

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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January 27, 2026

The Honorable Scott Kupor  
Director  
Office of Personnel Management  
1900 E Street, NW  
Washington, DC 20415

Dear Director Kupor:

I write in strong opposition to the recent Office of Personnel Management (OPM) proposed rule that will aid the Trump Administration in purging and politicizing what must be a nonpartisan civil service. The proposed rule, titled *Streamlining Probationary and Trial Period Appeals*, transfers the adjudication authority for probationary employees from the Merit Systems Protection Board (MSPB) to the Office of Personnel Management (OPM) and removes employees' rights to hearings and discovery.<sup>1</sup> If enacted, OPM would serve as the prosecutor and the judge, ignoring the congressional intent of the Civil Service Reform Act and merit system principles. I strongly urge the Administration to rescind this proposed rule and immediately cease its political assault on the federal government workforce.

The 19th-century spoils system gave rise to a politicized federal workforce that was inefficient for service delivery and lowered trust in government. The Pendleton Act was enacted to make it unlawful to fire or demote covered employees for political reasons, and the Civil Service Commission enforced the law. However, the Civil Service Commission grew too ineffective to carry out the functions of the human resources office of the federal government.<sup>2</sup>

In response, Congress passed the Civil Service Reform Act of 1978 (CSRA), which established separate entities to reform the inefficiencies of the Civil Service Commission—the OPM, MSPB, and the Federal Labor Relations Authority (FLRA). CSRA established new and separate procedures for advancing the President's agenda, while balancing the need to protect employee rights and interests. Congress intended for the newly established OPM to serve as an advocate of the President's personnel policies and programs. MSPB, by contrast, was created as an independent adjudicatory entity of the executive branch. MSPB ensures OPM acts in

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<sup>1</sup> Office of Personnel Management, *Proposed Rule: Streamlining Probationary and Trial Period Appeals* (Dec. 10, 2025) (online at [www.regulations.gov/document/OPM-2025-0013-0001](http://www.regulations.gov/document/OPM-2025-0013-0001)).

<sup>2</sup> Merit Systems Protection Board, *The U.S. Office of Personnel Management in Retrospect: Achievements and Challenges After Two Decades* (Dec. 2001) (online at [www.mspb.gov/studies/studies/The\\_US\\_Office\\_of\\_Personnel\\_Management\\_in\\_Retrospect\\_Achievements\\_and\\_Challenges\\_After\\_Two\\_Decades\\_253640.pdf](http://www.mspb.gov/studies/studies/The_US_Office_of_Personnel_Management_in_Retrospect_Achievements_and_Challenges_After_Two_Decades_253640.pdf)).

accordance with merit systems principles without violating prohibited personnel practices, including by hearing and adjudicating employees' appeals. With CSRA, Congress clearly intended that the "[e]stablishment of a strong and independent [Merit Systems Protection] Board and Special Counsel will discourage subversions of merit principles," naming MSPB as an independent entity that should be "insulated from the kind of political pressures that have led to violations of merit principles in the past."<sup>3</sup>

The proposed rule would remove any independent review of appeals by probationary employees in contravention of CSRA's very purpose. The rule outlines that probationary employees are limited to submitting appeals for terminations based on political affiliation or marital status, and procedural deficiencies for pre-employment terminations. Moreover, the rule removes MSPB from the appeals process and replaces it with an internal OPM review.<sup>4</sup> These actions would fatally undermine the merit system principles of CSRA, which requires a clear separation between the policymaking functions of OPM and the adjudication functions of MSPB.<sup>5</sup>

We are also concerned that your proposed rule provides insufficient due process for complainants. The proposed rule removes the ability to conduct discovery in cases on appeal and limits opportunities for a hearing only to cases where OPM deems such action "necessary." The proposed rule further strips an employee's right to appeal to the Court of Appeals for the Federal Circuit to seek further review.<sup>6</sup> By reducing appeals cases to a paper-only, OPM-controlled process and preventing the ability to collect and present evidence, employees would be placed in a near impossible position to prove their case. The proposed rule's supplementary information fails to justify the need for stripping probationers' rights from the MSPB, and these drastic changes run counter to the normal appeals process currently afforded to any other federal employee seeking a claim with MSPB. Indeed, this rule plainly ignores Congress's intent in enacting CSRA and stands in contrast to the executive branch's prior affirmations of the rights of probationary employees to appeal to MSPB.<sup>7</sup>

