory T-cells. In case the same virus is encountered again, these dormant T-cells can be swiftly reawakened and propagated to mount a faster and more vigorous response next time. Known as a secondary or memory-type response, it will also occur with viruses that are not exactly the same as the one initially encountered but sufficiently similar to be recognised. This latter phenomenon is referred to as cross-immunity. It has been known since mid 2020 that we are protected against SARS-CoV-2 by cross-reactive memory T-cells [7-11]. As with antibodies, this is based on previous encounters with common cold coronaviruses, and with the SARS virus in a small number of people. Such prior experience has been found to confer "robust" [7] and lasting T-cell cross-immunity to COVID-19. T-cell memory for the SARS virus is known to last at least 17 years [7], but it likely lasts a lifetime.

2.4.3.2. Antibodies Before the new discoveries of 2021, scientists' concerns about clotting and bleeding were based primarily on the prediction that killer T-cells would attack spike-producing endothelial cells, causing lesions on vessel linings and promoting blood clots. While this mechanism remains valid, we now know that a memory-type antibody response will join the attack on the vessel walls as well. Whereas killer T-cells attack their targets cell-to-cell, antibodies are proteins that exert their effect by binding to signature structures on the pathogen's surface, known as epitopes. Instead of destroying cells directly, once attached to an epitope, antibodies help to defeat invaders by "calling out the cavalry" on infected cells. This leads to the second process by which cells coated with viral spikes will inadvertently come under immune attack. "Calling out the cavalry" means that the antibodies attached to the unnaturally created spikes will trigger activation of the complement system, which thereupon will mount a massive attack on the endothelial cells. Importantly for deciphering the recent discoveries on SARS-CoV-2 immunity, the first time that the immune system encounters a new pathogen, new antibodies in a shape capable of binding to that pathogen's epitopes must be formed (by immune cells known as B-cells). First-time antibody production is slow, taking approximately four weeks. Should the same pathogen or family of pathogens invade again, however, memory-type antibodies are then manufactured more rapidly, within one to two weeks. This is a cardinal sign that the immune system has seen that pathogen before.

Another defining feature of a memory antibody response concerns the order in which antibody sub-types are produced. If a pathogen is new, IgM is the first type of antibody to arrive on the scene. It is followed later by IgG and IgA. The next time the pathogen arrives, however, IgG and IgA will be the first to arrive, indicating that the virus, or its relatives, have invaded before. Importantly, this is precisely what we see with COVID-19. Several research groups found in 2021 that upon first exposure to SARS-CoV-2, and following COVID-19 vaccination, the antibody response was characteristic of the memory type, due both to the timing and nature of antibodies measured. [xv-xvii] As a result, we now know that our immune systems recognise SARS-CoV-2 at first sight, even "on the slightest viral challenge" [5]. In other words, SARS-CoV-2 is not a novel coronavirus after all. With respect to variants and the need for booster shots, memory B-cells, like memory T-cells, can recognise not only a specific virus, but a whole family of viruses bearing related epitopes. It is unsurprising, therefore, that memory B-cells recognise SARS-CoV-2 from the common cold. With cross immunity this robust, closer relatives of SARS-CoV-2 in the form of variants will pose no obstacle to our antibody response. The rising "cases", hospitalisations and deaths attributed to Delta and other variants are therefore almost certainly driven by false positive PCR results and misclassification than by a true increase in COVID-19 disease. Indeed, according to Public Health England data, the Delta variant is non-lethal in those under 50, and less than half as lethal as earlier strains in older age groups [26]. But why haven't circulating antibodies to SARS-CoV-2 been detected in populations before? The answer is that neither the antibodies nor T-cells associated with a memory-type response circulate in the bloodstream. Once they are no longer needed, they become dormant, existing as a memory alone.

Unless elicited by re-exposure to a virus, they remain invisible in the bloodstream. The dormant antibodies will, however, be ready and waiting to re-activate and call out the cavalry on the spike protein, in the form of the complement cascade.

2.4.3.3. Complement Recent findings indicate that complement activation is a serious concern with respect to COVID-19 vaccine-immune interactions. In light of the newly characterised antibody response to SARS-CoV-2, when antibodies attach to spike-producing endothelial cells on vessel walls following vaccine administration, activated complement proteins can be expected to attach to the endothelial cells, and perforate their cell membranes [27,28]. The ensuing death of the endothelial cells will expose the tissue

underneath the epithelium, which will initiate two significant events. It will induce blood clotting, and will cause the vessel walls to leak [6]. This pathogenic mechanism has been documented in biopsies taken from SARS-CoV-2-infected patients [19,29]. Those studies have described a “catastrophic microvascular injury syndrome mediated by activation of complement” [29] as part of the SARS-CoV-2 spike protein immune response. It is precisely this immune response that COVID-19 vaccines seek to induce. Such vaccine-immune interactions are consistent with adverse events involving visible capillary rupture under the skin that have been documented and reported following COVID-19 vaccination [30–33].

