



**DEPARTMENT OF JUSTICE**  
GENERAL COUNSEL DIVISION

**MEMORANDUM**

DATE: February 26, 2014

TO: Honorable Jackie Winters, Chair  
Ways and Means Public Safety Subcommittee, Members

FROM: Aaron Knott, Legislative Director

SUBJECT: Informational Testimony Regarding Paid Administrative Leave Determinations

This testimony is offered in response to this subcommittee's inquiry regarding the role of the Department of Justice in state agency decisions to place employees on paid administrative leave. The Department primarily serves an advisory and support role, principally through attorneys in the Labor and Employment Section of the General Counsel Division, but often involving coordination with other sections and divisions within the Department.

The Labor and Employment Section is rarely involved in the front end HR decisions and the Department does not dictate or prescribe an agency's general policy approach. It is difficult to generalize a blanket standard or uniform approach, because each case involves and individuated exercise of agency discretion. The cases tend to be very fact- and situation-specific, and, with regard to the services the Department provides, require the crafting of confidential advice tailored to the situation and to the needs and interests of the individual agency, within the broader context of the best interests of the State. Among the many variables that might bear on the precise character of our involvement and nature of our advice in any particular case are agency size and staffing levels, past practice with represented employees, and the seriousness of the alleged behavior, including potential impacts on performance of the employee's assigned duties.