

July 29, 2021

Sent via email to jeneasterly@cisa.dhs.gov

Ms. Jen Easterly
Director
Cybersecurity and Infrastructure Security Agency
Cybersecurity and Infrastructure Security Agency Stop 0380
Department of Homeland Security
245 Murray Lane
Washington, D.C. 20528-0380

Dear Director Easterly,

We write to congratulate you on your recent confirmation to serve as the Director of the Cybersecurity and Infrastructure Security Agency (CISA), and to encourage you in your first month as Director to update CISA's most recent "[Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response](#)" ("Guidance") to clarify inclusion of all of those performing essential work during the current -- and any prospective -- pandemic period, including, but not limited to, those in domestic service.¹ As you are well aware, the Guidance is designed to "help State and local officials as they work to protect their communities, while ensuring continuity of functions critical to public health and safety, as well as economic and national security."² CISA's Guidance was updated several times earlier in the pandemic, but has not been updated in nearly a year.

Over the course of that year, as this letter describes, the vaccine rollout revealed areas where the Guidance lacked sufficient clarity and, as a result, many essential domestic workers were excluded from vaccine prioritization, in addition to facing other pandemic-influenced disparities. Having learned from the initial vaccine rollout and with the increased exposure risk posed by the delta variant, now is the appropriate time to issue an update. By comprehensively and explicitly including all essential workers in CISA's Guidance now, CISA will better achieve its mission to address the current pandemic, and to best position federal, state, and local governments to respond to future health crises.

As health care advocacy, labor and employment, and immigration policy organizations, we believe it is crucial to update the CISA Guidance immediately so that workers whose labor requires close proximity to others outside of their home have timely access to vaccines and boosters, are prioritized for

¹ For purposes of this letter, due to our direct familiarity with the domestic service workforce, we focus on domestic service. However, it is our understanding that there are other industries, such as day labor and hotel or hospitality industries, that were not accurately included in CISA Guidance thus far, and we encourage you to consult with those industries in considering any updates to the CISA Guidance.

² Christopher C. Krebs, CISA Director "Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response," Mar. 19, 2020, <https://www.cisa.gov/sites/default/files/publications/CISA-Guidance-on-Essential-Critical-Infrastructure-Workers-1-20-508c.pdf> (hereinafter "CISA 1.0").

personal protective equipment (PPE), and retain access to their jobs during lockdowns. Domestic workers' labor is too often invisibilized and undervalued, largely resulting from historic and ongoing legal exclusion from many of core workplace protections. Clarifying the CISA Guidance to explicitly include domestic workers, among others, will help to ensure that they are prioritized and protected, rather than inadvertently excluded. We view updating the CISA Guidance as key to safeguarding public health during the pandemic, aiding in the nation's economic recovery, and allowing us to prepare for future pandemics.

Community Catalyst is a leading non-profit national health advocacy organization dedicated to advancing a movement for health equity and justice. We partner with local, state and national advocates to leverage and build power so all people can influence decisions that affect their health. Health systems will not be accountable to people without a fully engaged and organized community voice. That's why we work every day to ensure people's interests are represented wherever important decisions about health and health care are made: in communities, state houses, and on Capitol Hill.

The National Immigration Law Center (NILC) is a nonpartisan organization dedicated to defending and advancing the rights of low-income immigrants and their families. NILC conducts policy analysis, advocacy, and impact litigation, as well as provides training, publications, and technical assistance for a broad range of groups throughout the U.S. Many of the communities on whose behalf NILC advocates and litigates are low-income immigrants who have been harmed by our current laws and policies that deny them basic due process protections or that serve as barriers to immigrants' ability to access such protections. NILC has long advocated for the health and well-being of immigrant families, including working with the administration to address barriers to COVID-19 vaccination.

The National Domestic Workers Alliance ("NDWA") works for the respect, recognition, and rights of 2.2 million nannies, housecleaners, and home care workers who do the essential work of caring for our loved ones and homes. Since its founding in 2007, NDWA has grown to more than 75 chapters and affiliates, and connects with more than 250,000 domestic workers in all fifty states. Domestic workers are overwhelmingly women, they are primarily women of color, and more likely than the average worker to be immigrants.³ Although domestic workers perform essential work that enables millions of others to do their work, domestic work has long been invisibilized and domestic workers do not enjoy the same workplace protections as many other workers.⁴

I. Updating CISA Guidance is a Matter of Public Health, Especially as it Relates to Domestic Workers:

The CISA Guidance has been updated four times since it was first published during the onset of the pandemic on March 19, 2020, with each update addressing gaps in the previous Guidance to include

³ See Julie Wolfe, et al., "Domestic Workers Chartbook," *Economic Policy Institute* (May 14, 2020), <https://www.epi.org/publication/domestic-workers-chartbook-a-comprehensive-look-at-the-demographics-wages-benefits-and-poverty-rates-of-the-professionals-who-care-for-our-family-members-and-clean-our-homes/>.