2.4.3.4. Leaky Vessels—The Promise of Booster Shots

Given that booster shots repeatedly boost the immune response to the spike protein, they will progressively boost self-to-self immune attack, including boosting complement-mediated damage to vessel walls. Clinically speaking, the greater the vessel leakage and clotting that subsequently occurs, the more likely that organs supplied by the affected blood flow will sustain damage. From stroke to heart attack to brain vein thrombosis, the symptoms can range from death to headaches, nausea and vomiting, all of which heavily populate adverse reactions to COVID-19 vaccines [2]. As well as damage from leakage and clotting alone, it is additionally possible that the vaccine itself may leak into surrounding organs and tissues. Should this take place, the cells of those organs will themselves begin to produce spike protein, and will come under attack in the same way as the vessel walls. Damage to major organs such as the lungs, ovaries, placenta and heart can be expected ensue, with increasing severity and frequency as booster shots are rolled out.

2.4.4. Enhancing the Severity of Wild Coronavirus Infection

Finally, as with the Dengue virus and several other viruses [34], antibodies to coronaviruses can ultimately aggravate rather than mitigate illness. This is called antibody-dependent enhancement of disease. The underlying mechanisms remain to be elucidated but it is already clear that the net effects are severely detrimental. Attempts to develop vaccines to the original SARS virus, which is closely related to SARS-CoV-2, repeatedly failed due to antibody-dependent enhancement of disease [35–37]. The vaccines induced antibodies, but when the vaccinated animals were subsequently infected with the wild-type virus, they became more ill than the unvaccinated animals, in some cases mortally so [38].

References

1. Open VAERS, (2021) VAERS COVID vaccine data.
2. Open VAERS, (2021) All deaths reported to VAERS by year
3. Doctors for Covid Ethics, (2021) Doctors for COVID Ethics: letters.
4. Doctors for Covid Ethics, (2021) Rebuttal letter to European Medicines Agency from Doctors for Covid Ethics, April 1, 2021.
5. Bhakdi, S. et al. (2021) Letter to Physicians: Four New Scientific Discoveries Regarding COVID- 19 Immunity and Vaccines—Implications for Safety and Efficacy.
6. Doctors for Covid Ethics, (2021) Leaky Blood Vessels: An Unknown Danger of COVID-19 Vaccination.
7. Le Bert, N. et al. (2020) SARS-CoV-2-specific T cell immunity in cases of COVID-19 and SARS, and uninfected controls. *Nature* 584:457-462
8. Tarke, A. et al. (2021) Impact of SARS-CoV-2 variants on the total CD4+ and CD8+ T cell reactivity in infected or vaccinated individuals. *Cell reports*. Medicine 2:100355
9. Grifoni, A. et al. (2020) Targets of T Cell Responses to SARS-CoV-2 Coronavirus in Humans with COVID-19 Disease and Unexposed Individuals. *Cell* 181:1489-1501.e15
10. Mateus, J. et al. (2020) Selective and cross-reactive SARS-CoV-2 T cell epitopes in unexposed humans. *Science* 370:89-94
11. Sekine, T. et al. (2020) Robust T Cell Immunity in Convalescent Individuals with Asymptomatic or Mild COVID-19. *Cell* 183:158-168.e14
12. Ioannidis, J.P.A. (2020) Infection fatality rate of COVID-19 inferred from seroprevalence data. *Bull. World Health Organ.* - :BLT.20.265892
13. Ioannidis, J.P.A. (2020) Global perspective of COVID-19 epidemiology for a full-cycle pandemic. *Eur. J. Clin. Invest.* 50:x-x
14. Ioannidis, J.P.A. (2021) Reconciling estimates of global spread and infection fatality rates of COVID-19: An overview of systematic evaluations. *Eur. J. Clin. Invest.* 5:e133554
15. Ogata, A.F. et al. (2021) Circulating SARS-CoV-2 Vaccine Antigen Detected in the Plasma of mRNA-1273 Vaccine Recipients. *Clin. Infect. Dis.* -:x-x
16. Amanat, F. et al. (2021) SARS-CoV-2 mRNA vaccination induces functionally diverse antibodies to NTD, RBD and S2. *Cell* -:x-x
17. Wisnewski, A.V. et al. (2021) Human IgG and IgA responses to COVID-19 mRNA vaccines. *PLoS One* 16:e0249499
18. Gallais, F. et al. (2021) Intrafamilial Exposure to SARS-CoV-2 Associated with Cellular Immune Response without Seroconversion. *Emerg. Infect. Dis.* 27:x-x
19. Magro, C.M. et al. (2020) Docked severe acute respiratory syndrome coronavirus 2 proteins within the cutaneous and subcutaneous microvasculature and their role in the pathogenesis of severe coronavirus disease 2019. *Hum. Pathol.* 106:106-116
20. Magro, C.M. et al. (2021) Severe COVID-19: A multifaceted viral vasculopathy syndrome. *Annals of diagnostic pathology* 50:151645
21. Polage, C.R. et al. (2015) Overdiagnosis of Clostridium difficile Infection in the Molecular Test Era. *JAMA internal medicine* 175:1792-801
22. Anonymous, (2021) Overdiagnosis of Clostridium difficile.
23. Palmer, M. et al. (2021) Expert evidence regarding Comirnaty (Pfizer) COVID-19 mRNA Vaccine for children.
24. Anonymous, (2020) SARS-CoV-2 mRNA Vaccine (BNT162, PF-07302048)

