

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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GOVERNMENT ACCOUNTABILITY  
PROJECT, et al.,

Plaintiffs,

v.

UNITED STATES OFFICE OF  
PERSONNEL MANAGEMENT, et al.,

Defendants.

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Civil Action No. 25-0347 (PLF)

MEMORANDUM OPINION AND ORDER

Before the Court is plaintiffs’ Revised Motion for a Modified Briefing Schedule (“Plaintiffs’ Motion”) [Dkt. No. 31]. On February 6, 2025, plaintiffs filed a Complaint [Dkt. No. 1], alleging that certain aspects of Executive Order 14171, “Restoring Accountability to Policy-Influencing Positions within the Federal Workforce,” and Defendant United States Office of Personnel Management’s (“OPM”) implementing Guidance, are “unlawful,” in part because the Executive Order and Guidance “declar[e] certain regulatory provisions to be ‘inoperative or without effect.’” Plaintiffs’ Motion ¶ 1. Then, on April 23, 2025, OPM published a proposed rule, “Improving Performance, Accountability and Responsiveness in the Civil Service,” 90 Fed. Reg. 17182 (April 23, 2025). Id. ¶ 5. Plaintiffs allege that OPM’s proposed rule “repeal[s] and amend[s] certain OPM regulations, including those regulations that the Executive Order and OPM Guidance had purported to render ‘inoperative and without effect.’” Id.

Plaintiffs assert that OPM’s forthcoming final rule, which will presumably issue after the comment period for the proposed rule ends, see Plaintiffs’ Motion ¶ 7, “may moot some of Plaintiffs’ [original] claims and will likely form the basis of new claims Plaintiffs intend to assert in an amended complaint challenging the Final Rule.” Id. ¶ 8. Plaintiffs argue that there is “good cause to enter a modified briefing schedule,” id. ¶ 4, and that they are “entitled to file an amended complaint as of right.” Id. ¶ 10 (citing FED. R. CIV. P. 15(a)(1)(B)). And even if their proposed amended complaint is “deemed not to be an amendment as of right under FED. R. CIV. P. 15(a)(1)(B),” plaintiffs assert that “leave to amend should be freely given and would be appropriate under these circumstances.” Id. ¶ 11 (citing FED. R. CIV. P. 15(a)(2)).

Plaintiffs request (i) a modified briefing schedule, (ii) suspension of the current briefing deadlines set forth in the Court’s Minute Order dated March 28, 2025, and (iii) leave to file an amended complaint within 21 days after OPM issues a final rule based on its April 23, 2025 proposed rule. See Plaintiffs’ Motion ¶ 14. Defendants object to suspension of the current briefing schedule and “prefer to keep the dates and briefs as originally contemplated.” Id. ¶ 12 n.2. They “do, however, consent to the proposed briefing schedule for any Amended Complaint and motions and briefs following thereafter.” Id.

Upon consideration of Plaintiffs’ Motion, defendants’ objections, and the relevant legal authorities, the Court will GRANT Plaintiffs’ Motion.

Plaintiffs filed their complaint on February 6, 2025. See Complaint. Defendants have yet to file a responsive pleading or a motion to dismiss under Rule 12(b) of the Federal Rules of Civil Procedure. Plaintiffs therefore may amend their complaint as of right. See FED. R. CIV. P. 15(a); see also Villery v. District of Columbia, 277 F.R.D. 218, 219 (D.D.C. 2011) (“[A] party has an absolute right to amend its complaint at any time from the

moment the complaint is filed until 21 days after the earlier of the filing of a responsive pleading or a motion under Rule 12(b), (e), or (f).”). Accordingly, it is hereby

ORDERED that Plaintiffs’ Motion [Dkt. No. 31] is GRANTED; it is

FURTHER ORDERED that the briefing deadlines set forth in the Court’s Minute Order dated March 28, 2025 are VACATED; it is

FURTHER ORDERED that plaintiffs shall file an amended complaint within 21 days after the publication of a final rule is issued in connection with the proposed rule, “Improving Performance, Accountability and Responsiveness in the Civil Service,” 90 Fed. Reg. 17182 (April 23, 2025) (Docket ID: OPM-2025-0004). Defendants shall respond to plaintiffs’ amended complaint or file a motion to dismiss within 30 days of the filing of the amended complaint. Plaintiffs shall file an opposition to any motion to dismiss within 30 days of the filing of the motion. Defendants shall file any reply in further support of a motion to dismiss within 14 days of the filing of plaintiffs’ opposition.

SO ORDERED.

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PAUL L. FRIEDMAN  
United States District Judge

DATE: April 29, 2025