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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 2, 3, 5, 6, 9, and 10

[Docket ID: OPM-2026-0562]

RIN: 3206-AP19

Updates and Amendments to the Civil Service Rules

AGENCY: Office of Personnel Management.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The Office of Personnel Management (OPM) is confirming the effective date of the direct final rule updating and amending obsolete and outdated provisions of the Civil Service Rules. OPM received no significant adverse comments and therefore confirms that the direct final rule became effective as scheduled.

DATES: The effective date of October 13, 2026, for the direct final rule published on August 14, 2026 (91 FR 52475) is confirmed.

ADDRESSES: Please refer to the direct final rule published at 91 FR 52475 (August 14, 2026) for address information.

FOR FURTHER INFORMATION CONTACT: Aaron Gottesman, Office of Personnel Management, Office of the Director, (202) 606-1300.

SUPPLEMENTARY INFORMATION:

I. Background

On August 14, 2026, OPM published a direct final rule at 91 FR 52475 removing or updating obsolete and outdated provisions of the Civil Service Rules, codified at 5 CFR parts 2, 3, 5, 6, 9, and 10. The direct final rule implements Section 2(g) of Executive Order (E.O.) 14410, *Implementing Schedule Policy/Career in the Excepted Service*, 91 FR 34893 (June 10, 2026), which directed the Director of OPM to "take steps to prepare and issue revisions that remove or

update, as applicable, obsolete provisions of the Civil Service Rules that do not substantively affect agency operations."

The direct final rule stated that it would become effective on October 13, 2026, unless OPM received a significant adverse comment by September 14, 2026. It defined a significant adverse comment as one that explains: (1) why the rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. A comment recommending an addition to the rule was not to be considered significant and adverse unless it explained how the direct final rule would be ineffective without the addition. 91 FR at 52477.

II. Comment Analysis

OPM received four comments during the comment period. A reference to a comment provides the location of the item in the public record (i.e., the two-digit number associated with the location in the docket.) Comments filed in response to the direct final rule are available at https://www.regulations.gov/comment/OPM-2026-0562-00nn, where "nn" is the comment number. None of the four comments is a significant adverse comment. Two commenters support the rule and recommend additions to the administrative record. Two commenters oppose the rule on grounds that rest on misreadings of the rule and of the existing Civil Service Rules and that concern actions this rule does not take. OPM addresses each comment below.

A. Comment 02

Comment: The commenter supports the rule's objectives and recommends five safeguards: (1) an express confirmation that no amendment, deletion, redesignation, or terminology change may be read to modify competitive-service status, veterans' preference, appointment or reinstatement eligibility, due-process protections, or administrative, grievance, or appeal rights; (2) controls to ensure that variations under 5 CFR 5.1 are consistently evaluated and documented, with a public record identifying the provision involved, the supporting circumstances, the variation's scope and duration, and information sufficient to assess

consistency across agencies; (3) a centralized, permanent, searchable, and archived repository on OPM's website for variations, with publication within a defined period; (4) an express confirmation that the disability-terminology revisions to 5 CFR 3.1(b) are terminology-only; and (5) preservation in the rulemaking record of the analysis supporting OPM's determination that no current positions, incumbents, appointments, or agency operations depend on 5 CFR 6.8(a) through (c).

Response: The comment does not challenge the rule's premise or approach and does not contend that the rule would be ineffective or unacceptable without the recommended additions. It is not a significant adverse comment. OPM responds to the recommendations as follows.

First, OPM confirms that the direct final rule makes no change to any substantive right, obligation, or protection. No amendment, removal, redesignation, or terminology change in the rule modifies competitive status, veterans' preference, appointment or reinstatement eligibility, or any adverse action, grievance, or appeal right.

Second and third, the reorganization of 5 CFR 5.1 retains, without substantive change, the four elements the Director must note in the official record whenever a variation is granted. Those provisions are the operative controls on the variation authority, and the rule leaves them intact. The commenter's further recommendations concerning the design, retention practices, and posting timelines of OPM's website concern the administration of the website rather than the text of Civil Service Rule V and are outside the scope of this rule.

