



# NATIONAL FEDERATION OF FEDERAL EMPLOYEES

Affiliated with the International Association of Machinists & Aerospace Workers, AFL-CIO

## **NFFE Guidance: Advice for Local Leaders Regarding Probationary Layoffs, RIFs, and Future Trump-Musk Actions**

As you all are aware, the Trump Administration is moving forward with illegal terminations of probationary employees and eventual Reduction-of-Force of federal workers throughout federal agencies.

**NFFE recommends Local leaders who represent federal workers take the following 5 steps as soon as possible to help members with current actions and to prepare for future actions.**

1. Local leaders should advise their members, both probationary and non-probationary employees alike, to **take the following immediate steps and print out all of the following:**
  - Paystubs, SF-50's.
  - Progress and/or performance reviews
  - Awards
  - Commendation letters
  - Requested letters from supervisor for good performance
  - Any other pertinent correspondence from supervisors, particularly regarding guidance related to DOGE directives
  - Leave Accumulation
  - Initial Letter of Employment to show your status within the agency
  - Copy of your current Collective Bargaining Agreement
  - Copy of Pay Advice for Direct Deposit/Pay Stubs, which will be need when applying for unemployment
  - Termination letter or email
  
2. Local leaders should alert members who are **probationary employees** of their rights:
  - Just Security's "[Federal Employee Rights: What Probationary Employees Need to Know](#)" provides responses to commonly asked questions.
  - Employees can continue Federal Employee Health Benefits insurance (FEHB) for up to 18 months, but they must pay full premiums (employee and agency share) and there is an administrative fee. They file an SF-2809 which can be found on the OPM website.
  - Employees can opt, if married to another federal employee, to be added to spouse's federal health plan, because loss of employment qualifies as a major life event and allows enrollment outside of Open Season.
  - FEHB can be extended for 31 days at no cost. During this time, the probationary employee can work with their health insurer to convert their insurance plan into self-funded coverage – they should contact their insurer for assistance. See the OPM website on "[31-Day Extension of Coverage and Conversion](#)."
  - An employee's life insurance continues for 31 days.
  - Employees may qualify for unemployment benefits because removal (as phrased in the OPM notification) is not based on misconduct. Employees must check with the State in which the employee's assigned work is headquartered, not necessarily the employee's state of residence, to determine UI benefits, requirements and processes for applying. Employees are also encouraged to check with the residing state unemployment agency for any special requirements. See the Department of Labor's factsheet on [Unemployment Compensation for Federal Employees](#)
  - Finally, keep in mind the following: "A common misconception is that you can fire a probationary employee for any reason (so long as it's not discrimination, whistleblower retaliation, and/or political affiliation). That is not true," wrote Michal Shinnar, an employment lawyer for Joseph Greenwald & Laake in a post on [LinkedIn](#) "Just because they terminated you doesn't mean it's legal, and that you don't have recourse."

3. You should notify bargaining unit employees that if they are asked to speak to DOGE, they should invoke their Weingarten Rights:
  - A union-represented employee who is asked to speak to any employee of the U.S. DOGE Service should invoke their right to union representation.
  - Employees should know that DOGE can precipitate a negative impact on their employment. Therefore, a union representative should be present.
4. In light of the [White House's Reductions in Force \(RIF\) Executive Order](#), you should review your agency's RIF documents and the following information:
  - Last week, CRS released a brief report, "[Reductions in Force \(RIFs\): An Overview](#)" [PDF] and earlier this year released "[Federal Workforce Downsizing: Voluntary and Involuntary Mechanisms](#)" [PDF]
  - See [OPM's webpage on RIFs](#).
5. Local leaders should begin collecting or continue to collect personal contact information from members, beginning with those who have been terminated, are on probationary status or have other reason to believe that they may be targeted for imminent termination. Contact information should include:
  - Personal email
  - Personal phone, home and cell
  - City and state of residence
  - Employment status
6. Local leaders should advise employees who are terminated that they have **the right to challenge the personnel action and the choice of forum**. Depending on the circumstances of each employee's termination, NFFE may be able to represent the employee in a NFFE grievance, an MSPB appeal, or an OSC complaint. Employees also have the right to file a complaint with the EEOC. Employees should tell NFFE if they would like NFFE to represent them. Locals can contact their BR for guidance.
  - For a concise review, see Protect Democracy's "[Understanding the Termination of Federal Probationary Employees and Their Rights](#)" [PDF]
  - An MSPB Appeal must be filed within 30 days of the effective date of this decision or 30 days after the date of your receipt of this decision, whichever is later.
  - The [MSPB fact sheet](#) [PDF] on probationary employees appeals states: "Your right to appeal your removal to the Board will depend on whether you meet the definition of an "employee" under the law (5 U.S.C. § 7511(a)(1)) and whether you meet the requirements of any OPM regulation that grants additional appeal rights. Whether you are an "employee" with appeal rights will depend in part on whether you are in the competitive service (defined in 5 C.F.R. § 212.101) or the excepted service (defined in 5 C.F.R. § 213.101)."
  - MSPB also says employees have the right to file an Equal Employment Opportunity complaint, a grievance or a request for corrective action with the Office of Special Counsel (OSC). Please consider your individual circumstances and look at the specifics of your termination.
  - "You should quickly attempt to determine whether such options exist before you file an appeal, because frequently the type of review you seek first constitutes an 'election of remedy' that may limit or preclude other review options," the MSPB has stated.
  - OSC claims can be filed in relation to Prohibitive Personnel Practices, of which these mass firings are.

NFFE will issue additional guidance for Local leaders in the coming days as new circumstances arise.