

Congress of the United States

Washington, DC 20515

June 9, 2026

The Honorable Scott Kupor
Director
Office of Personnel Management
1900 E Street NW
Washington, DC 20415

Dear Director Kupor:

I write with serious concern regarding the Office of Personnel Management's (OPM) proposal to implement a government-wide nondisclosure agreement (NDA) for federal employees. While OPM has stated that the proposal is intended to reinforce existing obligations to protect sensitive government information, it has drawn swift and substantial opposition from legal experts, employee organizations, whistleblower advocates, and transparency groups—and for good reason. This proposal, as currently drafted, threatens constitutional rights, undermines whistleblower protections, and weakens the public accountability that Americans deserve from their government.

Federal employees do not forfeit their constitutional rights upon entering the civil service. Numerous legal experts have raised serious concerns that a broadly drafted NDA could conflict with First Amendment protections and federally protected whistleblower activities. While narrowly tailored nondisclosure agreements have long been used to protect classified information and other legitimately sensitive government materials, experts have criticized OPM's proposed NDA as "over-broad" because it prohibits the disclosure of broadly defined "confidential" information while providing insufficient clarity regarding the boundaries of protected speech.¹

Although OPM has stated that the proposal does not supersede existing whistleblower protections, rights guaranteed on paper can be rendered ineffective if employees reasonably fear discipline, civil liability, or criminal penalties for exercising them.² As drafted, the NDA will leave federal employees questioning whether communications with Congress, Inspectors General, law enforcement, or other authorized oversight bodies could jeopardize or seriously damage their careers. That uncertainty is particularly troubling because federal law not only protects certain disclosures, but in some circumstances relies upon federal employees to report evidence of waste, fraud, abuse, misconduct, or violations of law.

This kind of ambiguity risks encouraging employees to remain silent rather than exercising their lawful rights, thereby chilling speech that is essential to government transparency, accountability, and effective congressional oversight. Federal employees should not be forced to guess which communications are permissible and which could expose them to punishment.

The risk that employees will remain silent in the face of wrongdoing is not theoretical. During the first Trump Administration, the House Oversight, Intelligence, and Armed Services Committees investigated and substantiated allegations that officials who had reported misconduct through lawful channels faced retaliations.³ In one prominent case, the House Oversight Committee found that Lt. Col. Yevgeny Vindman was subjected to

¹ [Government Executive, 2026](#)

² [Federal News Network, 2026](#)

³ [PBS News, 2019](#)

unfavorable personnel actions after making disclosing potential legal and ethical issues arising from President Trump's July 2019 call with the President of Ukraine, as well as allegations that senior White House officials engaged in ethics violations, misused government resources, and engaged in inappropriate workplace conduct.⁴ The committee also concluded that senior officials subsequently removed significant responsibilities from Vindman's portfolio and issued an unfavorable performance evaluation because of those protected communications. Federal whistleblower protections exist because oversight depends on individuals being willing to come forward with information about waste, fraud, abuse, and violations of law. Policies that blur the line between protected disclosures and prohibited conduct threaten to weaken those protections in practice, regardless of what rights employees retain on paper.

The NDA's restrictions on disclosing "confidential" information are particularly alarming because that term is nowhere clearly defined. Legal experts have criticized the proposal as overly broad because it fails to provide employees with clear notice regarding what information is covered, what communications remain protected by law, and where the line exists between prohibited disclosures and lawful whistleblowing activity. OPM itself recognizes that federal employees have the right to disclose evidence of violations of law, gross waste of funds, abuse of authority, and threats to public health or safety to Congress, Inspectors General, and other authorized recipients. Yet the proposed NDA threatens disciplinary, civil, and potentially criminal consequences for violations involving an undefined category of "confidential" information⁵. When employees cannot confidently distinguish between protected disclosures and prohibited conduct, many will understandably choose silence rather than risk punishment. That chilling effect is precisely what Congress sought to prevent when it enacted federal whistleblower protections.

In its draft notice, OPM also cited unauthorized disclosures to the press—including reporting on OPM's own controversial personnel proposals—as the primary justification for this rule, arguing that leaks "risk chilling candid interagency feedback, disrupting orderly decision-making, and weakening trust within and among Federal agencies."⁶ The proposal notably does not mention the most high-profile information disclosure of this Administration—Defense Secretary Pete Hegseth's sharing of operational military strike details over a Signal group chat.⁷ That omission raises a direct question about whether this policy is designed to apply consistently across all federal employees and officials—or whether it is aimed primarily at career civil servants who speak out about wrongdoing.

Given these serious concerns, I demand answers to the following questions no later than June 24, 2026:

1. What legal analysis has OPM conducted regarding the NDA's compatibility with the First Amendment and the Whistleblower Protection Act?
2. How does OPM define "confidential" information for purposes of this agreement, and what safeguards exist to prevent overly broad interpretation or enforcement?
3. How will OPM ensure employees fully understand their right to communicate with Congress, Inspectors General, the U.S. Office of Special Counsel, law enforcement authorities, and other entities authorized to receive protected disclosures?
4. What protections will exist for employees who decline to sign the NDA if agencies choose to adopt it?
5. Has OPM assessed the potential impact of this proposal on whistleblowing activity, employee morale, federal recruitment, retention, or public trust in government institutions?

⁴ [Oversight Democrats, 2022](#)

⁵ [OPM, 2026](#)

⁶ [NOTUS, 2026](#)

⁷ [NPR, 2026](#)

6. Will this NDA apply equally to career employees, political appointees, and senior agency officials? If not, why not?
7. What consultation has OPM undertaken with Inspectors General, the Office of Special Counsel, employee organizations, constitutional law experts, and whistleblower advocacy groups?

The federal government functions best when employees can faithfully execute their duties, report wrongdoing without fear of retaliation, and communicate with authorized oversight entities while appropriately safeguarding sensitive information. This proposal threatens all three. I look forward to your prompt response.

Sincerely,



Raja Krishnamoorthi
Member of Congress