

U.S. Office of Personnel Management

Statement of Regulatory and Deregulatory Priorities

Fall 2023 Unified Agenda

The Office of Personnel Management (OPM) serves as the chief human resources agency and personnel policy manager for the Federal Government. We are champions of talent for the Federal government, leading Federal agencies in workforce policies, programs, and benefits in service to the American people. We seek to position the Federal Government as a model employer through innovation, inclusivity, and leadership, as we build a rewarding culture that empowers the Federal workforce to tackle some of our nation's toughest challenges.

OPM's regulatory agenda is aligned with these core mission areas and advances multiple Biden-Harris Administration priorities. Indeed, **each of OPM's regulations is focused on improving the efficiency and effectiveness of government**—a key Administration priority. In addition, several of OPM's regulations are:

- Actions that empower workers and increase their wages;
- Actions that promote racial equity and address issues of gender identity, sexual discrimination, disability, religious discrimination, persistent poverty, and immigration;
- Actions that address pandemic preparedness and access to healthcare; and
- Actions that improve access to and delivery of public programs and services by reducing administrative burden.

I. Actions that Empower Workers and Increase Their Wages

OPM is committed to recruiting, retaining, and supporting a world-class federal workforce. This means providing pathways to Federal service, working to make every Federal

job a good job, and strengthening Federal labor unions. OPM's regulatory agenda advances each of these goals.

- *Pathways Programs (3206-AO25)*

OPM is finalizing modifications to the Pathways Programs to align the three constituent programs to better meet the Federal government's needs for recruiting and hiring interns and recent graduates. OPM proposes to update the regulations for the Pathways Programs to facilitate a better applicant experience, to improve developmental opportunities for Pathways Program participants, and to streamline agencies' ability to hire participants in the Pathways Programs, especially those who have successfully completed their Pathways requirements and are eligible for conversion to a term or permanent position in the competitive service. Robust Pathways Programs with appropriate safeguards to promote its use as a supplement to, and not a substitute for, the competitive hiring process is essential to boosting the Federal government's ability to recruit and retain early career talent.

- *Worker Empowerment [3206-A051]*

OPM is proposing regulations to improve union access to Federal job applicants and bargaining unit employees, so that job applicants and employees can be fully informed of their rights to organize collectively and to join a union. E.O. 14025 states that it is the policy of this Administration to encourage work organizing and collective bargaining. In support of this policy, OPM has issued various guidance memorandums to agencies with the goal of removing barriers and obstacles in Federal workplaces which may impede a labor union's ability to organize and represent federal employees. OPM seeks to codify these instructions to agencies and to further the policies of E.O. 14025.

- *Time-Limited Promotions – Impact of Collective Bargaining Agreements [3206-A052]*

OPM is issuing a proposed rule to clarify that bargaining unit employees detailed or temporarily promoted to a higher grade, or who perform higher graded duties assigned by the agency, should be paid appropriately for the entire time performing these duties if a collective bargaining agreement requires employees be paid for performing higher graded duties and employees have been assigned these duties outside of competitive hiring procedures. Current regulations prohibit employees from being appropriately paid for higher-graded duties performed in excess of 120 days and assigned without competition. As a result, the principle of equal pay for equal work is absent and bargaining unit employees are unable to have meaningful recourse through their negotiated collective bargaining agreement.

- *Upholding Civil Service Protections and Merit System Principles [3206-A056]*

OPM is issuing regulations to uphold civil service protections and merit system principles. This rule will clarify that employees who are moved involuntarily from the competitive to the excepted service, or from one excepted service schedule to another, retain the status and adverse action rights they had at the time of movement. It will also require federal agencies to follow specific procedures upon moving any employees without their consent from the competitive service to the excepted service or, if already in the excepted service, to a different excepted service schedule. Finally, it will further define positions of a "confidential, policy-determining, policy-making, or policy-advocating character," in accordance with legislative history and Congressional intent, to mean political appointments.

II. Actions that Promote Racial Equity and Address Issues of Gender Identity, Sexual Discrimination, Disability, Religious Discrimination, Persistent Poverty, and Immigration

In fact, many of the regulations noted above—in particular, those focused on providing pathways into the federal government—emphasize equity.

- *Advancing Pay Equity in Governmentwide Pay Systems (3206-AO39)*

OPM is issuing a final rule to advance pay equity in the General Schedule (GS) pay system, Prevailing Rate Systems, Administrative Appeals Judge (AAJ) pay system, and Administrative Law Judge (ALJ) pay system by revising the criteria for making salary determinations based on salary history.

- *Fair Chance to Compete for Jobs (3206-AO00)*

OPM is finalizing regulations governing implementation of the Fair Chance to Compete for Jobs Act of 2019 (Act). These regulations are a core part of OPM’s work to reduce barriers to federal employment for individuals with a criminal record. The regulations seek to accomplish this goal by expanding the positions covered by the federal government’s “ban the box” policy, which delays inquiries into an applicant’s criminal history until a conditional offer has been made. The regulations also create new procedures that outline due process and accountability steps for hiring officials who are alleged to have violated the “ban the box” procedures.

- *Paid Parental Leave and Miscellaneous Family And Medical Leave Act [3206-AN96]*

OPM is finalizing its interim regulations that provide a paid leave benefit, Paid Parental Leave, for qualifying Family and Medical Leave Act (FMLA) periods. The Federal Employee Paid Leave Act created this category of paid leave and established parameters

for its use. The regulations provide a framework for agency compliance with the new statutory requirements.

