Comment on

"Promoting Employee Accountability" — Docket ID 2025-OPM-0012

Submitted by Public Employees for Environmental Responsibility

Public Employees for Environmental Responsibility (PEER) submits this comment in opposition to the proposed rule "Promoting Employee Accountability," Docket ID 2025-OPM-0012

PEER urges OPM and MSPB to withdraw this draft rule in its entirety. We recognize that reforms are needed within the civil service to better handle poor performing employees. However, this rule replaces a structured, judicially tested disciplinary framework with vague, discretionary standards and it makes highly technical changes to current regulations that would allow employees to be fired from federal service even if they do nothing wrong.

This rule is part of a broader effort to strip away meaningful civil service protections for public employees, leaving those who report waste, fraud, abuse, scientific misconduct, or other improper conduct with no reliable way to have their removal reviewed promptly by a neutral administrative body. It reflects a further push by the Trump administration to move to a spoils system of government -- one that will result in widespread corruption, grift and patronage throughout the civil service.

We also note that the comment period here runs just 32 days, from July 2 to August 3, 2026, shorter than the 60-day period OPM has itself previously described as its standard practice for comment periods of this kind. With this quick timeline, we are concerned that the administration is using this rule to lay the groundwork for more large-scale, performance-pretext removals that will be substantially harder for courts, employees, or the public to detect and challenge before serious damage is done.

What the Rule Changes

The proposal touches at least five parts of the federal disciplinary process, and each piece shifts unilateral authority toward the manager doing the firing, and away from a neutral reviewer and the employee in question.

Below are a summary of the changes and why we are concerned about those changes and a section on why these changes will lead to more corruption, more grift, and less accountability in the federal government.

1. Less Time to Address Performance Deemed Unacceptable (5 CFR Part 432)

Today, an employee whose performance is rated unacceptable must be given a "reasonable" opportunity to improve before being removed. In practice, agencies have used anywhere from 30 days to 120 days or more, depending on the complexities of the job and the nature of the performance to be improved. The new rule caps this at 30 days as a firm limit, while restricting the ability of employees or their representative to negotiate longer periods but allowing agencies to extend the period at their sole discretion. Thirty days is a very short window to fix a documented problem, especially if the employee may have to gather evidence, find representation, and prepare a written response at the same time.

2. Removing A System that Keeps the Punishments Proportionate (5 CFR Part 1201)

For 45 years, when the Merit Systems Protection Board and courts reviewed whether a firing or suspension was too harsh for the offense, it used a structured list of 12 factors called the “Douglas Factors” — things like the employee's past record, whether the punishment was consistent with how others were treated, and how serious the offense actually was. The new rule throws these factors out and replaces it with a vague standard called "totality of the circumstances." The consequence of this change is that managers will no longer be required to walk through a specific list explaining why removal, rather than a warning or a suspension, was the right decision. That makes it much harder for an employee, or a reviewing body, to argue that punishment did not fit the offense.

3. Limiting the Comparison Pool for Fairness (5 CFR Part 752)

One of the only ways an employee can currently prove they were singled out for harsh punishment is to show that other employees who did the same thing were treated more leniently. The new rule narrows the group of comparable employees an agency has to consider to just the same work unit and the same supervisor. If the person deciding your punishment is the same person you believe is treating you unfairly, limiting the comparison pool to that person's own team makes it far easier for a pattern of unequal treatment to go unnoticed.

4. Restricting the Ability to Come to Common Sense Agreements (5 CFR Part 752 and 432)

Right now, an employee facing removal can sometimes negotiate a settlement by, for example, agreeing to resign in exchange for a clean personnel file, rather than fighting a public, drawn-out case. The new rule restricts these agreements, framed as closing a loophole that lets bad performers move to another agency without consequence. But it also removes a tool that an employee who does not want a public fight may use to exit without a permanent mark on their record. Ending this option can push more disputes into open conflict rather than resolving them quietly, and it removes flexibility that can protect employees and the employer.

5. Makes a Mockery of “Voluntary Resignations” (5 CFR Part 715)

The proposal creates a bright-line rule that if an employee goes ten consecutive days without showing up and without resigning, this counts as a voluntary resignation. Because it is treated as voluntary, none of the usual civil service protections apply -- no advance notice of termination, no chance to respond, no appeal. This sounds reasonable when picturing an employee who simply stopped showing up. But employees can also be caught in a leave-approval dispute, a mid-reassignment mix-up, or a supervisor who is slow to process paperwork on purpose. There is no built-in mechanism in the rule for the employee to challenge the factual question of whether the absence was actually authorized.

This Rule Helps Return Our Government to the Spoils System

This rule is one piece of a broader, ongoing effort to convert the federal civil service from a nonpartisan workforce to one that is answerable only to the political leaders of the moment.

Here is an example of these proposed changes would work: an employee who reports financial irregularities, questions an improper order, or raises a scientific finding inconvenient to a political priority could, under this rule, be moved from a performance rating to a completed removal in a matter a month, with a thinner paper trail and less structured justification required at every step.

Meanwhile, separate legal protections against retaliation -- for example, a complaint to the Office of Special Counsel, or an inspector general -- move on a very slow timeline that could take years, through offices whose independence is itself are now in question. By the time a retaliation claim could be resolved, if it is resolved at all, the removal has long been finalized and the deterrent message to remaining employees has already been delivered.

In addition, many employees who have been quickly fired will have no independent recourse to challenge their firings – and those that do would generally have to go through the MSPB system, a system whose independence is under attack by this administration.

This is how institutional corruption becomes normalized: not through one dramatic move, but through a series of what may appear to be individually defensible, procedurally clean actions that collectively make the workforce answer to only those with power rather than to the law, Congress or the public.

IV. PEER Requests that OPM and MSPB withdraw the Rule

PEER's requests that OPM and MSPB withdraw this proposed rule in its entirety. If OPM wishes, it can pursue narrower, genuinely administrative reforms to the disciplinary process, redrafted from the ground up with the safeguards below built in from the start. Critical to any administrative reforms must be:

- A preservation of the Douglas Factors rather than replacing it with an undefined "totality of the circumstances" standard.
- Restore a longer floor for the performance-improvement period -- consistent with prior practice of 30 to 120 days or more depending on the position

- Broaden, rather than narrow, the pool of comparable employees used to evaluate whether a penalty is consistent with how similar conduct has been treated elsewhere in an agency.
- Drop the ten-day abandonment rule before separation becomes final and unappealable.
- Evaluate any new proposals for “Evaluating Employee Accountability” together with the pending nondisclosure agreement proposal (OPM-2026-0100-0004) and other personnel proposals and actions taken by this administration, rather than in isolation, and account in the final rule for their combined effect on employees' practical ability to report wrongdoing without fear of swift, thinly justified firing with no practical way for the employee to challenge their termination.