⁴ For example, certain groups of domestic workers are excluded from the protections of the Occupational Health and Safety Act, *see* 20 C.F.R. § 1974.6, and many do not enjoy the protections of the federal anti-discrimination laws, which only apply to employers who meet employee threshold numbers.

additional workers and tailoring the Guidance to different phases of the pandemic.⁵ The CISA Guidance, however, was last updated on August 18, 2020,⁶ almost a year ago. We believe it should be updated again to clarify and more explicitly include certain groups of essential workers who tend to work in low-wage sectors where their work has been historically invisibilized; this will ensure that public health policies drawing from the Guidance will be fully inclusive of all workers and avoid perpetuating health disparities, such as access to vaccines and PPE.

While we understand that the CISA Guidance is advisory, states and localities have heavily relied on CISA's Guidance to designate their essential workers, determine mobility during specific phases of the pandemic, and prioritize populations for vaccination.⁷ The federal government has also relied on the CISA Guidance to inform how it responds to managing the pandemic and the U.S. economic recovery. For example, to outline how essential workers should be prioritized for vaccination, the Centers for Disease Control and Prevention (CDC) relied on CISA's Guidance to map it to standardized industry codes and titles for ease of use for state and local governments.⁸

a. Updating the CISA Guidance as a Matter of Public Health

The omission of-- or lack of clarity around-- certain essential workers in the current CISA 4.0 Guidance means that workers caring for others-- such as domestic workers-- were not prioritized for vaccination. Certain essential workers not explicitly listed in the CISA Guidance were routinely excluded from vaccine prioritization, resulting in greater risk to themselves, their families and clients, and the general public. While vaccines are much more widely available, we believe it is imperative that CISA update the Guidance to anticipate future shortages, such as potential booster shots that may again be targeted to essential workers. Federal and state public health agencies may continue to focus on ensuring the good health of essential workers based on the Guidance, now and in future public health emergencies.

Domestic workers make important contributions to address the COVID-19 pandemic and are also exposed to higher risks of contracting the virus through the nature of their work—caring for others. If infected, this population of workers has limited access to health coverage and health services, often lives in communal settings, and therefore, is more likely to get sick and infect other family and community

⁵ Version 1.0 was issued on March 19, 2020, and was developed with an eye toward “[p]romoting the ability of such [essential critical infrastructure] workers to continue to work during periods of community restriction, access management, social distancing, or closure orders/directives, and does explicitly include domestic workers, including home care.” (See *CISA 1.0*, at p. 3 of pdf (no page numbers on document). [Version 2.0](#) was issued on March 28, 2020, just 10 days after Version 1.0, not explicitly including domestic workers and ambiguously adding home care workers. [Version 3.0](#) was issued on April 17, 2020, and includes substantial additions, including the addition of childcare and dependent care services when they're being provided for essential workers, and one could argue that it could include house cleaners in the hygiene section, but it is not explicit. (Note, CISA appears to have attached the 2.0 cover memo to the 3.0 list). [Version 3.1](#) was issued on May 19, 2020, and makes a number of changes to version 3.0, including appearing to remove childcare. [Version 4.0](#) was issued on Aug. 18, 2020 (re-released Dec. 16, 2020 in anticipation of a vaccine rollout).

⁶ The same Guidance was re-issued on December 16, 2020, in anticipation of the vaccine rollout.

⁷ See, for example, [Delaware's COVID-specific webpage](#). Its link for "[Identifying Critical Infrastructure Workers](#)" is in fact the link directly to CISA's webpage.