III. Actions that Address Pandemic Preparedness and Access to Healthcare

OPM has helped to lead the Federal government throughout the COVID-19 pandemic—serving as a co-chair of the Safer Federal Workforce Task Force, supporting agencies with implementation of a maximum telework posture, and providing meaningful benefits to federal employees. OPM will continue this important work through its regulatory agenda.

- *Scheduling of Annual Leave for Employees Responding to COVID-19 (3206-A004)*

OPM is finalizing regulations to assist agencies and employees responding to the National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak and for future national emergencies. The regulations provide that employees who would forfeit annual leave in excess of the maximum annual leave allowable carryover because of their work to support the nation during a national emergency will have their excess annual leave deemed to have been scheduled in advance and subject to leave restoration.

- *Evacuation During a Public Health Emergency (3206-A034)*

OPM is proposing a new subpart Q within part 550 of title 5, Code of Federal Regulations, which would amend, expand, and reorganize regulations that currently provide agencies with the authority to evacuate employees during a pandemic health crisis. The revised regulations will provide agencies with the authority to evacuate an employee or groups of employees during either a public health emergency declaration or a pandemic health crisis. The current authority to evacuate employees during a pandemic health crisis is found at 5 CFR 550.409. This revision and reorganization of the

regulations will enable OPM to capitalize on lessons learned from the COVID-19 pandemic.

- *Postal Service Health Benefits Program (3206-AO43)*

OPM is finalizing an interim final rule that implemented the Postal Service Health Benefits (PSHB) Program within the Federal Employees Health Benefits (FEHB) Program pursuant to the Postal Service Reform Act of 2022. This regulation will ensure continuity of health insurance coverage for Postal Service employees, annuitants, and their family members who will no longer be eligible for FEHB in January 2025; enable enrollees access to more prescription drug coverage options and potential reduction in prescription drug costs for Medicare Part D eligible enrollees; reduce the Postal Service's premiums by approximately \$5.7 billion over 10 years (CBO Analysis) and reduce its future liability for retiree health benefits; and enable use of a central enrollment portal that will reduce administrative burden for enrollment, which will ensure more accurate payment of plans, allow more frequent sharing of enrollment data with plans, and limit human error.

IV. Actions that Improve Access to and Delivery of Public Programs and Services by Reducing Administrative Burden

OPM's work in this area focuses on improving efficiency and providing agencies additional flexibilities in the hiring process.

- *Hiring Authority for Post-Secondary Students (3206-AN86)*

OPM is finalizing regulations establishing hiring authorities for post-secondary students to positions in the competitive service to provide additional flexibility in hiring eligible

and qualified individuals. These revisions will implement section 1108 of Public Law 115-232, John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019.

- *Hiring Authority for College Graduates (3206-AN79)*

OPM is finalizing regulations establishing hiring authorities for certain college graduates to positions in the competitive service. This rule will provide additional flexibility in hiring eligible and qualified individuals by implementing section 1108 of Public Law 115-232, the NDAA for FY 2019.

- *Rule of Many (3206-AN80)*

OPM is finalizing regulations to implement changes—known as the “rule of many”—authorized by the NDAA for FY 2019 governing the selection of candidates from competitive lists of eligibles. The statute eliminates the requirement that an agency select only from the top three candidates at any given juncture (the rule of three) in numerical rating and ranking and instead authorizes agencies to certify and consider a sufficient number of candidates, no fewer than three, using a cut-off score or other mechanism established through this rulemaking. This change also affects how agencies may make selections under 5 CFR part 302, titled “Employment in the Excepted Service.” These changes will provide expanded flexibility to agencies in the selection of candidates.

- *Noncompetitive Appointment of Certain Military Spouses (3206-AO57)*

OPM is issuing interim final regulations to implement section 1111 of P.L. 117-263, the NDAA for FY 2023. These revisions extend the eligibility criteria for any spouse married to an active-duty military member through December 31, 2028, and remove the agency reporting requirements established under section 573(d) of P.L. 115-232. The

intended effect of the Authority is to increase the hiring of military spouses in the Federal government.

- *Recruitment and Relocation Incentive Waivers (3206-AO36)*

OPM is issuing a proposed rule to expand the authority to approve waivers of the normal payment limitations on recruitment and relocation incentives, so that agencies have access to higher payment limitations based on a critical need without requesting approval from OPM. Currently, agencies have the authority to approve a recruitment or relocation incentive without OPM approval for payments of up to 25 percent of an employee's annual rate of basic pay times the number of years in a service agreement (not to exceed 4 years or 100 percent of annual basic pay). Under a waiver, agencies could approve a recruitment or relocation incentive without OPM approval for payments of up to 50 percent of an employee's annual rate of basic pay times the number of years in a service agreement (not to exceed 100 percent of annual basic pay).

- *Recruitment and Selection Through Competitive Examination (3206-AO24)*

OPM is finalizing revisions implementing the Competitive Service Act of 2015, Public Law 114-137, to allow an appointing authority (i.e., the head of a federal agency or department) to share a competitive certificate of eligibles with one or more appointing authorities for the purpose of making selections of qualified candidates.

- *Selective Service Registration (3206-AO37)*

OPM is proposing regulations to enable executive agencies to make initial determinations as to whether failure to register with the Selective Service System was knowing and willful.

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