

Congress of the United States

Washington, DC 20515

August 3, 2026

Mr. Scott Kupor
Director
U.S. Office of Personnel Management
1900 E Street NW
Washington, DC 20415

Mr. Henry Kerner
Acting Chairman
Merit Systems Protection Board
1615 M Street NW
Washington, DC 20419

Director Kupor and Acting Chairman Kerner,

We write in strong opposition to the Office of Personnel Management (OPM) and Merit Systems Protection Board (MSPB)'s proposed rule "Promoting Employee Accountability," Docket OPM-2025-0012 (RIN 3206-AO91). This proposed rule would weaken longstanding civil service protections that promote merit-based employment, due process and the recruitment and retention of skilled workers. Moreover, as Members of Congress who represent nearly eight thousand civilian workers at the Portsmouth Naval Shipyard, we are concerned about the proposed rule's impact on workers essential to our national security.

OPM and MSPB's joint notice of proposed rulemaking issued on July 2, 2026, unnecessarily weakens civil service protections and undermines workers' rights to challenge removal. Current law provides agencies with the authority to address misconduct and poor performance while ensuring personnel decisions are appropriate, fair and consistent. This rule would impose a short 30-day limit for performance improvement periods and make termination the default penalty. The shortened window, coupled with termination as the default, could result in the loss of skilled workers who could have improved their performance if given sufficient time. Furthermore, the proposed rule weakens workers' ability to challenge disciplinary measures by barring the use of union time to represent workers in removal proceedings.

Since the MSPB's decision in *Douglas v. Veterans Administration* in 1981, agencies must consider 12 factors when examining the reasonableness of an agency's proposed penalty for adverse action taken under 5 U.S.C. 7513. These include considering mitigating circumstances, rehabilitation potential and length of service. For nearly 50 years across Republican and Democratic administrations, these consistent standards have provided fairness to federal workers facing accusations of misconduct and created a framework for determining appropriate responses. OPM's and MSPB's proposal would instead require agencies to rely on an arbitrary, case-by-case examination of whether disciplinary action is reasonable given the "totality of circumstances" and explicitly states that "no particular factors must be considered in every case." This could allow agencies to ignore important mitigating factors and more easily remove skilled workers with strong rehabilitation potential from critical industries.

As you are no doubt aware, the men and women who work at our public shipyards are critical members of our defense industrial base, without whom the ability to repair, retrofit and refuel

our country's submarines would be in jeopardy. In our states, Portsmouth Naval Shipyard (PNSY) has nearly eight thousand civilian employees, creating more than \$1.5 billion in annual economic impact in surrounding communities. As our military's "pacing threat," the People's Republic of China, is rapidly expanding its nuclear weapons programs, the role that our own submarines play in the survivability of our nuclear triad cannot be overstated. In fact, PNSY currently needs to hire over 700 workers annually to meet the Navy's demand – which is an increase from 550 over the past two years. Further, policies that reduce workplace protections risk making federal service less attractive to qualified candidates. Due to civilian hiring quotas imposed by the Office of Personnel Management, PNSY has struggled to onboard workers and cannot risk additional delays or departures. If the Administration intends to retain this political litmus test at our public shipyards, the costs of unnecessarily losing more skilled workers through this proposed rule far outweigh any potential benefit.

By stripping away the procedures that keep discipline fair for civilian employees doing the work of naval readiness and refusing to consider important factors, the proposed rule introduces costly unpredictability in the workforce and needlessly undermines readiness. We are concerned this will increase attrition in the critical and experienced workforce that keeps our submarine fleet ready, ultimately harming the shipyard's ability to meet the Navy's needs and threatening our national security.

We, therefore, ask you to withdraw OPM and MSPB's proposed rule, "Promoting Employee Accountability," and consider alternatives that preserve federal workers' longstanding civil service protections.

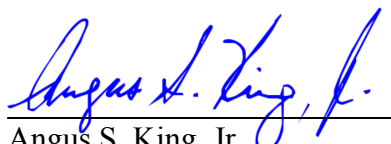
Sincerely,



Jeanne Shaheen
United States Senator



Margaret Wood Hassan
United States Senator



Angus S. King, Jr.
United States Senator



Chris Pappas
Member of Congress



Maggie Goodlander
Member of Congress



Chellie Pingree
Member of Congress