PARTNERSHIP
FOR PUBLIC SERVICE

Better government. Stronger democracy.

August 3, 2026

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

Re: Promoting Employee Accountability (Docket No. 2025-OPM-0012)

Dear Director Kupor,

The Partnership for Public Service submits these comments on the Office of Personnel Management's notice for comment "Promoting Employee Accountability" (Docket No. 2025-OPM-0012, July 7, 2026). The Partnership is a nonprofit, nonpartisan organization committed to building a better government and a stronger democracy. We have advocated across administrations for federal laws, regulations and programs that improve the government's ability to attract, hire and retain a talented workforce that effectively serves the public.

We agree with OPM and MSPB that agencies need streamlined and efficient procedures for addressing unacceptable performance and conduct. We support the proposed investment in supervisory training and the elimination of clean-record settlement agreements, which have allowed underperforming and problematic employees to be passed from agency to agency without consequence or documentation.

However, for reasons discussed below, we do not believe this package of proposals addresses the root causes of dysfunction in performance management or challenges in dealing with poor performers. And in removing established frameworks without replacing them with adequate guardrails or realistic timelines, the rule risks trading one set of dysfunctions for another: less transparency, less consistency across agencies and greater vulnerability for politicized decision-making. Finally, we believe this rule can only achieve its stated goals if paired with meaningful investment.

The Proposed Rule Treats Symptoms Rather Than the Root Causes of Employee Accountability Failures

While administrative procedures to take performance-based and adverse actions contribute to the challenges in holding employees accountable for poor performance and misconduct, the bulk of the issues occur, and could be better addressed, upstream. Earlier stages of performance management—goal setting, ongoing feedback, early identification of and differentiation between performance or conduct issues—need to be reformed to remediate or redirect employees even before formal actions become necessary. This rule only addresses the point where removal is already the likely outcome, rather than earlier in the performance management cycle where problems could be identified and potentially corrected.

This proposed rule correctly identifies supervisors as a linchpin in effective performance management. However, of the three root causes of supervisory effectiveness—capability, commitment and capacity—it only attempts to address one: capability through increased supervisor training frequency and content. It ignores commitment (are supervisors fully motivated to be in a supervisory role or was it the only pathway to promotion?) and capacity (do supervisors have the bandwidth and resources to effectively manage a reasonable number of direct reports?).

Supervisors are not the only critical actor in employee accountability, especially once the performance-based or adverse action stage is reached. Agencies' Offices of General Counsel are often key players in how or if action is taken. Even where a supervisor has already decided that removal is the appropriate outcome, these offices are often institutionally incentivized to protect the agency from litigation risk, which can mean pushing toward more conservative settlements or lesser penalties than the supervisor's judgment would otherwise support. Nothing in this rule addresses that dynamic.

Finally, we are skeptical that this rule will meaningfully change outcomes given the current state of agency capacity. In a period marked by reductions in force, hiring freezes and broader efforts to shrink agency capacity, supervisors are more likely to be incentivized to preserve headcount of any kind than to remove underperforming employees and risk losing a position altogether. In this environment, we are concerned these changes are less likely to be used to address genuine poor performers and more likely to be used—especially when packaged together with the narrowing of who can serve as a union representative and the reduced avenues for appeal—to remove employees without adequate cause and with diminished opportunity to contest that decision.

Removing Frameworks Without Replacing Them Leaves the System Without Adequate Guardrails

Taken together, the proposed changes move away from the frameworks that have historically structured how managers and agency leaders exercise discipline and performance authority, including the *Douglas* factors and tables of penalties, in favor of broader latitude and reliance on individual supervisory judgment. But removing structure is not the same as removing complexity, and large, multi-layered federal agencies still need some shared framework to promote consistent, defensible decisions across work units. Unstructured discretion is workable in a small organization where a handful of leaders know every case; it is much harder to sustain across an agency with thousands of supervisors making discipline decisions independently.

It is also unlikely that removing these frameworks from regulation will actually eliminate their use in practice. Even as OPM narrows avenues for appeal, the possibility of appeal still exists, and supervisors will continue to seek the support of human resources and general counsel before proceeding to removal. The likely result is that HR and legal offices will continue to develop and apply their own informal, *Douglas*-like checklists and penalty tables—but without the transparency, consistency and accountability that come from having those frameworks codified. Rather than eliminating rigidity, this risks simply making the application of performance-based and adverse actions more opaque and more variable across agencies.

