

AFGE Council 222

From: AFGE Council 222
Sent: Tuesday, January 21, 2025 10:09 AM
Subject: OPM Memo (January 20, 2025) Targets Employees
Attachments: Guidance on Admin Leave and Probationary Periods 1-20-2025.pdf



National Council of HUD Locals - Council 222

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES AFFILIATED WITH AFL-CIO
WE ARE COMPRISED OF HUD LOCALS THROUGHOUT THE U.S.

<https://afgecouncil222.com>

January 21, 2025
OPM Memo Targets Employees

Dear AFGE National Council 222 Bargaining Union Members,

I write to you today with a sense of urgency. As previously stated, AFGE National Council 222 has committed to keeping you informed of all updates.

U.S. Office of Personnel Management (OPM) Memorandum

The U.S. Office of Personnel Management (OPM) has issued a [memorandum](#), dated January 20, 2025, instructing all federal agencies to compile a list of employees in vulnerable positions. Specifically, the OPM is targeting:

- Employees on probationary periods,
- Those who have served less than one year in competitive service appointments, and
- Individuals with less than two years in excepted service appointments.

This information is to be reported to OPM by January 24, 2025 – a deadline that is close.

The Implications

The gravity of this situation cannot be overstated. Under current federal labor statutes, these employees are particularly vulnerable due to limited protections. Specifically:

1. **Probationary Employees:** Under 5 U.S.C. § 3321, employees in their probationary period may be terminated without the procedural protections afforded to permanent employees. This includes the lack of appeal rights to the Merit Systems Protection Board (MSPB) unless the termination is based on prohibited discrimination or whistleblower retaliation.
2. **Competitive Service Employees:** Employees with less than one year of service in competitive appointments are subject to termination without the full procedural safeguards outlined in 5 U.S.C. Chapter 75, Subchapter II. These safeguards typically include notice of proposed action, the opportunity to respond, and the right to appeal adverse actions.

3. **Excepted Service Employees:** Employees in excepted service positions with less than two years of service are similarly vulnerable. While 5 U.S.C. § 7511 provides certain protections for excepted service employees, these protections generally do not apply until the two-year threshold is met.
4. **Merit Systems Principles:** The directive raises concerns under the merit system principles codified in 5 U.S.C. § 2301, which emphasize fair and equitable treatment of employees and protection against arbitrary action. The potential for indiscriminate use of this directive could undermine these principles.

Our Response

Let me be clear: while the agencies have been granted this power, it is our fervent hope that they will not wield it indiscriminately. However, we cannot afford to be naive. We must be prepared for all eventualities.

Rest assured; your union is not standing idle. We are mobilizing every resource at our disposal to address this potential threat to our workforce. Our team is scrutinizing the memorandum to ensure compliance with federal statutes, including protections under the Civil Service Reform Act of 1978 and the Whistleblower Protection Act. Our team is making your voices heard in the corridors of power, and we are ready to rally support if needed.

Your Role

Knowledge is power, and that is why we are sharing this information with you. Stay vigilant, document everything, and do not hesitate to reach out to your union representatives if you have any concerns or if you witness any suspicious activities in your workplace.

Additionally, familiarize yourself with your rights under federal labor laws, including:

- **The Whistleblower Protection Act (5 U.S.C. § 2302(b)(8))**, which protects employees who disclose evidence of illegality, gross mismanagement, or abuse of authority.
- **The Civil Service Reform Act (5 U.S.C. Chapter 23)**, which prohibits personnel practices that violate merit system principles.
- **Anti-Discrimination Protections:** Federal employees are protected from discrimination under Title VII of the Civil Rights Act, the Age Discrimination in Employment Act, and the Rehabilitation Act.

Remember, we are strongest when we stand together. This directive may be a test of our resolve, but I have no doubt that the members of AFGE National Council 222 will meet this challenge with the same courage and determination that has defined our union throughout its history.

We will keep you updated on any developments. In the meantime, continue to serve the American people with the dedication and professionalism that is the hallmark of our federal workforce.

In solidarity,

Antonio F. Gaines
President
AFGE National Council 222

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