



July 3, 2025

Mr. Charles Ezell  
Acting Director  
Office of Personnel Management  
1900 E St. NW  
Washington, D.C. 20415-1000

Re: RIN 3206-AO84, "Suitability and Fitness"

Dear Mr. Ezell:

The Partnership for Public Service submits these comments on the rule proposed by the Office of Personnel Management entitled "Suitability and Fitness," RIN 3206-AO84, published in the Federal Register on June 3, 2025.<sup>1</sup> The Partnership views the proposed rule as another unwelcome mechanism for politicizing the federal workforce, and we therefore write in strong opposition to its adoption.

The Partnership for Public Service is a nonprofit, nonpartisan organization committed to building a better government and a stronger democracy. The Partnership was founded on the premise that any organization's best asset is its people and that the federal government needs dedicated, skilled and accountable talent to most effectively serve the American public.

The Partnership believes that federal agencies need clear and efficient procedures for addressing misconduct or poor performance in their workforces. Those procedures, though, must provide adequate guardrails to protect the merit system principles, which are the bedrock of our nation's professional, nonpartisan civil service. The proposed rule – especially taken in context of other recent personnel actions taken by the administration – moves in a different direction, enabling OPM to fire employees – and even debar them from future employment – without the safeguards that protect against political retribution.

In short, the proposed rule is a fast-track, five-day route for a president's political appointees at OPM to fire career employees across the government.

Our main concerns are that the proposed rule:

---

<sup>1</sup> 90 Fed. Reg. 23467.

- Allows OPM to bypass long-established due process procedures which protect federal employees from being punished for political reasons; exposing waste, fraud and abuse; or other reasons contrary to the merit principles;
- Consolidates personnel decisions at OPM, taking away decision-making authority from agency supervisors, managers and leaders – the people who best know their mission needs and are closest to the performance of their employees; and
- Distracts from the root cause work needed to modernize federal personnel management.

**A merit-based, nonpartisan civil service is in the best interest of our country and our democracy**

Our federal government has roughly two million civil servants, at least 80% of which live outside the D.C. region and are located across the country and around the world. America's civil servants support our troops and protect our national security, carry out our nation's foreign policy, administer essential services such as Social Security and Medicare benefits, provide healthcare and other benefits to veterans, guard against disruptions to our financial systems, run our National Parks, assist small businesses and farmers, maintain the safety of our transportation systems, protect our food supply, find cures for diseases and bring criminals to justice.

Federal employees take an oath to support and defend the Constitution, and they honor this oath by being careful stewards of taxpayer dollars and committed to the public good. They bring their expertise and experience to bear on the implementation of a range of complex mission requirements. Therefore, it is crucial to ensure that the career workforce is comprised of nonpartisan experts who carry out their duties and agency missions – which are borne out of laws authorized by Congress, not just directed by each administration – regardless of who occupies the Oval Office.

Civil servants are often called upon to offer impartial and objective advice, report illegal activity or misconduct, raise alarms about major problems and propose uncomfortable solutions to complex problems. This sometimes means they must push back against political policy proposals, not to undermine them or because of partisan preference, but because they can provide context, insights and awareness of other factors that impact those proposals. This is something every leader of an organization should cultivate: experts

and skilled employees who can help leaders navigate around pitfalls and think about best ways of implementation.

**The current framework protects our merit-system principles, while the proposed rule opens the door to politicization of the workforce**

Recognizing the harm cronyism in federal employment decisions caused to government effectiveness, accountability and service delivery, Congress established the merit-based civil service through the passage of the Pendleton Act in 1883. Congress and presidents have strengthened the merit system over the years, while also creating procedures consistent with those principles for agencies to take action to address misconduct or poor performance.

Under the current regulatory framework, suitability reviews are used to screen applicants for federal jobs to determine whether there are red flags that should prevent an individual from entering federal service. Currently, with limited exceptions, OPM generally delegates suitability decisions to agencies during hiring.<sup>2</sup> Once a new hire becomes an employee, though, agencies are subject to separate procedures Congress has created to address employee misconduct, which include the authority of the Merit Systems Protection Board to review and reverse agency decisions.<sup>3</sup>

The proposed rule, though, shifts personnel decisions to OPM, rather than 1) leaving those decisions with agencies, who best know their mission needs and their employees, and 2) within the construct Congress created to protect the merit principles.