Fourth, OPM confirms that the revisions to 5 CFR 3.1(b) are terminology-only. Revised § 3.1(b) retains the same three classes of employees, the same requirement of at least two years of satisfactory service in a position excepted from the competitive service, and the same predicate of an employing-agency recommendation subject to requirements OPM may prescribe. It does not narrow eligibility, alter any substantive standard, or reduce any opportunity to acquire competitive status.

Fifth, the basis for OPM's determination regarding 5 CFR 6.8(a) through (c) is set out in the preamble to the direct final rule, which traces each paragraph to the Executive order from which it derives and explains why each is obsolete. The preamble is part of the rulemaking record. Prospective removal of these paragraphs does not affect the interpretation of personnel actions taken while they were in effect; those actions remain governed by the law in effect when they were taken, and the text of prior editions of the Code of Federal Regulations remains publicly available.

B. Comment 03

Comment: The commenter supports the rule, states expressly that its comment is not a significant adverse comment, and suggests that OPM add to the record a confirmation, parallel to the one the direct final rule provides for 5 CFR 6.8(a) through (c), that no current positions, incumbents, appointments, or agency operations depend on the provisions removed at 5 CFR 2.1(c), 2.2(a)(4), and 2.3.

Response: The comment recommends an addition and does not contend that the rule would be ineffective without it. It is not a significant adverse comment. OPM adopts the suggestion. For the reasons stated in the direct final rule with respect to Civil Service Rule II, 91 FR at 52475–76, OPM confirms that no current positions, incumbents, appointments, or agency operations depend on the provisions removed at 5 CFR 2.1(c), 2.2(a)(4), and 2.3. Since the Postal Reorganization Act of 1970, appointments in the Postal Service have been made under procedures established by the Postal Service rather than through OPM-administered competitive examination, 39 U.S.C. 1001(b), and the apportionment requirement formerly codified at 5 U.S.C. 3306 was repealed in 1978. Pub. L. 95-228, 92 Stat. 25.

C. Comments 04 and 05

Comments: Both commenters characterize their comments as significant adverse comments and ask OPM to withdraw the direct final rule and reissue it as a proposed rule. Both raise two objections. First, they object that the rule revises the authority citations for 5 CFR parts

2, 3, 5, 6, 9, and 10 to cite E.O. 14410, which they contend embeds Schedule Policy/Career in the Code of Federal Regulations, legitimizes it, and effects a substantive change to civil service tenure, merit principles, and appeal rights without notice and comment. Comment 05 adds that amending Civil Service Rule VI under the authority of E.O. 14410 normalizes Schedule Policy/Career alongside the other excepted service schedules. Second, they object that the amendments to 5 CFR 3.2, 5.1, and 6.1 remove mandatory **Federal Register** publication requirements and replace them with publication on OPM's website, which they contend reduces transparency and lacks retention and indexing safeguards; comment 04 adds that this conflicts with 5 U.S.C. 552(a)(1) and prevents effective judicial review under 5 U.S.C. 706. Comment 04 further contends that the rule exceeds OPM's authority under the Civil Service Reform Act of 1978 and the major questions doctrine by diminishing tenure protections without clear congressional authorization.

Response: Having considered both comments in full, OPM has determined that neither is a significant adverse comment. Both rest on a misreading of what the rule does, and both direct their objections at Presidential and regulatory actions taken in other proceedings that this rule neither effects nor alters.

1. Authority citations. An authority citation is not an enforceable regulatory provision. Under the regulations of the Administrative Committee of the Federal Register, each section of a document subject to codification must be covered by a citation of the authority under which it is issued, and an agency that amends a part must set out the complete authority citation for that part and revise it when the authority for the amendment differs from the authority previously cited. 1 CFR 21.40, 21.41, 21.43. The authority citation identifies the source of authority for the regulatory text; it confers no authority, imposes no obligation, and has no operative effect of its own.