2.6.4 Summary

statement of the pharmacokinetic study [English translation]. 25. Palmer, M. and Bhakdi, S. (2021) The Pfizer mRNA vaccine: Pharmacokinetics and Toxicity. 26. Public Health England, (2021) SARS-CoV-2 variants of concern and variants under investigation in England. 27. Bhakdi, S. and Tranum-Jensen, J. (1978) Molecular nature of the complement lesion. Proc. Natl. Acad. Sci. U. S. A. 75:5655-5659 28. Tranum-Jensen, J. et al. (1978) Complement lysis: the ultrastructure and orientation of the C5b-9 complex on target sheep erythrocyte membranes. Scandinavian journal of immunology 7:45-6 29. Magro, C. et al. (2020) Complement associated microvascular injury and thrombosis in the pathogenesis of severe COVID-19 infection: A report of five cases. Transl Res 220:1-13 30. Greinacher, A. et al. (2021) Thrombotic Thrombocytopenia after ChAdOx1 nCov-19 Vaccination. N. Engl. J. Med. -:x-x 31. Lee, E. et al. (2021) Thrombocytopenia following Pfizer and Moderna SARS-CoV-2 vaccination. Am. J. Hematol. -:x-x 32. Malayala, S.V. et al. (2021) Purpuric Rash and Thrombocytopenia After the mRNA-1273 (Moderna) COVID-19 Vaccine. Cureus 13:e14099 33. Tarawneh, O. and Tarawneh, H. (2021) Immune thrombocytopenia in a 22-year-old post Covid-19 vaccine. Am. J. Hematol. 96:E133-E134 34. Tirado, S.M.C. and Yoon, K. (2003) Antibody-dependent enhancement of virus infection and disease. Viral immunology 16:69-86 35. Tseng, C. et al. (2012) Immunization with SARS coronavirus vaccines leads to pulmonary immunopathology on challenge with the SARS virus. PLoS One 7:e35421 36. Weingartl, H. et al. (2004) Immunization with modified vaccinia virus Ankara-based recombinant vaccine against severe acute respiratory syndrome is associated with enhanced hepatitis in ferrets. J. Virol. 78:12672-6 37. Czub, M. et al. (2005) Evaluation of modified vaccinia virus Ankara based recombinant SARS vaccine in ferrets. Vaccine 23:2273-9 38. Bolles, M. et al. (2011) A double-inactivated severe acute respiratory syndrome coronavirus vaccine provides incomplete protection in mice and induces increased eosinophilic proinflammatory pulmonary response upon challenge. J. Virol. 85:12201-15 39. World Medical Association, (2017) WMA Declaration of Geneva Japan drops vax rollout, goes to Ivermectin, ENDS COVID almost overnight (27 October 2021) The ongoing COVID-19 nonsense here in the United States exists solely and exclusively because our governments have failed to use the correct treatment. They used so-called "vaccines" when Japan has just proven, in less than ONE MONTH, that Ivermectin can wipe out the disease. Sweden's Public Health Agency on Wednesday recommended a temporary halt to the use of the Moderna COVID-19 vaccine among young adults, citing concerns over rare side effects to the heart. It said the pause should initially be in force until December 1, explaining that it had received evidence of an increased risk of side effects such as inflammation of the heart muscle (myocarditis) and inflammation of the pericardium (pericarditis). {link to CBS News (Secure)} Finland, Denmark and Norway have also moved away from the COVID vaccines. Finland last Thursday joined Sweden, Denmark and Norway in recommending against use of Moderna Inc.'s Covid-19 vaccine in younger age groups, citing risks of rare cardiovascular side effects they said warranted the precautionary steps. Finland's Institute for Health and Welfare said last Thursday it would pause use of the Moderna vaccine among men under the age of 30, following a similar step last Wednesday by Swedish regulators. Denmark last Wednesday said it wouldn't offer the Moderna vaccine to under-18s as a precautionary measure. Norway on Wednesday advised that all under-18s shouldn't be given the Moderna vaccine, even if they had already received one dose, and recommended that men under 30 consider getting the vaccine developed by Pfizer Inc. and BioNTech instead. Norwegian officials cited U.S., Canadian and Nordic data, saying the absolute risks remain low and calling the advice "a precautionary measure." The European Medicines Agency said Thursday that new preliminary data from the Nordic countries supports a warning the agency adopted in July that inflammatory heart conditions called myocarditis and pericarditis can occur in very rare cases following vaccination with Covid-19 shots made by Moderna and Pfizer-BioNTech. By far, however, the absolute superstar among foreign nations dealing with COVID is Japan. Japan has PULLED the vaccines and substituted Ivermectin - and in one month, wiped COVID out in that country! * Safe? Japan pulls Moderna vax, ends nationwide vax drive after "magnetic" "metals" found to contaminate jabs: [link to asia.nikkei.com (secure)] * Three lots of Moderna jabs recalled in Japan over stainless steel contamination: * Several Japanese cities report white stuff floating in jab vials: * Japan minister of health tells docs to recommend IVM: [link to rclutz.com (secure)] * Japan now a MAJOR SUCCESS STORY after it BEATS COVID rapidly: [link to www.msn.com (secure)] Any questions? Just so you understand the timeline. By September deaths from the COVID-19 Vaccine jabs were being investigated. At roughly that time, the vials were under scrutiny and metal "magnetic" material was found in them. Very shortly thereafter, the Japanese minister of health announced doctors could prescribe Ivermectin. A month later, the Western press is shocked that COVID has all but disappeared from the island. Get it? Understand? This is what it looks like in a country that still has rule of law. The government responds to