This proposed rule change comes after the Trump Administration took drastic action to illegally terminate 25,000 probationary employees, and is coupled with efforts to politicize the federal workforce through the establishment of Schedule P/C and Schedule G.<sup>8</sup> The proposed

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<sup>3</sup>*Id.*; Felix A. Nigro, *The Politics of Civil Service Reform*, Southern Review of Public Administration (Sept. 1979) (online at [www.jstor.org/stable/43865926?read-now=1&seq=44](http://www.jstor.org/stable/43865926?read-now=1&seq=44)); Senate Committee on Governmental Affairs, *Civil Service Reform Act of 1978: Report to Accompany S. 2640 to Reform the Civil Service Laws*, 95th Cong. (1978) (S. Rept. 95-989).

<sup>4</sup> Office of Personnel Management, *Proposed Rule: Streamlining Probationary and Trial Period Appeals* (Dec. 10, 2025) (online at [www.regulations.gov/document/OPM-2025-0013-0001](http://www.regulations.gov/document/OPM-2025-0013-0001)).

<sup>5</sup> Civil Service Reform Act of 1978, Pub. L. No. 95-454, 92 Stat. 1111 (1978).

<sup>6</sup> Office of Personnel Management, *Proposed Rule: Streamlining Probationary and Trial Period Appeals* (Dec. 10, 2025) (online at [www.regulations.gov/document/OPM-2025-0013-0001](http://www.regulations.gov/document/OPM-2025-0013-0001)).

<sup>7</sup> 5 CFR § 315.806.

<sup>8</sup> *Judge Rules Trump Administration Illegally Fired Thousands of Probationary Workers*, The Hill (Sept. 15, 2025) (online at <https://thehill.com/regulation/court-battles/probationary-workers-firings-illegal-judge/>); The White House, *Restoring Accountability to Policy-Influencing Positions Within the Federal Workforce* (Jan. 20,

rule, combined with the Administration's hasty and unlawful reorganizations and personnel changes, demonstrates that the Administration has no interest in abiding by the nation's merit systems principles and statutory civil service protections. Moreover, it sets the stage for the federal government to lose vital institutional knowledge and incur negative impacts on service delivery. The civil service was created to ensure the preservation of institutional knowledge, continuity of federal programs and activities, and sustainment of service delivery despite a change in presidential administration. The actions you are proposing will set the stage for a fragmented, unprepared workforce that prioritizes political loyalty tests over meeting the critical needs of the public.

Nonpartisan civil servants, 30% of whom are veterans, help families in the wake of hurricanes and deadly fires, facilitate access to lifesaving payments like Social Security and unemployment insurance, and protect our national security. The probationary period is meant to serve as a temporary period for agencies to assess an employee's fitness for a given position, not only for their first position in government, but also for any promotion they are offered. Weakening probationary employees' narrow rights to appeal will undermine civil service protections and jeopardize the effectiveness of the federal government. This proposed rule presents an existential threat to the civil service as we know it, and I urge you to rescind the proposed rule.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. If you have any questions regarding this request, please contact Committee Democratic staff at (202) 225-5051. Thank you for your prompt attention to this matter.

Sincerely,



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Robert Garcia  
Ranking Member

cc: The Honorable James Comer, Chairman

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2025) (online at [www.whitehouse.gov/presidential-actions/2025/01/restoring-accountability-to-policy-influencing-positions-within-the-federal-workforce/](https://www.whitehouse.gov/presidential-actions/2025/01/restoring-accountability-to-policy-influencing-positions-within-the-federal-workforce/)); The White House, *Creating Schedule G In The Excepted Service* (July 17, 2025) (online at [www.whitehouse.gov/presidential-actions/2025/07/creating-schedule-g-in-the-excepted-service/](https://www.whitehouse.gov/presidential-actions/2025/07/creating-schedule-g-in-the-excepted-service/)); *OPM Seeks Fast-Track Removal of Federal Employees for "Suitability" Reasons in Proposed Rule*, Federal News Network (June 2, 2025) (online at <https://federalnewsnetwork.com/hiring-retention/2025/06/opm-seeks-fast-track-removal-of-federal-employees-for-suitability-reasons-in-proposed-rule/>).