⁸ CDC, “Interim List of Categories of Essential Workers Mapped to Standardized Industry Codes and Titles,” (page last reviewed Mar. 29, 2021), <https://www.cdc.gov/vaccines/covid-19/categories-essential-workers.html>.

members.⁹ Many essential workers were also excluded from prior federal relief packages and excluded from basic health and safety protections that other workers take for granted,¹⁰ further reinforcing the invisibility of their work and their contributions to economic and health recovery.¹¹ Specifically, the domestic workforce, composed largely of women of color and immigrants, is left largely unprotected. The COVID-19 pandemic has already shed light on the deep inequities in our health system, resulting in higher infection and death rates for people of color.¹² In addition, there remains deep mistrust of the government, due to anti-immigrant actions of the prior administration, which has discouraged immigrant communities from accessing the care they need, even during the pandemic.¹³ It is critical to formalize the inclusion of domestic workers in the definition of “essential workers” to ensure their access to needed health supports—both preventive care and treatment in the case of illness and to ensure our recovery.

b. Updated CISA Guidance Should Explicitly Include Domestic Workers:

We believe that local, state, and federal governments should be able to read the CISA Guidance to include—as critical infrastructure workers-- those who conduct domestic work in private households, including child care (such as nannies/in-home child care providers), home care (such as caregivers for older adults and people with disabilities), and house cleaning (house cleaners).¹⁴ The failure to list the words “nannies” and “house cleaners” combined with the long-standing invisibilization of this work has meant that many states overlooked them as essential workers. As a result, many states failed to include nannies and house cleaners in vaccine prioritization, despite the CDC recognizing them as essential.¹⁵

By its nature, domestic work requires workers to perform their work in close proximity to others, and they are often providing services to individuals who are at heightened risk for contracting COVID-19, including children too young to be vaccinated or older adults. We are also concerned about the equity

⁹ Cuella Mejia, Marisol, and Cha May, Paulette, “Overcrowded Housing and COVID-19 Risk among Essential Workers,” Public Policy Institute of California, May 12, 2020. <https://www.ppic.org/blog/overcrowded-housing-and-covid-19-risk-among-essential-workers/>

¹⁰ See 29 C.F.R. § 1975.6.

¹¹ See Community Catalyst, “Essential Workers Are On the Front Lines: It’s Our Turn to Step Up,” <https://communitycatalyst.app.box.com/file/827806178062?s=gp46413njdda858fgq335s10wcyfyqmg>

¹² Immigrant workers in the food industry, for example, are at most risk of dying and face language access barriers. Advisory Board, “The jobs most at-risk of Covid-19 death, charted,” February 10, 2021, <https://www.advisory.com/en/daily-briefing/2021/02/10/covid-jobs>.

¹³ Bernstein, Hamutal, Gonzalez, Dulce, and Karpman, Michael, “Adults in Low-Income Immigrant Families Were Deeply Affected by the COVID-19 Crisis yet Avoided Safety Net Programs in 2020,” Urban Institute, May 2021, https://www.urban.org/sites/default/files/publication/104280/adults-in-low-income-immigrant-families-deeply-affected-by-pandemic-yet-avoided-safety-net_0.pdf

¹⁴ See Community Catalyst, Strengthen our Response: Support Home Care Workers and Protect Consumers with Long-Term Care Needs https://www.communitycatalyst.org/resources/2020-covid/Strengthen-Response-Home-Health_FINAL.pdf and Caring Across Generations & the National Domestic Workers Alliance, Building Our Care Infrastructure For Equity, Economic Recovery and Beyond https://caringacross.org/wp-content/uploads/2020/09/Building-Our-Care-infrastructure_FINAL.pdf

¹⁵ See CDC, “Interim List of Categories of Essential Workers Mapped to Standardized Industry Codes and Titles,” (page last reviewed Mar. 29, 2021), <https://www.cdc.gov/vaccines/covid-19/categories-essential-workers.html> (recognizing workers in “Private Households,” NAICS Code 814xx, as essential workers and citing to CISA’s description of “providing dependent care services, including childcare, eldercare, and other service providers necessary to maintain a comprehensive, supportive environment for individuals and caregivers needing these services.”).

impacts resulting from failing to specifically list “nannies” and “house cleaners” in the CISA Guidance. Domestic workers are more likely to be immigrants and workers of color (Black, Latinx, Asian, and Indigenous) than the labor pool at large.¹⁶ Fewer than 1 in 5 domestic workers has employer-provided health insurance¹⁷ and domestic workers remain vulnerable to the COVID-19 pandemic. For example, a June 2020 survey showed that one in four Black immigrant domestic workers surveyed had experienced, or lived with someone who has experienced, COVID-19 symptoms.¹⁸

Other groups of workers intended to be included under the Guidance’s broader designations may have also been left behind because of the way that occupations were described. We hope that, upon consulting with States and localities, CISA will include any essential workers previously excluded from the Guidance.