reports of death and contaminated vaxes, moves to real treatment, people get better, and the virus disappears. Now compare that to what is happening in the United States and in Australia and New Zealand. All three countries are in dismal failure in their handling of COVID-19, and that failure has resulted in staggering loss of freedom and destruction of commerce. This is the biggest news story right now. Japan has ended COVID. It did it after it stopped the vax rollout and went to Ivermectin. Period. Hard stop.

REFERENCES [1] "There are currently no licensed mRNA vaccines in the United States." <https://www.covidhealth.com/article/understanding-explaining-mrna-covid19-vaccines> [2] The most updated list of licensed vaccines in the U.S. is at FDA.gov. <https://www.fda.gov/vaccines-blood-biologics/vaccines/licensed-use-united-states> [3] Moderna "The vaccine contains a nucleoside-modified messenger RNA encoding the viral spike (S) glycoprotein of SARS-CoV-2 formulated in lipid particles. It is an investigational vaccine not licensed for any indication." See FDA letter 2/25/01 to Moderna granting "Emergency Use Authorization (EUA)". Pfizer Bio-NTech Covid-19 vaccine: "The vaccine contains a nucleotide-modified messenger RNA (modRNA) encoding the viral spike (S) glycoprotein of SARS-CoV-2 formulated in lipid particles. It is an investigational vaccine not licensed for any indication." See FDA letter 2/25/01 to Pfizer Bio-NTech granting "Emergency Use Authorization (EUA)." [4] mRNA Vaccines Are New, But Not Unknown There are currently no licensed mRNA vaccines in the United States. However, researchers have been studying them for decades. <https://www.cdc.gov/vaccines/covid-19/hcp/mrna-vaccine-basics.html> [5] Janssen Biotech, Inc." <https://www.janssencovid19vaccine.com/hcp/how-its-designed.html> ... "The vaccine contains a recombinant, replication-incompetent human adenovirus serotype 26 (AD26) vector, encoding the SARS-CoV-2 viral spike (S) glycoprotein, stabilized in its pre-fusion form. It is an investigational vaccine not licensed for any indication." See FDA letter 2/27/01 to Janssen Biotech, Inc. granting "Emergency Use Authorization (EUA)." [6] <https://www.nytimes.com/interactive/2020/health/oxford-astrazeneca-covid-19-vaccine.html> [7] <https://www.fda.gov/vaccines-blood-biologics/vaccines/emergency-use-authorization-vaccines-explained> Page 22 of 63 [8]'Over more than 3 decades, promising lipids studied in the lab often failed to live up to their potential when tested in animals or humans. Positively charged lipids are inherently toxic, and companies struggled for years before landing on formulations that were safe and effective. When injected intravenously, the particles invariably accumulated in the liver, and delivery to other organs is still an obstacle. Reliably manufacturing consistent LNPs was another challenge, and producing the raw materials needed to make the particles is a limiting factor in the production of COVID-19 vaccines today.' Without these lipid shells, there would be no mRNA vaccines for COVID-19, by Ryan Cross, Chemical & Engineering News, March 6, 2021. <https://cen.acs.org/pharmaceuticals/drug-delivery/Without-lipid-shells-mRNAVaccines/> 99/18 [9] ADVERSE EFFECTS OF MESSENGER RNA VACCINES An Evidence Review from the Penn Medicine Center for Evidence-based, Practice December 2020, director Nikhil K. Mull, MD (CEP) Lead analyst: Matthew D. Mitchell, PhD (CEP)Clinical review Patrick J. Brennan, MD. (CMO)<http://www.uphs.upenn.edu/cep/COVID/mRNA%20vaccine%20review%20final.pdf> at p.11, Primary Studies. [10] According to the Section 564 of the Federal Food, Drug, and Cosmetic Act, a lawful application of the terms of a lawful emergency use authorization ("EUA") pursuant includes (e)(1)(A)(i)(III): (III) of the option to accept or refuse administration of the product, of the consequences, if any, of refusing administration of the product, and of the alternatives to the product that are available and of their benefits and risks. 21 USCS § 360bbb-3 <https://www.law.cornell.edu/uscode/text/21/360bbb-3> [11] (II) of the significant known and potential benefits and risks of such use, and of the extent to which such benefits and risks are unknown. 21 USCS § 360bbb-3 <https://www.law.cornell.edu/uscode/text/21/360bbb-3> How will vaccine recipients be informed about the benefits and risks of any vaccine that receives an EUA? FDA must ensure that recipients of the vaccine under an EUA are informed, to the extent practicable given the applicable circumstances, that FDA has authorized the emergency use of the vaccine, of the known and potential benefits and risks, the extent to which such benefits and risks are unknown, that they have the option to accept or refuse the vaccine, and of any available alternatives to the product. Typically, this information is communicated in a patient "fact sheet." The FDA posts these fact sheets on our website. <https://www.fda.gov/vaccines-blood-biologics/vaccines/emergency-use-authorization-vaccines-explained> [12] "The federal EEO laws do not prevent an employer from requiring all employees physically entering the workplace to be vaccinated for COVID-19, subject to the reasonable accommodation provisions of Title VII and the ADA and other EEO considerations discussed below. These principles apply if an employee gets the vaccine in the community or from the employer." [https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-adarehabilitation-act-and-other-eeo-](https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-adarehabilitation-act-and-other-eeo)