This reduction in structure is also being proposed alongside other administration actions that risk increasing politicization in the merit-based civil service. This includes actions that have increased the number of political appointees[1], discouraged lawful disclosures essential to government accountability[2], reduced avenues for appeals of personnel actions[3] and concentrated adjudications into OPM[4]. Considered together, we are concerned that reducing the frameworks and procedural checks embedded in the merit system—at the same time other changes are increasing the potential for political influence over personnel decisions—will make it more likely that discipline and removal decisions are driven by favoritism or politics rather than documented performance and due process.

Success Depends on Investment That the Rule Does Not Provide

Even setting aside our concerns above, the reforms in this rule cannot succeed on their own. For supervisors and agency leaders to exercise sound judgment in service of their agency's mission—especially under this rule's proposals to rely more heavily on individual discretion—they need genuine capability, commitment and capacity. We applaud the focus on training but emphasize that effective training must be well-designed, continuously evaluated and improved, and tailored to help supervisors work through the kinds of difficult, fact-specific personnel situations they will actually encounter, not just generalized situations.

We are also concerned about the absence of any accompanying commitment to resource this effort. Training budgets and human resources functions are frequently among the first line items cut when agency budgets tighten, and we are not aware of any meaningful signal from OPM or the administration that additional funding or staffing will accompany this rule's expanded training mandate. Asking agencies to train supervisors more often, on more subjects, without additional resources is a "do more with less" mandate. That approach tends to produce exactly the kind of perfunctory, check-the-box training the rule is ostensibly designed to move away from. That kind of training satisfies a compliance requirement without building real capability, while adding to supervisors' administrative burden and taking time away from the work of managing their teams.

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[1] Partnership for Public Service, "Precedent abandoned: The spread of political appointments into federal functions historically led by career officials" (May 28, 2026), https://ourpublicservice.org/know-the-facts/blog/spread-of-political-appointments-into-federal-functions-historically-led-by-career-officials.

[2] Partnership for Public Service, Comment Letter on Proposed Rule, *Confidential Government Information Nondisclosure Agreement*, Docket No. OPM-2026-0100 (June 26, 2026), https://ourpublicservice.org/wp-content/uploads/2026/06/Partnership-for-Public-Service-comments-on-Office-of-Personnel-Management-Confidential-Government-Information-Nondisclosure-Agreement.pdf.

[3] Partnership for Public Service, "Proposed changes to appeals processes weaken protections for federal employees" (March 18, 2026), https://ourpublicservice.org/know-the-facts/blog/proposed-changes-to-appeals-processes-weaken-protections-for-federal-employees.

[4] Id.

Conclusion

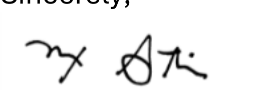
The Partnership shares OPM and MSPB's goal of a federal workforce that is accountable, high-performing and able to deliver on agency missions. While we support the rule's efforts to invest in supervisory training and to end the use of clean-record settlements, we do not believe this overall package, as proposed, will achieve those goals.

We urge OPM and MSPB to consider the following changes as they finalize this rule:

- First, the timelines the rule prescribes do not reflect the operational realities agencies face. A uniform 30-calendar-day cap on opportunity periods to demonstrate acceptable performance, for example, may be workable for some roles but insufficient for positions with longer performance cycles, complex duties or seasonal workloads. Agencies vary enormously in mission, workforce size and operational tempo, and a single government-wide timeline leaves little room for agencies to calibrate procedures to their own circumstances. We recommend OPM build greater flexibility into the prescribed timelines so that agencies can calibrate procedures to their own workforce, mission and operational realities, rather than applying a single rigid standard across the executive branch.
- Second, rather than eliminating consideration of the *Douglas* factors altogether, we recommend retaining emphasis on a core subset most central to a fair and defensible penalty determination: the seriousness of the offense, the employee's past disciplinary record, the effect on the employee's ability to perform, consistency of the penalty with those imposed on comparable employees, and the employee's potential for rehabilitation.
- Third, we encourage OPM to work with agencies to consider establishing clearer bright lines on the conduct side of accountability, while preserving greater flexibility for supervisors addressing performance-based concerns. Examples include the enumerated violations in Section 1203(b) of the IRS Restructuring and Reform Act of 1998, informally known as the "10 deadly sins," which trigger mandatory termination subject to limited appeal. We understand these bright lines may need to be tailored to agencies and jobs but also believe that everyone benefits from clear expectations.

Thank you for the opportunity to comment on this proposed rule. The Partnership stands ready to serve as a resource to OPM and MSPB as they work to build a more accountable, effective federal workforce, and we would welcome the opportunity to discuss these comments further.

Sincerely,



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