OPM could bypass the due process protections that have been upheld by Congress and administrations of both parties for decades, enabling disciplinary actions unrelated to performance or integrity, and order an agency to fire an employee within five days. This is because the proposed rule expands and gives OPM authority to make suitability determinations – with limited notice and appeal rights – at any point during an employee's government service as a basis for removal, not just for applicants or new hires.

The proposed rule requires agencies to make referrals to OPM on suitability determinations for employees, but provides no guidance to agencies on evidence to submit. And while employees can appeal a negative suitability determination to the MSPB, the MSPB is

---

<sup>2</sup> Part 731 of Title 5, Code of Federal Regulations.

<sup>3</sup> Chapter 75 of Title 5, United States Code.

limited to making findings and will have no authority to overturn an OPM determination. The proposed rule also introduces new, broad reasons for firing. These include refusal to “certify compliance with non-disclosure obligations” – weakening whistleblower protections – and for “[k]nowing and willful failure to comply with generally applicable legal obligations, including timely filing of tax returns,” without adequate recourse for a federal employee to contest such decisions.

The proposed rule on suitability is part of a pattern of recent executive actions to politicize the federal workforce, which includes the proposed rule to create a Schedule Policy/Career (allowing political leaders to fire federal employees at will)<sup>4</sup> and the revised performance review criteria for the career Senior Executive Service (prioritizing loyalty to a president’s policies over honest policy advice).<sup>5</sup> These new policies undermine the merit principles and will significantly inhibit career employees from offering their candid advice as they could face firing over political or other disagreements.

### **Focus on fixing root causes, preserving merit principles**

Federal employees do remarkable work. At the same time, the Partnership has stressed over our history that federal employees do great things in spite of the complex system of laws and rules governing management of federal personnel and operations, not because of the system. The Partnership consistently has highlighted how the system is broken and in need of significant modernization. The Civil Service Act of 1978 was the last time Congress addressed comprehensively how we recruit, hire, retain and manage employees. How the government pays and classifies federal employees dates back to a law passed in 1949. Our civil service framework is not even designed for the advent of the computer age, much less for the fast-changing, increasingly digital workforce environment of 2025.

While it is essential to ensure federal employees maintain high standards of ethics and integrity, proposals to fire federal employees en masse while undermining merit system principles won’t achieve good performance outcomes for agencies, employees or the public. The civil service framework would be better served by reframing our approach to

---

<sup>4</sup> Proposed Rule, “Improving Performance Accountability and Responsiveness in the Civil Service,” 90 Fed. Reg. 17182 (April 23, 2025).

<sup>5</sup> Office of Personnel Management, “New Senior Executive Service Performance Appraisal System and Performance Plan,” (Feb. 25, 2025).



accountability and performance management. The termination of an employee often reflects multiple systemic breakdowns in the process.

To address these systemic breakdowns, policymakers should focus on the entirety of employee accountability – from improving hiring to attracting highly-qualified individuals, investing in employee development and manager training, building robust performance management processes that allow managers and agencies to appropriately oversee their workforce and hold employees accountable, and modernizing the systems that allow employees to effectively work across the enterprise. These elements are crucial components for any high-performing organization and are all critical parts of accountability.

Additionally, to discipline or remove employees who engage in misconduct or negligence in employment, Congress and the executive branch must adequately resource oversight and operational functions, which include the agencies and offices that conduct vetting of applicants and employees, agency chief security officers, human resource offices, general counsel offices and Inspectors General. Through the nomination and confirmation process, the president and the Senate also share a joint responsibility in ensuring that MSPB has a quorum of board members, which it currently lacks, to ensure final review of agency disciplinary actions. This is particularly important given that MSPB approves agency actions against employees in the vast majority of cases. Congress and the administration should also look for ways to streamline the appeals process, which is lengthy and confusing for both agencies and employees.

## **Conclusion**

While suitability is an important factor in the federal hiring process, leaders, managers and supervisors at federal agencies need effective ways to address misconduct or poor performance in their workforces beyond hiring. At the same time, our civil service rules must protect the merit principles and guard against employees being targeted for political or other unwarranted reasons. And while the Partnership disagrees with the proposed rule, we welcome a broader conversation about modernizing the federal civil service framework, starting with the employee performance management and accountability system.

Thank you for the opportunity to submit these comments.

Sincerely,



Max Stier  
President & CEO  
Partnership for Public Service