laws [13] Fetal Cell Lines Were Used to Make the Johnson & Johnson COVID Vaccine—Here's What That Means 3/4/2021, MSN.com, <https://www.msn.com/en-us/health/medical/fetal-cell-lines-were-used-to-make-the-johnson-and-johnson-covid-vaccine> E2%80%94heres-what-that-means/ar-BB1efi8p

Page 23 of 63 [14] PHI is an acronym of Protected Health Information, while PII is an acronym of Personally Identifiable Information — while you can always waive your privacy rights, you have the right to determine your own release of private medical information. <https://www.hipaajournal.com/what-is-considered-phi/> [15] On May 17, 2021, the CDC stated: The VaST session on May 17, 2021, included several presentations on myocarditis following mRNA vaccines, from the Department of Defense (DoD), the Vaccine Adverse Event Reporting System (VAERS), and Vaccine Safety Datalink (VSD). There were also brief updates from the Veteran's Administration (VA) and the Clinical Immunization Safety Assessment (CISA) groups about their plans for future investigation of myocarditis. COVID-19 VaST Work Group Technical Report – May 17, 2021.

https://www.cdc.gov/nchs/nvss/vsrr/covid_weekly/index.htm?fbclid=IwAR2-muRM3tB3uBdbTrmKwH1NdaBx6PpZo2kxotNwkUXlnbZXcwSRP2OmqsI [16a]

<https://www.cdc.gov/coronavirus/2019-ncov/hcp/clinical-guidance-management-patients.html#print> (citing f.n. 39.) [16b] Nobel Prize Winner Warns Vaccines Facilitate Development of Deadlier COVID Variants, Urges Public to Reject Jabs, by Veronika Kyrylenko, The New American, May 20, 2021: <https://thenewamerican.com/french-nobel-prize-winner-warns-vaccines-facilitate-development-of-deadlier-covid-variants-urges-the-public-to-reject-jabs/> [17] Exclusive: Athlete Who Recovered From COVID Facing 'Very Different Future' After Second Dose of Pfizer Vaccine Triggers Myocarditis, by Megan Redshaw, 06/21/21, the Defender, Children's Health Defense https://childrenshealthdefense.org/defender/greyson-follmer-pfizer-vaccine-myocarditis/?utm_source=salsa&eType>EmailBlastContent&eId=faf15c81-fc5a-4174-bb39-70c908f37be8 [18] CD8+ T cell responses in COVID-19 convalescent individuals target conserved epitopes from multiple prominent SARS-CoV-2 circulating variants – PubMed <https://na01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fpubmed.ncbi.nlm.nih.gov%2F33594378%2F&data=04%7C01%7C%7Cf496c029c7a546320c2508d8f90cf35b%7C84df9e7fe9f640afb435aaaaaaaaaaa%7C1%7C0%7C637533181300658523%7CUknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJB Til6lk1haWwiLCJXVCi6Mn0%3D%7C1000&sdata=daj%2FesDTdKPA8V669M48HmlOBTkXVmFrGKu5pqjZAze%3D &reserved=0> [19] Lasting immunity found after recovery from COVID-19, National Institutes of Health, January 26, 2021 <https://www.nih.gov/news-events/nih-research-matters/lasting-immunity-found-after-recovery-covid-19?fbclid=IwAR0NvW6PWXIK4xlf7yTulxhYagh6qAaSL4cZbVCJXmuON-q4Lsz6A9Wa24> [20] Frequently Asked Questions about COVID-19 Vaccination, "If I have already had COVID-19 and recovered, do I still need to get vaccinated with a COVID-19 vaccination? <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/faq.html> [21] CDC, Definition of Terms <https://www.cdc.gov/vaccines/vac-gen/imzbasics.htm#:~:text=Definition%20of%20Terms,->

