

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS

AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES, AFL-CIO,
AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL
EMPLOYEES, AFL-CIO, and NATIONAL
ASSOCIATION OF GOVERNMENT
EMPLOYEES, INC.,

Plaintiffs,

v.

SCOTT KUPOR, in his official capacity as
Director of the Office of Personnel
Management, OFFICE OF PERSONNEL
MANAGEMENT, and THE UNITED
STATES OF AMERICA,

Defendants.

Case No. 1:25-cv-13305-GAO

**PLAINTIFFS' MOTION FOR STAY UNDER 5 U.S.C. § 705 AND FOR PRELIMINARY
INJUNCTION**

Pursuant to Federal Rule of Civil Procedure 65(a), Plaintiffs American Federation of Government Employees, AFL-CIO, American Federation of State, County and Municipal Employees, AFL-CIO, and National Association of Government Employees, Inc. respectfully request that the Court enter a stay under 5 U.S.C. § 705 against Scott Kupor, in his official capacity as Director of the Office of Personnel Management, the Office of Personnel Management, and the United States of America (“Defendants”), staying the implementation of the Merit Hiring Plan and Merit Hiring Plan Guidance, insofar as they direct the inclusion and use of the Loyalty Question in federal civil service hiring. Plaintiffs also seek an order enjoining Defendants, their officers, agents, and employees, and other persons who are in active concert or participation with any of them from implementing, requiring, using, or permitting the use of the Loyalty Question in civil service hiring; from using, requiring, or permitting the use of, or reliance upon, answers to the Loyalty Question in any manner; and from implementing, giving effect to, or reinstating the Loyalty Question under a different name.

As set forth in greater detail in the accompanying memorandum of points and authorities, and the declarations of Everett Kelley, Lee Sutton, Fernando Colón, Cara Meyer, and Federal Workers 1-4 filed herewith, Plaintiffs have established that they are likely to succeed on the merits of their claims under the First Amendment, because the Merit Hiring Plan’s imposition of a Loyalty Question violates the First Amendment rights of Plaintiffs’ members; and under the Administrative Procedure Act, because the Merit Hiring Plan and MHP Guidance are arbitrary and capricious, and contrary to the Constitution. Plaintiffs have demonstrated a strong likelihood of success on the merits of their claims and have shown that, absent relief, they will suffer irreparable harm, with the balance of equities and the public interest weighing in favor of

granting a stay and preliminary injunction. Plaintiffs will post a nominal bond of \$100 pursuant to Federal Rule of Civil Procedure 65(c).

Respectfully submitted,

KEKER, VAN NEST & PETERS LLP

Dated: November 19, 2025

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LOCAL RULE 7.1(a)(2) CERTIFICATION

Pursuant to Local Rule 7.1(a)(2) and Federal Rule of Civil Procedure 65, counsel for Plaintiffs certify that they have given counsel for all Defendants notice of this motion and they have attempted to meet and confer in good faith with Defendants' counsel concerning this motion, in an effort to narrow or resolve the issues before filing.

/s/Warren A. Braunig

Warren A. Braunig

CERTIFICATE OF SERVICE

I certify that this document is being filed through the Court's electronic filing system, which serves counsel for other parties who are registered participants as identified on the Notice of Electronic Filing (NEF). Any counsel for other parties who are not registered participants are being served by first class mail.

/s/Warren A. Braunig

Warren A. Braunig