

February 7, 2025

The Honorable Rand Paul  
Chairman, Senate Homeland Security  
and Governmental Affairs Committee  
340 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Gary C. Peters  
Ranking Member, Senate  
Homeland Security and Governmental  
Affairs Committee  
340 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable James Comer  
Chairman, House Committee  
on Oversight and Accountability  
2157 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Gerald E. Connolly  
Ranking Member, House Committee  
on Oversight and Accountability  
2106 Rayburn House Office Building  
Washington, D.C. 20515



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**Deborah N. Archer**  
President

Dear Chairman Paul, Ranking Member Peters, Chairman Comer, and Ranking Member Connolly:

The American Civil Liberties Union writes to you to ask that you use the full force of your congressional authority to prevent the executive branch from carrying out any illegal mass layoff of federal workers. In particular, we are alarmed by reports that the Trump Administration is planning imminent mass layoffs of probationary federal employees across the government,<sup>1</sup> potentially affecting more than 200,000 federal employees.<sup>2</sup> Not only would such mass layoffs violate federal law, but this action would undermine the important and historic check that the career civil service has had on curbing abuses by the executive branch. Such indiscriminate and arbitrary action would also have real impacts on Americans as essential government functions would almost certainly be impacted.

According to reports, federal agencies have been directed to compile lists of newly hired employees.<sup>3</sup> Nearly all federal civilian employees are routinely in a probationary period for the first one or two years of service, depending on whether they are in a competitive or excepted service position. While the law allows for the termination of probationary employees for performance or conduct reasons, a mass firing on this scale without any sort of individualized assessment or following of Reduction in Force (RIF) procedures raises serious legal concerns.

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<sup>1</sup> Eric Katz, Thousands More Recent Federal Hires Receive Warnings About Their Easy-to-Fire Status, Gov't Exec., Feb. 5, 2025, <https://www.govexec.com/workforce/2025/02/thousands-more-recent-federal-hires-receive-warnings-their-easy-fire-status/402758/>. See also Lisa Friedman, EPA Warns More Than 1,100 Employees Could Be Fired 'Immediately' Amid Trump Government Cutbacks, N.Y. Times, Feb. 3, 2025, <https://www.nytimes.com/2025/02/03/climate/trump-epa-workers-zeldin.html>;

<sup>2</sup> Jason Miller, OPM Asks Agencies to Justify Keeping Probationary Employees, Fed. News Network, Feb. 4, 2025, <https://federalnewsnetwork.com/workforce/2025/02/opm-asks-agencies-to-justify-keeping-probationary-employees/>;

<sup>3</sup> David Shepardson, White House Wants Details on New Federal Employees by Friday, Reuters (Jan. 21, 2025), <https://www.reuters.com/world/us/white-house-wants-details-new-federal-employees-by-friday-2025-01-22/>.

Under 5 CFR § 315.803(a), probationary employees can be terminated, “if the employee fails to demonstrate fully his or her qualifications for continued employment.” Further, the regulations on probationary employees only refer to termination for unsatisfactory performance or conduct and for conditions arising before appointment. If a probationary employee is fired because of poor performance or conduct, the agency must notify the employee in writing as to the “inadequacies of his performance of conduct.”<sup>4</sup> Moreover federal law clearly prohibits dismissal of probationary employees for partisan political purposes.<sup>5</sup>

President Trump and other members of his administration have repeatedly made clear that they intend to reshape the federal workforce for their own partisan political purposes. When signing Executive Order 14171 aiming to make all federal civil service employees easier to fire, President Trump stated he was, “getting rid of all the cancer, the cancer caused by the Biden Administration.”<sup>6</sup> And Vice President Vance has previously stated that President Trump should, “fire every single midlevel bureaucrat, every civil servant in the administrative state, replace them with our people.”<sup>7</sup>

Such an action echoes troubling historical precedents, including Truman's Federal Employee Loyalty Program, which required government workers to sign loyalty oaths and submit to background investigations aimed at rooting out “subversives.”<sup>8</sup> The civil service must be loyal to the Constitution and federal law—not to any president or political party. And Congress, not the executive branch, has the constitutional role and responsibility in regard to questions such as the size and scope of the federal government.