Let's%20start%20by&text=Vaccine%3A%20A%20product%20that%20stimulates,or%20sprayed%20into%20the%20 nose. [22] See the Petition for a Temporary Restraining Order filed this week in the U.S. District Court for the Northern District of Alabama by America's FrontLine Doctors, 2:21-cv-00702, CLM. [23] <https://finance.yahoo.com/news/hydroxychloroquine-90-percent-chance-helping-155637974.html> Page 24 of 63 [24] <https://finance.yahoo.com/news/hydroxychloroquine-90-percent-chance-helping-155637974.html> [25] <https://pubmed.ncbi.nlm.nih.gov/33278625/> [26] <https://www.fda.gov/news-events/press-announcements/coronavirus-covid-19-update-june-25-2021> REFERENCES 2: The Lozier Institute Lists a number of COVID-19 Vaccines which utilize aborted fetal cells - <https://lozierinstitute.org/update-covid-19-vaccine-candidates-and-abortion-derived-cell-lines/> 3: The Pfizer Vaccine utilized aborted fetal cells - <https://www.biorxiv.org/content/10.1101/2020.09.08.280818v1.full> 4: The Moderna Vaccine utilized aborted fetal cells - <https://www.nature.com/articles/s41586-020-2622-0> 5: The Johnson & Johnson Vaccine utilized aborted fetal cells - <https://www.janssen.com/emea/emea/janssen-vaccine-technologies> 6: Sputnik V Vaccine citing trial tests of their manufacturers = <https://sputnikvaccine.com/about-vaccine/human-adenoviral-vaccines/> 7: Sputnik V manufacturers acknowledge usage of aborted fetal cells - <http://actanatura.ru/2075-8251/article/view/10302/106> 8: The UK Government acknowledges AstraZeneca's usage of aborted fetal cells -

<https://www.gov.uk/government/publications/regulatoryapproval-of-covid-19-vaccine-astrazeneca/information-for-healthcare-professionals-on-covid-19-vaccine-astrazeneca-regulation-174> 9. The Vaxxart Vaccine utilized aborted fetal cells - <https://www.biorxiv.org/content/10.1101/2020.09.04.283853v1.full>
10. The Altimmune Vaccine utilized aborted fetal cells -
https://clinicaltrials.gov/ProvidedDocs/67/NCT03232567/Prot_000.pdf 11. The COVAXX Vaccine utilized aborted fetal cells - <https://www.biorxiv.org/content/10.1101/2020.11.30.399154v1.full> 12. The Medicago Vaccine utilized aborted fetal cells - <https://www.medrxiv.org/content/10.1101/2020.11.04.20226282v1.full-text> 13. The Novavax Vaccine utilized aborted fetal cells - <https://science.sciencemag.org/content/370/6520/1089> 14. PittCoVacc utilized aborted fetal cells - [https://www.thelancet.com/journals/ebiom/article/PIIS2352-3964\(20\)30118-3/fulltext](https://www.thelancet.com/journals/ebiom/article/PIIS2352-3964(20)30118-3/fulltext) 15. The Walter Reed Vaccine utilized fetal cells -
<https://www.biorxiv.org/content/10.1101/2021.04.28.441763v1.full> 16. The Sanofi Vaccine utilized aborted fetal cells - <https://www.nature.com/articles/s41541-021-00324-5> 17. The Inovio Vaccine utilized aborted fetal cells - <https://www.nature.com/articles/s41467-020-16505-0> 18. The Arcturus Vaccine utilized aborted fetal cells - <https://www.biorxiv.org/content/10.1101/2020.09.03.280446v1> 19. The Imperial College Vaccine utilized aborted fetal cells - <https://www.biorxiv.org/content/10.1101/2020.04.22.055608v1> 20. The Providence Vaccine utilized aborted fetal cells - <https://www.biorxiv.org/content/10.1101/2021.05.11.443286v1> 21. CoronaVac utilized aborted fetal cells - <https://science.sciencemag.org/content/suppl/2020/05/05/science.abc1932.DC1> 22. The CanSino Vaccine utilized aborted fetal cells -
<https://science.sciencemag.org/content/suppl/2020/05/05/science.abc1932.DC1> 23. The ImmunityBio Vaccine utilized aborted fetal cells - <https://www.biorxiv.org/content/10.1101/2020.07.29.227595v1.full> 24. The Institut Pasteur Vaccine utilized aborted fetal cells - <https://www.pnas.org/content/pnas/117/51/32657.full.pdf> 25. The Rega Vaccine utilized aborted fetal cells - <https://www.nature.com/articles/s41586-020-3035-9> 26. The Anhui Zhifei Vaccine utilized aborted fetal cells - [https://www.cell.com/cell/fulltext/S0092-8674\(20\)30812-6](https://www.cell.com/cell/fulltext/S0092-8674(20)30812-6) 27. The Clover Vaccine utilized aborted fetal cells - <https://www.biorxiv.org/content/10.1101/2020.09.24.311027v1.full>

Page 25

If permitted an exemption or delay in taking the vaccine, what types of accommodation would enable you to perform your job duties without presenting a risk of transmission to others?

Continued remote/telework option as I've been doing for 20+ months while self quarantining.

Have you contacted anyone regarding this reasonable accommodation request?

No

Do you work in a SCIF?

No

I have read the Privacy Act Statement

true

From: **Meindl, Max** <max.meindl@dhs.gov>
To: **Max** <femamax@gmail.com>
Subject: RA
Date: 02.11.2021 12:51:28 (+01:00)

Intranet Homepage

1 WEEK TO COMPLY WITH THE VACCINE MANDATE

Click here for more information



Make your appointment at [Vaccines.gov](#). Based on the Monday, Nov. 22 deadline outlined in the [Executive Order](#), these are your LAST CHANCE dates:

- No later than Nov. 8: Second Moderna or Pfizer-BioNTech dose.
- No later than Nov. 8: J&J vaccine single dose.