The Civil Service Rules are prescribed by the President under 5 U.S.C. 3301 and 3302 and are amended by Executive order. E.O. 14410 is such an order: Section 2 of E.O. 14410

directly amended Civil Service Rules I, III, VI, and XI, and Section 2(g) directed the Director of OPM to prepare and issue the revisions made by this rule. Citing E.O. 14410 in the authority citation for each part amended by this rule therefore accurately identifies the directive under which the amendments were issued. OPM's regulations implementing Schedule Policy/Career in 5 CFR part 213 were issued through notice-and-comment rulemaking at 91 FR 5653-54 (Feb. 6, 2026). This rule does not amend § 6.2 or part 213. Apart from revising the authority citation for part 6 and redesignating current § 6.8(d) and (e) as § 6.8(a) and (b) without change to their text, the only amendments this rule makes to Civil Service Rule VI are the replacement of an obsolete annual-report reference in § 6.1(a) and the removal of three obsolete grandfathering provisions in § 6.8(a) through (c), none of which concerns Schedule Policy/Career or any other excepted service schedule. Objections to Schedule Policy/Career are objections to E.O. 14410 and to the part 213 rulemaking, not to this rule, and are outside its scope.

2. Publication provisions. The premise of the second objection is mistaken. None of the three provisions at issue required publication in the **Federal Register**. Before this rule, § 3.2 required that statements of reasons for noncompetitive appointments be published "in OPM's annual reports"; § 5.1 required that variation decisions be published "in a Federal Personnel Manual Letter or Bulletin and in the Director's next annual report"; and § 6.1(a) required that excepted positions be listed "in OPM's annual report for the fiscal year in which the exceptions are made." The general annual report was eliminated by the Congressional Reports Elimination Act of 1980 and the Federal Personnel Manual was abolished in 1994. Congressional Reports Elimination Act of 1980, Pub. L. No. 96-470, § 121, 94 Stat. 2237, 2241; 5 U.S.C. § 1308 note (1994). The rule therefore removes no **Federal Register** publication requirement. To the contrary, revised § 5.1(c) and revised § 6.1(a) add the **Federal Register** as an authorized publication where the prior text did not mention it, and the rule leaves undisturbed current § 6.1(c), which independently requires that notice of OPM's decisions granting authority to make appointments to excepted positions be published in the **Federal Register**, as well as 5 CFR

213.103, which requires **Federal Register** publication of Schedule A, B, C, D, and Policy/Career appointing authorities.

Nor does the rule alter any obligation under 5 U.S.C. 552(a)(1). That provision applies by its own force; the Civil Service Rules neither implement nor displace it, and nothing in the revised text authorizes OPM to withhold from the **Federal Register** any matter that statute requires be published there. The assertion that website publication prevents judicial review under 5 U.S.C. 706 identifies no agency action whose reviewability depends on the medium in which it is published.

3. Statutory authority. Comment 04 identifies no provision of this rule that alters any tenure protection, adverse action procedure, or appeal right. The rule removes obsolete provisions and updates obsolete references, and the direct final rule identified the basis for each change and explained why each has no current substantive effect. 91 FR at 52475–77. An argument that OPM lacks authority to diminish tenure protections is not an argument against a rule that does not diminish them.

Because comments 04 and 05 misdescribe the rule's provisions and direct their objections to actions this rule does not take, they do not explain why the rule is inappropriate or why it would be ineffective or unacceptable without change. They are not significant adverse comments within the meaning of the direct final rule.

III. Confirmation of Effective Date

OPM did not receive a significant adverse comment on the direct final rule. Accordingly, OPM confirms that the amendments published at 91 FR 52475 on August 14, 2026, became effective on October 13, 2026.

List of Subjects

5 CFR Parts 2, 3, 6, 9, and 10

Government employees.

5 CFR Part 5

Administrative practice and procedure, Investigations.

Signing Statement

Scott Kupor, Director, Office of Personnel Management, reviewed and approved this document and has authorized the undersigned to electronically sign and submit this document to the Office of the Federal Register for publication.

Office of Personnel Management.

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Jerson Matias,

Federal Register Liaison.

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