II. There is a Practical and Reasonable Solution: Update the CISA Guidance

Reliance on CISA’s Guidance has grown since the onset of the pandemic; at first it was looked to as a guide for who should be permitted to go to work during lockdowns, and evolved into providing the prioritization for vaccines and personal protective equipment (PPE), among other things. It is imperative that -- especially knowing what we do about the likelihood of ongoing strains and future pandemics -- the CISA list be updated for state and local governments, as well as for the federal government, all of which rely upon CISA’s Guidance for addressing the current pandemic, our recovery, and our preparation for prospective future pandemics.¹⁹

As the CISA list continues to be extremely relevant in combating the current pandemic and facilitating the road to economic recovery, as well as being the list that state, local, and federal governments will look to for prospective future health crises, it is our strong recommendation that to redress the issues in this letter, CISA update its Guidance immediately. We encourage you to consider the suggested language, below, as you update CISA’s Guidance, to ensure comprehensive inclusion of these essential domestic service workers.

¹⁶ See Julie Wolfe, et al., “Domestic Workers Chartbook,” Economic Policy Institute (May 14, 2020), <https://www.epi.org/publication/domestic-workers-chartbook-a-comprehensive-look-at-the-demographics-wages-benefits-and-poverty-rates-of-the-professionals-who-care-for-our-family-members-and-clean-our-homes/>. See also McNicholas, Celine and Poydock, Margaret, “Who are essential workers?,” Economic Policy Institute, May 19, 2020, at <https://www.epi.org/blog/who-are-essential-workers-a-comprehensive-look-at-their-wages-demographics-and-unionization-rates/>.

¹⁷ See Julie Wolfe, et al., “Domestic Workers Chartbook,” Economic Policy Institute (May 14, 2020), <https://www.epi.org/publication/domestic-workers-chartbook-a-comprehensive-look-at-the-demographics-wages-benefits-and-poverty-rates-of-the-professionals-who-care-for-our-family-members-and-clean-our-homes/>.

¹⁸ Institute for Policy Studies and the National Domestic Workers Alliance, “Notes from the Storm: Black Immigrant Domestic Workers in the Time of COVID-19,” (June 2021), <https://www.domesticworkers.org/wp-content/uploads/2021/06/IPS-WDiB-survey-brief-English.pdf>.

¹⁹ The [Biden Administration](#) has distinguished itself from the [Trump Administration](#), which largely deferred to states in responding to and managing COVID response and recovery efforts, making clear that “the *federal* government must act swiftly and aggressively to help protect and support our families, small businesses, first responders, and caregivers essential to help us face [the COVID pandemic], those who are most vulnerable to health and economic impacts, and our broader communities.” The Biden Administration has also [called on Congress](#) to provide support to addressing the pandemic.

Although nannies and house cleaners should fall under “dependent care services” and “[w]orkers providing personal and household goods, repair and maintenance,” the CISA Guidance should explicitly list them to prevent the exclusion or omission, as occurred in many states during the vaccine rollout, of this historically undervalued workforce. Suggested edits to CISA in **bold** specifically for domestic workers include:

“Other Community- or Government-based Operations and Essential Functions” - Workers providing dependent care services, including childcare, eldercare, **direct care, house cleaning,** and other service providers, **whether working in homes, or other private or institutional settings,** necessary to maintain a comprehensive, supportive environment for individuals and caregivers needing these services. **This includes workers such as nannies, house cleaners, direct care workers, home health aide, and personal care aides, among others.**

“Hygiene Products and Services” - Workers providing personal and household goods, repair, and maintenance, **including workers such as house cleaners, plumbers, appliance repair persons, and electricians, among others.**

We are confident that updating the CISA Guidance with the above suggested-- or similar-- language, will clarify, and therefore remedy the exclusion of these essential domestic service workers, going forward.

III. It’s Critical to Update the CISA Guideline Without Delay:

Approximately one third of Americans have yet to receive their vaccines²⁰ and America is hitting its vaccination ceiling.²¹ COVID cases are on the rise in nearly half of the country.²² We already know that another contagious strain is being spread across America,²³ leading to new outbreaks and restrictions,²⁴ with the CDC renewing its recommendation that even those vaccinated resume wearing

²⁰ Chalfant, Morgan and Samuels, Brett, “Inside Biden's pragmatic approach to coronavirus rules,” The Hill, <https://thehill.com/homenews/administration/561960-inside-bidens-pragmatic-approach-to-coronavirus-rules>

²¹ Reed, Tina, “America is hitting its vaccination ceiling,” Axios, July 7, 2021. <https://www.axios.com/america-is-hitting-its-vaccination-ceiling-0d896b5f-a18b-4978-8d13-e5da2a3d97af.html>

²² Schnell, Mychael, “COVID-19 cases up in nearly half of US states: analysis,” The Hill, July 6, 2021. <https://thehill.com/homenews/state-watch/561641-covid-19-cases-up-in-nearly-half-of-us-states-analysis>