The [DHS Vaccine Status System \(VSS\)](#) has been updated to allow employees to upload proof of vaccination. If you are vaccinated, upload your proof of vaccination into VSS by no later than Tuesday, Nov. 9.

Get more information from the [COVID-19 Employee Resource Center](#).

Max J Meindl, PMP
Program Delivery Task Force Lead | DR-4611-LA Debris Task Force | Emergency Management Specialist
Duty Station: 4611DR DR - Baton Rouge, Louisiana - JFO ROR | Region 6

Mobile: 202-374-9426
max.meindl@dhs.gov

Federal Emergency Management Agency
www.FEMA.gov



FEMA

WARNING: This email contains FOR OFFICIAL USE ONLY (FOUO) OR PRIVACY DATA.

It may contain information exempt from public release under the Freedom of Information Act (5 U.S.C. 552).

The information contained herein must be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO/PII information and is not to be released to the public or other personnel who do not have a valid "need-to-know" without prior approval of an authorized DHS official.

From: **Meindl, Max** <max.meindl@fema.dhs.gov>
To: **Max** <femamax@gmail.com>
Subject: ra
Date: 28.10.2021 16:22:19 (+02:00)
Attachments: RAR0023278 for COVID-19 Vaccine Exemption (for RELIGIOUS reasons) has been received by review board.eml (1 page), RAR0023261 for COVID-19 Vaccine Exemption (for MEDICAL reasons) has been received by review board.eml (1 page), RAR0023025 has comments added.eml (1 page), Office of Accessible Systems and Technology (OAST) Satisfaction Survey.eml (1 page), RAR0023025 has been assigned to you.eml (1 page), RAR0023025 has been assigned to your group.eml (1 page), Your request for Reasonable Accommodation Request has been received.eml (1 page)

From: **ITSERVICENOW** <ITSERVICENOW@hq.dhs.gov>
To: **Meindl, Max** <max.meindl@fema.dhs.gov>
CC: **Meindl, Max** <max.meindl@fema.dhs.gov>; **Bergin, John** <john.bergin@fema.dhs.gov>
Subject: RAR0023278 for COVID-19 Vaccine Exemption (for RELIGIOUS reasons) has been received by review board
Date: 28.10.2021 16:19:22 (+02:00)

Office of the Chief Information Officer **OAST ACMS Notification**

Max Meindl,

This email is to notify you that your reasonable accommodation (RA) request for the COVID-19 Vaccinate Mandate Exemption has been received by your respective Component.

The RA ticket number is RAR0023278 and has been routed to your respective Component's appropriate review board for processing. It will take several weeks for the board to review and decide. Thank you for your patience.

If you have any questions, please contact your respective Component's point of contact, which can be found here at <https://dhsconnect.dhs.gov/org/offices/crcl/eeo/Pages/Reasonable-Accommodations-at-DHS.aspx>.

**** For privacy reasons, DO NOT EMAIL or FAX MEDICAL DOCUMENTS to the DHS Accessibility Help Desk! ****

This is an official notification from the DHS Office of Accessible Systems & Technology (OAST). To unsubscribe from future notifications please access your [Notification Preferences](#).

Ref:MSG23614640

From: **ITSERVICENOW** <ITSERVICENOW@hq.dhs.gov>
To: **Meindl, Max** <max.meindl@fema.dhs.gov>
CC: **Meindl, Max** <max.meindl@fema.dhs.gov>; **Bergin, John** <john.bergin@fema.dhs.gov>
Subject: RAR0023261 for COVID-19 Vaccine Exemption (for MEDICAL reasons) has been received by review board
Date: 28.10.2021 16:00:51 (+02:00)

Office of the Chief Information Officer **OAST ACMS Notification**

Max Meindl,

This email is to notify you that your reasonable accommodation (RA) request for the COVID-19 Vaccinate Mandate Exemption has been received by your respective Component.

The RA ticket number is RAR0023261 and has been routed to your respective Component's appropriate review board for processing. It will take several weeks for the board to review and decide. Thank you for your patience.

If you have any questions, please contact your respective Component's point of contact, which can be found here at <https://dhsconnect.dhs.gov/org/offices/crcl/eeo/Pages/Reasonable-Accommodations-at-DHS.aspx>.

**** For privacy reasons, DO NOT EMAIL or FAX MEDICAL DOCUMENTS to the DHS Accessibility Help Desk! ****

This is an official notification from the DHS Office of Accessible Systems & Technology (OAST). To unsubscribe from future notifications please access your [Notification Preferences](#).

