



June 30, 2026

Charles N. Baldis
Senior Counsel and Designee of Acting Special Counsel Jamieson Greer
U.S. Office of Special Counsel
1730 M Street, N.W., Suite 218
Washington, D.C., 20036-4505

RE: Request for OSC to Issue Guidance Memorandum to Executive Agencies on Prohibited Personnel Practices and Loyalty Essay Questions

Dear Senior Counsel Baldis:

I am contacting you on behalf of Public Employees for Environmental Responsibility (PEER) to request that the Office of Special Counsel (OSC) issue a memorandum to provide guidance to executive agencies prohibiting the use of loyalty essay questions in federal hiring. As explained below, such a memorandum is necessary because contrary to the assurances of OPM, these essay questions have increasingly become mandatory in practice across many parts of the federal government.

The federal hiring policy currently requires all federal agencies to ask “each job application graded GS-05 or above” to respond to “four short, free-response essay questions” including the following:

“How would you help advance the President’s Executive Orders and policy priorities in this role? Identify one or two relevant Executive Orders or policy initiatives that are significant to you, and explain how you would help implement them if hired?”¹

In response to a PEER complaint issued on June 11, 2025, charging that the inclusion of these and related essay questions to federal job applicants constituted a prohibited personnel practice², in a letter dated June 30, 2025, you wrote:

“OSC has concluded that OPM’s Additional Guidance resolves the concerns raised in your letter and, at this time, we cannot conclude that a PPP has occurred, exists, or is to be taken.”³

¹ <https://content.govdelivery.com/accounts/USOPM/bulletins/3e5f668>

² https://peer.org/wp-content/uploads/2025/06/6_11_25-OSC-Advisory-Request-Final.pdf

³ https://peer.org/wp-content/uploads/2025/07/7_2_25-OSC-Response-to-06.11.2025-PEER-Letter.pdf

OPM's Additional Guidance conveyed that responses to these prompts for essay questions are not mandatory for agencies to use or for applicants to answer and that answers to these questions must not be "scored or rated" and should be treated the same as a "cover letter." This Guidance's assurances that the essay questions would not be used to "impose any ideological litmus tests or disqualify any applicants who fail to answer any questions" does not respond to the concerns raised in our original complaint. In addition, subsequent developments have given us cause for further concerns.

1. The Essay Questions Violate Merit Principles

The very content of these questions asks applicants for their views on the priorities and policies of the current President. As we pointed out in our original request for an advisory opinion, merely asking job applicants for their views appears to be a blatant prohibited personnel practice because they gave rise to:

- Discrimination in hiring on the basis of non-performance-related factors in violation of 5 U.S.C. 2302 §(b)(10);
- Discrimination in hiring on the basis of political affiliation in violation of 5 U.S.C. §(b)(1); and
- Hiring practices contrary to merit system principles expressed at 5 U.S.C. § 2301.

You did not dispute the application of these legal prohibitions. Instead, you contended that the potential for legal violations was minimized by OPM assurances that job applicants would not be required to answer and their refusal to answer would not factor in the selection process. This conclusion does not withstand scrutiny.

If the essay questions are not relevant to the selection process, why are they being posed at all?

Moreover, it is absurd to contend that answers to these questions would be treated as if they are a "cover letter" when they are clearly more than that.

Merely posing the question puts the job applicant in the uncomfortable situation of potentially disadvantaging their chances by not answering.⁴ Each applicant wants to ensure that their candidacy would be seen in the most favorable light. Declining to respond to part of the application would certainly not count favorably.

2. These Essay Questions Are Being Widely Applied

OPM's assurance that it is up to individual agencies whether to ask the questions appears to have had little effect. By this May, these essay questions have appeared on about 33,000 job postings; approximately one quarter of all federal job applications with questionnaires posted since OPM unveiled its Merit Hiring Plan nearly a year ago.⁵

⁴ <https://www.resumeyourway.com/blogs/federal-resumes/the-4-merit-hiring-essay-questions-are-a-trap>

⁵ <https://storage.courtlistener.com/recap/gov.uscourts.mad.291405/gov.uscourts.mad.291405.75.7.pdf>

In addition, agencies such as the Departments of Labor, Energy, Interior, and Justice have all indicated they are incorporating these questions into their job applications.

