

Congress of the United States
Washington, DC 20515

March 12, 2026

Mr. Scott Kupor
Director
Office of Personnel Management
1900 E Street NW Washington, DC 20415

Dear Director Kupor,

We write in strong opposition to the Office of Personnel Management’s (OPM) proposed rule—*Reduction in Force Appeals* [2026-02576]—that seeks to move the venue for Reduction in Force (RIF) appeals from the Merit Systems Protection Board (MSPB) to OPM. At its core, this proposal undoes Congress’s deliberate separation of personnel policymaking and adjudication of appeals, undermines due process protections for federal employees, and poses heightened risks of politization given the current Administration’s attacks on the nonpartisan civil service. While framed as an efficiency measure, the rule would instead erode structural safeguards that have anchored the merit-based civil service for decades.

In the Civil Service Reform Act of 1978, Congress divided the former Civil Service Commission’s responsibilities between OPM and MSPB, assigning OPM the task of promulgation and interpretation of federal personnel policy, while entrusting MSPB with the independent adjudication of workforce appeals. This separation was not incidental; it was designed to prevent the very conflict of interest this proposed rule would create. By consolidating policymaking and adjudicatory authority within OPM, the agency that writes and interprets RIF regulations would also determine whether those same regulations were lawfully applied. The proposed rule directly contradicts the statutory framework Congress deliberately constructed to safeguard neutrality and merit principles.

The proposed rule contends that the current “dual-track” structure by which OPM creates RIF regulations and MSPB adjudicates appeals creates inefficiencies. It also asserts that MSPB, as opposed to OPM, lacks institutional expertise about RIFs. However, the quasi-judicial procedures available before MSPB, which include hearings, discovery, and the development of a formal record, are not bureaucratic obstacles; rather, they are consequential safeguards for employees in a merit-based system. Particularly in RIF disputes involving complex claims related to the application of retention factors, preferences, or allegations of improper motive, a transparent and independent process is critical to preserve procedural fairness and employees’ rights.

The proposal further undermines both efficiency and independence by designating the Director of OPM as the final decision-maker in workforce appeals. Concentrating final adjudicatory authority in a single political appointee could create delays, and it would erode the structural

independence Congress sought to protect when it separated this type of policymaking from its adjudication.

Additionally, OPM has not demonstrated that it possesses the adjudicatory capacity necessary to replace MSPB's established system. The rule would shift appeals to OPM's Merit System Accountability and Compliance (MSAC), which reports directly to the OPM Director and lacks the independent, balanced, multi-member board structure of the MSPB. Transferring appeals without evidence of readiness would risk inconsistent determinations, procedural delay, and diminished confidence in outcomes, which are the very issues the proposal claims to address.

Further, this rule accompanies several other proposed rules that would shift additional authority from the MSPB to OPM, including appeals involving probationary employees and suitability determinations. Concentrating all these adjudicatory functions within OPM at a time of reduced internal staffing and without demonstrated capacity would create further risk of inconsistent determinations and procedural delays.

Equally troubling is the erosion of procedural safeguards acknowledged within the proposal itself. Eliminating or weakening hearing rights and evidentiary collection processes would diminish the ability of employees to meaningfully challenge agency errors and would undermine confidence in the integrity of the system.

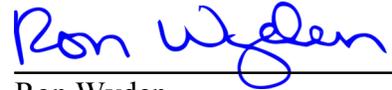
Finally, this proposal cannot be viewed in isolation from the broader context of the Administration's attacks on the merit-based federal workforce. Recent attempts at mass removals and the President's rhetoric suggesting that personnel actions are directed at political opponents underscore the importance of maintaining robust, independent oversight of RIF actions. Even if this restructuring were presented as purely administrative, it would still collapse the policymaking and adjudicatory separation Congress directed. Especially in the current political climate, the agency that sets personnel policy should not also have adjudicatory authority. If it were to have this concentrated authority, it would heighten the risk of misuse and politicization of workforce decisions.

As members of Congress, we have witnessed firsthand the vital services delivered to the American people by a nonpartisan and highly skilled federal workforce. It is our responsibility to ensure that the civil service remains protected from political retaliation and that it is guaranteed full due process rights. This proposed rule runs counter to those principles. We strongly urge OPM to reject it and instead collaborate with Congress to responsibly manage and modernize federal workforce operations.

Sincerely,



Chris Van Hollen
United States Senator



Ron Wyden
United States Senator



Bernard Sanders
United States Senator



Mark R. Warner
United States Senator



Michael F. Bennet
United States Senator



Richard Blumenthal
United States Senator



Mazie K. Hirono
United States Senator



Tim Kaine
United States Senator



Gary C. Peters
United States Senator
Ranking Member, Committee
on Homeland Security and
Governmental Affairs



Tammy Duckworth
United States Senator



Alex Padilla
United States Senator



Andy Kim
United States Senator

Angela D. Alsobrooks

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