



**PARTNERSHIP
FOR PUBLIC SERVICE**

Better government. Stronger democracy.

March 9, 2026

Mr. Scott Kupor
Director, Office of Personnel Management
The Office of Personnel Management
1900 E St. NW
Washington, D.C. 20415-1000

Re: RIN 3206-AO97, “Suitability Action Appeals”

Dear Mr. Kupor:

The Partnership for Public Service submits these comments on the rule proposed by the Office of Personnel Management entitled “Suitability Action Appeals,” RIN 3206-AO97, published in the Federal Register on February 6, 2026.¹ The Partnership views the proposed rule as another unwelcome mechanism for politicizing the federal workforce, and we therefore write in opposition to its adoption.

The Partnership is a nonprofit, nonpartisan organization committed to building a better government and a stronger democracy. Core to our mission is the belief that a merit-based, nonpartisan civil service, who represents the diversity of the country, is central to our system of government. Since the Partnership’s founding over two decades ago, we have advocated across administrations for changes to federal law, regulations, policies and programs that improve our government’s ability to attract, hire and retain a talented and diverse workforce that effectively serves the public.

This proposed rule, evaluated in context with other recently proposed personnel regulations, is a step in the wrong direction for the federal workforce. As written, the rule will enable OPM to be the sole adjudicator for appeals of suitability actions – a role which has historically been the responsibility of the Merit System Protection Board (MSPB). This change is yet another action to remove safeguards meant to protect federal employees from politicized management actions and does not further efforts to ensure an accountable and effective workforce.

Though we oppose this rule, we firmly believe that accountability for federal employee misconduct is essential for maintaining public trust in government. For example, the Partnership commends the ongoing work being done as part of the Trusted Workforce 2.0 initiative to modernize government-wide personnel vetting and evaluate an employee’s conduct throughout their tenure in government. However, recently proposed changes to

¹ 91 Fed. Reg. 5352



the suitability determination process would not increase the accountability of government employees and would instead risk a further politicized process.

As we have noted in recent comments, we remain skeptical that OPM has the resources and capacity to take on additional appeals responsibilities for personnel decisions.² While OPM states that the policymaking function and the adjudication function of suitability action appeals will remain in separate offices, the proposed rule does not clearly define which teams within the agency will take on these roles. Moreover, the ultimate authority to reopen any appeals decisions would lie with the OPM director, a politically appointed position.

The Partnership agrees that federal agencies need clear and efficient procedures for addressing misconduct and poor performance. But those procedures must provide adequate guardrails to protect merit system principles, which are the bedrock of our nation's professional, nonpartisan civil service. We commend OPM for its attempts to streamline appeals processes, however the proposed solution in this regulation would ultimately remove the safeguards necessary for a high-functioning civil service.

Centralizing Appeals Adjudication Under OPM Represents Further Erosion of Due Process for Federal Employees

As written, the proposed changes in this rule would take away long-standing protections designed to ensure appeals of personnel actions are based on merit rather than politics and independently adjudicated. By allowing OPM to both set suitability criteria through the regulatory process and adjudicate appeals of suitability actions, the rule creates a conflict of interest that undermines the principle of neutral and independent review.

Under the Civil Service Reform Act of 1978, OPM was deliberately structured to be responsive to the president, while adjudicatory functions were assigned to the Merit Systems Protection Board as an independent, bipartisan body.³ This institutional design was intentional since placing adjudicatory authority within an agency closely aligned with the White House would undermine impartial decision-making. Placing even limited appeal procedures for suitability actions within OPM will create an inherent conflict of interest, particularly when OPM is simultaneously responsible for issuing workforce policy guidance and executing administration-wide personnel actions.

OPM Lacks the Capacity and Independence to Take on Additional Adjudication Functions

² <https://ourpublicservice.org/wp-content/uploads/2026/01/Partnership-for-Public-Service-comments-on-Office-of-Personnel-Management-Streamlining-Probationary-and-Trial-Appeals-proposed-rule-RIN-3206-AO961.pdf>

³ <https://www.congress.gov/crs-product/R45630>



The proposed rule suggests that centralizing appeals within the OPM is necessary to make the appeals process more efficient. If the administration’s true goal is to streamline this process there are practical steps it can take, such as developing an e-filing system as described in the proposed rule, to improve timeliness and reduce administrative burden without compromising the independence of the process.

Instead, the proposed rule would move appeals from MSPB, an independent body with established procedures and longstanding expertise, to an OPM office that lacks the independence to judge cases. The proposed rule offers little clarity on which OPM office would oversee the new appeals process, how personnel who would be working on these cases would be trained, or how adjudicatory functions would remain separated from the agency’s policymaking and enforcement arms.

This overlap creates a conflict of interest, eroding confidence in the integrity of the appeals process and opening the federal workforce to greater politicization. By replacing an independent agency’s adjudicatory process with one housed inside an agency that is directly accountable to the White House, this rule would dismantle the long-standing safeguards designed to protect neutrality in federal workforce personnel decisions.

Most notably, the proposed process would concentrate extraordinary discretion in the hands of the OPM director, who would be the sole official authorized to reopen appeal determinations. This structure would introduce unnecessary administrative bottlenecks while further politicizing decisions.

Packaged With Last Year's Proposed Suitability and Fitness Regulation, this Rule Would Open Federal Workers to Greater Risk for Partisan Employment Decisions

In June 2025, OPM issued the “Suitability and Fitness” proposed rule, which expanded the grounds for taking suitability actions based on an employee’s post-appointment conduct. The rule introduced “post-appointment conduct” as a new, open-ended basis for deeming current employees unsuitable, and laid the groundwork for centralizing those decisions with OPM rather than leaving them up to individual federal agencies.⁴

Taken together, these proposed rules would give political leaders greater influence over employment decisions by centralizing the power to regulate the suitability criteria and the appeals adjudication process without allowing employees to independently contest or disapprove of politically motivated removals.⁵

While the Partnership agrees that agencies need an effective system to manage misconduct, it must not come at the expense of employees being susceptible to unfair and

⁴ 90 Fed. Reg. 23467

⁵ Partnership for Public Service, “Comments on Office of Personnel Management ‘Suitability and Fitness’ Proposed Rule,” July 3, 2025.



politicized personnel decisions. Any accountability system must have clear guardrails and procedures in place. It is a worthwhile endeavor to look at the employee appeals process holistically and ensure it is fair, simple and transparent. Bringing it back to OPM does not meet that goal. The Partnership instead welcomes an opportunity to work with you and other stakeholders to identify alternate reforms.

Thank you for the opportunity to submit these comments.

Sincerely,



Max Stier
President and CEO
Partnership for Public Service