

# United States Senate

WASHINGTON, DC 20510

April 23, 2019

The Honorable Margaret M. Weichert  
Acting Director  
U.S. Office of Personnel Management  
1900 E Street NW  
Washington, DC 20415

Dear Acting Director Weichert,

We write urging you to revoke your current Notice of Proposed Rulemaking (NPRM) 84 FR 5733, which would expand the seven-year criminal background check lookback to include participation in any pretrial diversion or intervention programs. This NPRM is inconsistent with and subverts efforts at the state and federal levels to promote reintegration and rehabilitation programs.

Currently, applicants are asked about recent convictions and periods of incarceration. Additional questions should not be added to include conviction alternative programs. The NPRM claims that asking about diversion programs will “close a [question] gap” and improve application accuracy. But this is a solution in search of a problem. Applicants should not have to disclose behavior that may not have resulted in conviction on a job application.

Diversion programs offer participants a real second chance and helps to move them out of the criminal justice system. After successful completion, participants are often allowed to expunge or seal their records. Diversion programs allow participants to avoid the negative consequences and stigma surrounding incarceration or convictions.

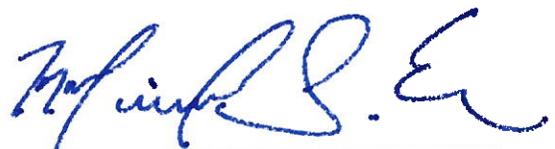
In December, Congress passed and the President signed The First Step Act, legislation aimed at ensuring that prisoners have access to rehabilitation and education programs. Over the past decade, Americans and Congress have taken a long hard look at who we incarcerate and why. This review has made us realize that too many elements of our criminal justice system are based on prejudice and have inflicted unnecessary harm in communities across the country.

The federal government should be leading the charge to encourage reintegration and rehabilitation--but unfortunately, this NPRM does the opposite. We strongly urge you to rescind this NPRM and focus efforts on how we can improve second-chance hiring within the federal government.

Sincerely,



Chris Van Hollen  
U.S. Senator



Mike Lee  
U.S. Senator