

November 21, 2023

VIA CERTIFIED MAIL AND EMAIL

Peter T. Jenkins
c/o Public Employees for Environmental Responsibility
962 Wayne Ave., Suite 610
Silver Spring, MD 20910
pjenkins@peer.org

RE: Citizen Petition to the Office of Personnel Management

Mr. Jenkins:

The U.S. Office of Personnel Management (OPM) is in receipt of your “Citizen Petition to the Office of Personnel Management,” described as a Petition for Rulemaking and Alternative Notice of Intent to Sue. In this document, you request that OPM adopt regulations consistent with the requirements of the Administrative Leave Act (ALA) and propose that OPM adopt additional provisions beyond those requirements. As you noted, OPM published a notice in the Federal Register on July 13, 2017, proposing to issue new regulations on the granting and recording of administrative leave, investigative leave, notice leave, and weather and safety leave. 82 FR 32263.

OPM agrees that it is important to finalize regulations implementing the ALA.¹ Accordingly, OPM plans to issue a final rule addressing administrative leave, investigative leave, and notice leave in spring 2024. OPM is not committing to initiating a new rulemaking by issuing a new proposed rule as proposed by PEER. Instead, as OPM prepares the final rule, we will carefully consider all comments received in response to the 2017 Proposed Rule, including PEER’s comment submitted on August 2, 2017.² As part of that process, OPM will consider whether portions of the rule can be finalized immediately and whether parts require a supplemental notice of proposed rulemaking. Commenters raised important implementation issues, and consideration of the comments submitted in response to the 2017 Proposed Rule will achieve implementation of the ALA more expeditiously than initiation of a new rulemaking.

While OPM understands PEER’s request to expedite this process, PEER’s demand that OPM promulgate an alternative regulation within 60 days of PEER’s letter is not workable. The Office of Management and Budget has designated this rulemaking as “Other Significant,” subjecting a

¹ We note that OPM has already finalized regulations regarding the weather and safety leave provisions of the Administrative Leave Act. *See* 83 FR 15291 (April 10, 2018).

² *See* <https://www.regulations.gov/comment/OPM-2017-0005-0037>.

draft final rule to up to 90 days of OMB and interagency review prior to publication.³ Accordingly, OPM requests that PEER refrain from seeking further legal recourse until at least June 2024, when PEER will have had an opportunity to consider OPM's scheduled regulatory action.

OPM leads federal agencies in workforce policies, programs, and benefits in service to the American people. Thank you for your interest in administrative leave for Federal employees. Please contact Laura Barhydt at Laura.Barhydt@opm.gov if you have further questions or concerns.

Sincerely,

/s/

Webb Lyons
General Counsel

³ Exec. Order No. 12866, Sec. 6 (Sept. 30, 1993).