3. Answering Questions Mandatory in Practice

Contrary to assurances by OPM, several agencies do not permit the submission of a completed job application without responding to the essay questions. For many federal job openings, the essay questions were marked as a “required” field.⁶ This means that applicants must respond to these questions in order to submit a completed job application.

Despite the fact that these documented findings have drawn media attention, OSC has apparently not investigated to see if OPM’s assurances are being followed. Nor has OSC taken any corrective action.

4. Essays Are Affecting the Hiring Process

The National Park Service is a federal agency which typically hires thousands of seasonal employees to work during the summer months of high park visitation. This past year, NPS reportedly has had trouble filling vacancies. One reason cited by NPS officials are the questions asking potential hires to opine on their preferred Trump administration policies. These essay questions discouraged individuals from seeking the jobs. As one such official commented: “The political questions gross out a lot of applicants, so we aren’t even getting many.”⁷

In litigation addressing the constitutionality of posing these questions to job applicants, plaintiffs’ counsel has produced affidavits from people who said the mere presence of the questions affected their decision as to whether to even apply to affected openings.⁸

5. Political Appointees Are Now in Charge of the Hiring Process

On October 15, 2025, President Trump signed Executive Order 14356 (Ensuring Continuing Accountability in Federal Hiring)⁹ which provided for the creation of a Strategic Hiring Committee to approve the filling of each vacancy within their agency:

“The Strategic Hiring Committee shall include the deputy agency head and the chief of staff to the agency head, along with such other senior officials as the agency head may designate. The Strategic Hiring Committee shall ensure that agency hiring is consistent with the national interest, agency needs, and the priorities of my Administration.”

This EO requires that political appointees oversee the hiring process in each agency. This arrangement greatly increases the likelihood that political factors may enter into the civil service hiring process.

⁶ <https://federalnewsnetwork.com/hiring-retention/2026/04/federal-job-applicants-cant-skip-loyalty-question-that-opm-says-is-optional-court-filings-claim/>

⁷ <https://www.govexec.com/workforce/2026/05/parks-interior-struggle-hire-temporary-staff-busy-season/413537/>

⁸ <https://fedscoop.com/federal-agency-jobs-trump-loyalty-question-opm-lawsuit/>

⁹ <https://www.whitehouse.gov/presidential-actions/2025/10/ensuring-continued-accountability-in-federal-hiring/>

The EO also commands that the hiring practices further the “the priorities of my Administration.” This makes it more unlikely that the decision by a job applicant not to volunteer on how he or she would “help advance the President’s Executive Orders and policy priorities” would be ignored or treated as a cover letter.

Office of Special Counsel Role and Responsibility

In his letter to PEER, you stated that “OSC stands ready to help prevent such misuse. We thank you for the concerns raised in your letter and assure you that OSC will continue to receive and review any complaints raised about the implementation of the Merit Hiring Plan to ensure that no PPPs are committed and that the merit system principles are upheld.”

That does not appear to have been the case. Instead, OSC has stood by and allowed the nation’s largest intrusion of prohibited political considerations into the civil service hiring process.

The principal point of the civil service system is to have a workforce insulated from political influences which can serve presidents of different parties with different priorities equally well. The actions cited clearly undermine this foundation of a non-partisan federal civil service.

The OSC website cites its mission to prevent prohibited personnel practices and to ensure full compliance with civil service laws, rules and regulations. It is the job of OSC to ensure that federal agencies faithfully execute these legal responsibilities.

In conclusion, PEER once again urges OSC to affirmatively advise federal hiring officials of these legal obligations. Further, we urge OSC to issue a formal memorandum¹⁰ advising that any Hiring Plan must conform with the legal requirements of the Civil Service Reform Act (CSRA) by removing the essay questions. As explained above, making the essay questions “optional” does not eliminate their fundamental illegality; the questions themselves violate the CSRA.

Sincerely,

Timothy Whitehouse,
Executive Director, PEER

¹⁰ See footnote 1.