Sweeping layoffs of probationary employees without any sort of individualized assessment as has been reported as being planned, would likely violate these legal standards. Instead, federal workforce reductions must follow specific RIF procedures, including providing at least 60 days specific written notice to any employees impacted.<sup>9</sup> Additionally, RIF decisions similarly cannot be motivated by partisan political reasons. Any effort to sidestep RIF procedures or apply political litmus tests to their employment status would violate federal law.

Given these concerns, we respectfully urge that you investigate the Administration’s rationale and legal basis for these planned layoffs and take every step within your power to ensure that agencies are following all existing laws and procedures regarding any potential federal workforce firings of probationary nonpolitical employees. Mass layoffs

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<sup>4</sup> 5 CFR § 315.803(b).

<sup>5</sup> 5 CFR § 315.806(b). *See Stokes v. Federal Aviation Administration*, 761 F.2d 682, 684-85 (Fed. Cir. 1985) (explaining that Probationary employees typically lack a statutory right to appeal, they can do so when there is an allegation that alleges the action was the result of partisan politics or marital status discrimination).

<sup>6</sup> Alan Rappeport, “Federal Employees Union Sues Trump Over Worker Protections,” *New York Times* (Jan. 21, 2025), <https://www.nytimes.com/2025/01/21/us/politics/trump-schedule-f-federal-workers.html>.

<sup>7</sup> Andrew Prokop, J.D. Vance’s Radical Plan to Build a Government of Trump Loyalists, *Vox* (July 18, 2024), <https://www.vox.com/politics/361455/jd-vance-trump-vice-president-rnc-speech>.

<sup>8</sup> ACLU History: Rooting Out 'Subversives': Paranoia and Patriotism in the McCarthy Era, *Am. Civil Liberties Union*, Sept. 1, 2010, <https://www.aclu.org/documents/aclu-history-rooting-out-subversives-paranoia-and-patriotism-mccarthy-era>.

<sup>9</sup> 5 CFR 351.801(b). The notice period can be reduced to 30 days when the reduction in force is caused by circumstances, “not reasonably foreseeable.”

of federal employees of the sort that have been reported to be under consideration are presumptively and inherently illegal.

A nonpartisan, experienced, and independent civil service is critical to the effective operation of the federal government. Going back to 1883, Congress acknowledged that appointing government employees based on their loyalty to a particular president was both a misuse of power and an ineffective approach to government. Previously, the federal civil service functioned under the "spoils system," where government positions were awarded based on political allegiance rather than qualifications and expertise. This practice led to widespread inefficiency, corruption, and a decline in public confidence in government institutions. In response, Congress established a merit-based system for federal employment through reforms in 1883 and later in 1978, ensuring that public servants were selected based on their skills and commitment to serving the American people rather than advancing a partisan political agenda. Congress created the civil service as a check on presidential excess, and Congress must ensure that the president does not unilaterally destroy this check.

Everyone in America relies on the professional and skilled federal employees who serve our communities. These employees are doctors and nurses delivering critical care to veterans. They are food inspectors ensuring that bird flu and other pathogens do not contaminate the food our families eat. They are firefighters defending our homes and businesses from wildfires. We need the people in these and so many other critical roles selected for their professionalism not for loyalty or cronyism. At this perilous moment, we urge that you make clear that the Trump Administration cannot violate existing laws and purge probationary employees government-wide based on partisan political objectives, rather than merit.

Thank you for your attention to this matter. If you have questions, please contact Senior Policy Counsel Kia Hamadanchy at [khamadanchy@aclu.org](mailto:khamadanchy@aclu.org) or (734)-649-2929.

Sincerely,



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National Director of Policy  
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Kia Hamadanchy  
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Monica Hopkins  
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