Ref:MSG23613992

From: **ITSERVICENOW** <Accessibility@HQ.DHS.GOV>
To: **Aybar-Morales, Miriam** <miriam.aybarmorales@fema.dhs.gov>; **Meindl, Max** <max.meindl@fema.dhs.gov>
CC: **Meindl, Max** <max.meindl@fema.dhs.gov>; **Bergin, John** <john.bergin@fema.dhs.gov>
Subject: RAR0023025 has comments added
Date: 28.10.2021 14:54:03 (+02:00)

Office of the Chief Information Officer
OAST ACMS Notification

RAR0023025 - Telework , Telework: 100%

Comments:

2021-10-28 10:53:09 EDT - Aybar-Morales, Miriam

Additional comments

Employee is requesting exemption from vaccine mandate. Provided guidance (screenshots) of appropriate categories and forms for employee to resubmit exemption request in MS Teams

This is an official notification from the DHS Office of Accessible Systems & Technology (OAST). To unsubscribe from future notifications please access your [Notification Preferences](#).

Ref:MSG23611566

From: **ITSERVICENOW** <ITSERVICENOW@hq.dhs.gov>
To: **Meindl, Max** <max.meindl@fema.dhs.gov>
Subject: Office of Accessibile Systems and Technology (OAST) Satisfaction Survey
Date: 28.10.2021 14:43:31 (+02:00)

Office of the Chief Information Officer **OAST ACMS Notification**

You have been invited to take the survey: Office of Accessibile Systems and Technology (OAST) Satisfaction Survey regarding your recent request **RAR0023025**

You may access the survey [here](#) or by going to "My Surveys" in the IT Service Portal.

Your feedback will help us improve our services.

Thank you,

OAST

This is an official notification from the DHS Office of Accessible Systems & Technology (OAST). To unsubscribe from future notifications please access your [Notification Preferences](#).

Ref:MSG23611246

From: **ITSERVICENOW** <Accessibility@HQ.DHS.GOV>
To: **Aybar-Morales, Miriam** <miriam.aybarmorales@fema.dhs.gov>
CC: **Meindl, Max** <max.meindl@fema.dhs.gov>; **Bergin, John** <john.bergin@fema.dhs.gov>
Subject: RAR0023025 has been assigned to you
Date: 28.10.2021 14:35:02 (+02:00)

Office of the Chief Information Officer **OAST ACMS Notification**

RAR0023025 has been assigned to you.

Assigned To:

Ticket Number: RAR0023025; click [here](#)

Requested for: Meindl, Max

Date & Time: 2021-10-28 10:34:31 EDT

[This is an automated email generated by ACMS. This ticket has been created or updated by Lisa Kosh; email address is lisa.kosh@fema.dhs.gov on 2021-10-28 10:34:31 EDT]

This is an official notification from the DHS Office of Accessible Systems & Technology (OAST). To unsubscribe from future notifications please access your [Notification Preferences](#).

Ref:MSG23610998

From: **ITSERVICENOW** <Accessibility@HQ.DHS.GOV>
To: **Kosh, Lisa** <lisa.kosh@fema.dhs.gov>; **Dean, James** <james.c.dean@fema.dhs.gov>;
Perkins , Kevin <kevin.perkins@fema.dhs.gov>
CC: **Meindl, Max** <max.meindl@fema.dhs.gov>; **Bergin, John** <john.bergin@fema.dhs.gov>
Subject: RAR0023025 has been assigned to your group
Date: 28.10.2021 11:13:31 (+02:00)

Office of the Chief Information Officer

OAST ACMS Notification

RAR0023025 has been assigned to your group.

Assigned To: DHS OAST - FEMA Reasonable Accommodation Admin
Ticket Number: RAR0023025; click [here](#)
Requested for: Meindl, Max
Date & Time: 2021-10-28 07:11:36 EDT

[This is an automated email generated by ACMS. This ticket has been created or updated by Max Meindl; email address is max.meindl@fema.dhs.gov on 2021-10-28 07:11:36 EDT]

This is an official notification from the DHS Office of Accessible Systems & Technology (OAST). To unsubscribe from future notifications please access your [Notification Preferences](#).

Ref:MSG23605804

From: **ITSERVICENOW** <Accessibility@HQ.DHS.GOV>
To: **Meindl, Max** <max.meindl@fema.dhs.gov>
CC: **Meindl, Max** <max.meindl@fema.dhs.gov>; **Bergin, John** <john.bergin@fema.dhs.gov>
Subject: Your request for Reasonable Accommodation Request has been received
Date: 28.10.2021 11:13:31 (+02:00)

Office of the Chief Information Officer **OAST ACMS Notification**

Max Meindl,

The FEMA Reasonable Accommodations Unit at the Office of Equal Rights (OER) is pleased to inform you that your request for reasonable accommodation has been received.

Your ticket number RAR0023025 has been assigned to the FEMA RA Section Chief for assignment to a FEMA RA Specialist.

The assigned RA Specialist will contact you in few business days to further discuss about your request. Reasonable Accommodation requests may take longer to process. To obtain a status on your reasonable accommodation request, please contact us at fema-reasonable-accommodation@fema.dhs.gov. Please make sure to have this ticket number handy.

**** For privacy reasons, DO NOT EMAIL or FAX MEDICAL DOCUMENTS to the DHS Accessibility Help Desk! ****

This is an official notification from the DHS Office of Accessible Systems & Technology (OAST). To unsubscribe from future notifications please access your [Notification Preferences](#).

Ref:MSG23605805