



April 15, 2025

The Honorable Howard Lutnick
Secretary
U.S. Department of Commerce
1401 Constitution Ave, NW
Washington, DC 20230

Dear Secretary Lutnick,

At a time when the President is publicly touting that investors have recently made millions and even billions off recent swings in the stock market, I am writing to ask you to intervene personally in a matter of great importance to the working men and women of this country.

Sloppy record-keeping and illegal actions by your office are unnecessarily destroying the economic well-being of recently fired probationary employees at the National Oceanic and Atmospheric Administration (NOAA). These employees, who were on paid administrative leave, were recently re-fired on April 10, 2025, by John K. Guenther, the Department of Commerce's Deputy General Counsel for Administration and the NOAA's Acting General Counsel. These most recent firings came in response to a decision by an appeals court vacating restoration orders for these probationary employees, leaving these employees in legal limbo until the underlying merits of the case are fully litigated.

Working men and women in this country who perform well in their jobs should be treated with dignity and respect, something your office is failing to do. Below, we outline some of the problems that have come to our attention concerning how your office is handling these mass firings and the terrible problems that the sloppy work of your staff is causing these employees. These problems are not the result of the human resource staff at NOAA, but the failure of the Department of Commerce to follow the law and provide the necessary support to the human resource staff at NOAA.

1. Documentation issues with original termination.

- Many employees never received formal documentation of their firing (SF-50). All they had was an email. Computer access was removed about an hour after the email was sent. Many couldn't even access the email that fired them, and they had to have supervisors reach out to IT to try to get a copy of it. Two weeks later, many still had no formal documentation of their terminations.
- People could not switch to their partners' health insurance because they could not prove they had a qualifying life event. Many insurance companies did not accept the termination email (which did not look official and perhaps seemed to an insurance company like a forgery). There are employees with serious health issues, children with serious health issues, and employees with expensive medications.
- People are struggling with the unemployment application process because states want you to disclose whether you were fired for cause, and the emails your staff sent make it sound as though they were fired for cause even though they were not. States want you to check a box if you were "laid off" for staff reductions or if you were terminated for some other issue. The emails did not say that we were part of a Reduction in Force (RIF) but implied that the employees were fired for a performance issue or did not possess the skills/knowledge needed for the agency. Your process for notifying employees they were fired is complicating unemployment requests.

2. Complications with reinstatement. While employees were grateful to be reinstated, even if on administrative leave, many employees experienced a multitude of issues, some of which are discussed below.

- While many received back pay going back to February 28, not everyone did. Some people never received pay for the remaining days of the pay period 4 (the one in which we were fired). At least one person has said their timekeeper and supervisor kept going into their pay period 4 timesheet to try to add admin leave from February 28 through March 7 and then would look later, and all the admin leave had been deleted. The supervisor and timekeeper would add it back in again and it would get deleted again.
- Some people never received pay for the hours they were on duty and working in pay period 4 (from February 24-27), and no one at NOAA has been able to resolve this.
- Some people had time coding errors for pay period 4 (the period we were fired during). For example, people who worked were coded as taking sick leave, and people have had hours incorrectly docked from their earnings and leave statements.
- For some employees, insurance premiums had been taken out of their reinstatement paychecks while they were on administrative leave, but their insurance companies showed their plans as canceled. They could not get coverage. Many people had to

pay out of pocket for care and were told that they could get reimbursed by the FEHB later. They were being docked pay for insurance coverage they could not access.

- Some employees who had been trying to switch over to their partner's insurance plans could not switch because they no longer had a qualifying life event. However, they couldn't get coverage under their federal health insurance plan, as the government had told the insurance companies that they no longer had coverage. Folks spent hours on the phone with insurance companies, calling DOC Talent Services, FEHB, and NOAA HR.
- Staff heard that NOAA staff asked to bring fired employees back to work and the office in an on-duty status, but they were denied by the Department of Commerce every time.

3. Challenges with being re-terminated - and with a February 27 retroactive firing date

Now that NOAA probationary employees have been re-terminated, there are a number of additional issues folks are facing:

- Many people completed their probationary period during the last few weeks, but the re-termination emails they received said they were being terminated retroactively to their original termination date. Are these folks still probationary? Can they be treated as such? No one has any answers.
- Many people received pay this past Friday, April 9, 2025 (the day after employees were re-terminated) for pay period 6 and had insurance premiums taken out of that check. But if their terminations go back to February 27, how will they get insurance coverage for the intervening weeks? Many have been paying out of pocket for health care with the understanding that NOAA/DOC was struggling to get health insurance reactivated and that they would get reimbursed once the government had time to reach out to the insurance companies. Is NOAA/DOC now going to reach back out to insurance companies and say that employees were terminated on February 27? This is a true nightmare for folks whose families rely on federal insurance.
- What about the FERS contributions employees have all been making in these last paychecks? How is it legitimate that we have been paying into FERS but cannot claim those weeks toward their service computation date?

4. Probationary employees are not receiving the same treatment as those being RIF'd are receiving, even though they were clearly RIF'd, and it is causing them direct and immediate harm.

- When applying for government jobs in the future, those who are RIF'd get reinstatement preference. Because these employees were not RIF'd, they can't get this preference.
- When applying for government jobs, there is a box you are required to check to indicate if you were let go from a previous federal job. Technically speaking, employees fear they will be accused of lying if they don't check this box, even though they know that we were not fired for any cause (but rather as a mass reduction in force). Since employee complaints to the OSC and MSPB could take years to resolve, they are being hindered from future employment opportunities. Several folks checked this box on federal applications (for previous job series they have worked in the past) and were kicked out of the application process. Others are just not checking the box (but will have an SF-50 in their record that says they didn't meet the requirements of their probationary period). This is slanderous and outrageously unfair to these employees and hinders their efforts to find work.
- Those getting RIF'd are getting 30-60 days' notice. However modest, they get a small severance based on their years of service. They get reinstatement preference. Probationary employees are being treated as though they had poor performance or conduct issues (when it was not), which directly impacts their lives.

We hope you can intervene immediately to address these issues.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions.

Sincerely,



Tim Whitehouse
Executive Director

cc. John K. Guenther, the Department of Commerce's Deputy General Counsel
Laura Grimm, Chief of Staff NOAA