²³ Neergaard, Lauran, “Delta variant exploits low vaccine rates, easing of rules,” Associated Press, July 1, 2021. <https://apnews.com/article/michael-brown-europe-coronavirus-pandemic-coronavirus-vaccine-science-e1379d34d3cdf0f522e0915b0f246fe>

²⁴ See e.g., Matthew Impelli, “Delta Variant Spikes Across U.S. Bring New Travel Restrictions,” July 13, 2021, <https://www.newsweek.com/delta-variant-spikes-across-us-bring-new-travel-restrictions-these-states-are-affected-1609418>; see also Morgan Winsor, “Delta variant now accounts for 58% of COVID-19 cases in US, CDC says,” ABC News, July 14, 2021, <https://abcnews.go.com/Health/delta-variant-now-accounts-58-covid-19-cases/story?id=78834579>.

masks indoors,²⁵ and that another pandemic is inevitable.²⁶ However, we do not yet know how effective each of the vaccines are against the various strains, nor for how long those that are effective will remain so and would require a booster vaccine.²⁷ In the meantime, the U.S. is working toward economic recovery from the pandemic at every level.²⁸

As CISA's Guidance will, again, likely be the north star for state, local, and federal governments to address the current and any future health crises, we respectfully urge CISA to update its Guidance to ensure that all essential workers are designated as such and therefore can be prioritized for the like of PPE, vaccines and boosters, to get to work in the case of any future lockdowns, and to do whatever is necessary during the road to economic recovery. Accordingly, it is our strong recommendation that the CISA guidelines be updated immediately to address current and future pandemic-related matters.

IV. Conclusion

While we have made big strides, it is imperative that the United States continue to be hands-on in combating the COVID pandemic, and be fully prepared for current and future strains or pandemics. Part of that preparation requires that all essential workers are clearly identified as such in CISA's Guidance so that states and localities may, themselves, update their own essential worker guidelines, and so that the federal government has a clear understanding of who is designated as an essential worker.

Thank you for your consideration of our request that you immediately update the CISA guidelines, and please feel free to reach out to any of us should you have any questions as follows: Community Catalyst: Eva Marie Stahl, Director of Policy and Partnerships, emstahl@communitycatalyst.org; National Immigration Law Center: Avidah Moussavian, Director of Federal Advocacy, moussavian@nilc.org; National Domestic Workers Alliance, Haeyoung Yoon, Senior Director of Policy, haeyoung@domesticworkers.org.

Sincerely,

²⁵ Abutaleb, Yasmeen, Achenbach, Joel, and Taylor, Adam, "CDC to urge vaccinated people to resume wearing masks indoors in some circumstances as delta variant spreads," Washington Post, July 27, 2021. <https://www.washingtonpost.com/health/2021/07/27/cdc-masks-guidance-indoors/>.

²⁶ Richards, Sarah Elizabeth, "Can a new app predict the next pandemic?: Scientists say it's only a matter of time before another deadly virus jumps from animal to human and goes viral. A new global database attempts to rank the risk from wildlife." National Geographic, April 6, 2021. <https://www.nationalgeographic.com/science/article/can-a-new-app-predict-the-next-pandemic>. See also Doucleff, Michaeleen, "Next Pandemic: Scientists Fear Another Coronavirus Could Jump From Animals To Humans," NPR, March 19, 2021. <https://www.npr.org/sections/goatsandsoda/2021/03/19/979314118/next-pandemic-scientists-fear-another-coronavirus-could-jump-from-animals-to-hum>.

²⁷ "What Are Your Chances of Catching the Delta Variant If You're Fully Vaccinated? Chicago's Top Doc Weighs In," NBC Chicago, July 6, 2021, updated on July 7, 2021. <https://www.nbcchicago.com/news/coronavirus/what-are-your-chances-of-catching-the-delta-variant-if-youre-fully-vaccinated-chicagos-top-doc-weighs-in/2548334/>

²⁸ "COVID-19 Recovery Indicators: Daily updates on the indicators to watch as the US works toward recovery from COVID-19," USAFacts, July 27, 2021, <https://usafacts.org/covid-recovery-hub/>.

Eva Marie Stahl
Director of Policy and Partnerships
Community Catalyst

Avideh Moussavian
Director of Federal Advocacy
National Immigration Law Center

Haeyoung Yoon
Senior Director of Policy
National Domestic Workers Alliance

Cc: Department of Homeland Security Secretary Alejandro Mayorkas