

Comments Opposing the Proposed Rule that would allow civilian career positions to be moved into Schedule Policy/Career and stripped of their civil service protections.

Docket ID: OPM-2025-0004

The modern Civil Service has developed over the past 150 years, with major legislation passed in 1883 (Pendleton Act) and 1978 (Civil Service Reform Act) in response to episodes of corruption and poor governance. These reforms ended the era of the notoriously corrupt and highly politicized “spoils system,” ushering in and later strengthening a non-partisan, merit-based, professional federal civilian workforce. Such a workforce has been definitively shown over many decades and across many countries to dramatically reduce waste, fraud, and abuse, and to improve services and outcomes for the public. The proposed rule would reverse much of America’s progress on this front by reclassifying thousands of civil servants as “at-will” employees who could be fired without cause, warning, or recourse.

In addition to personally harming thousands of dedicated public servants, the proposed rule would also harm the American people by reducing the professionalism and competence of the federal workforce, thus reducing the quality and efficiency of government services delivered to the public. Oliveira *et al.* (2020) conducted a systematic review and found that “*factors such as meritocratic appointments/recruitment, tenure protection, impartiality, and professionalism are strongly associated with higher government performance and lower corruption.*” These authors conclude, “*The implications of the findings for Schedule F [an earlier version of Schedule Policy/Career] are unequivocal—converting career employees to Schedule F and removing their civil service protections is likely to degrade government performance. The outcome variables ... are diverse, but outcomes likely to be affected range from unit performance, to citizen confidence, to corruption.*”

In Public Administration Review, the journal of the American Society for Public Administration, Moynihan (2022) wrote, “*While proposed as a means to improve political responsiveness and performance-based accountability, [Schedule F] invited a politicization akin to both the US spoils system and populist regimes that seek to capture control of independent institutions of governance. ... There is simply no body of evidence that suggests that allowing partisans to fire career officials in highly politicized settings improves performance. Indeed, what evidence we have suggests the opposite. ... Civil servants invest effort and develop expertise precisely because a stable public job provides an environment where they can pursue their motivations to make a difference ... Instability and politicization makes public service less attractive, leading to higher turnover of experienced civil servants ... and giving public officials less reason to develop expertise. ... As OMB leadership declared they would take the lead in implementing Schedule F, employee morale collapsed.*” Indeed, as cited in FedScoop (2025), experts warn that the proposed rule is likely to harm the government’s recruitment and retention of the most highly qualified individuals, particularly in competitive and technical fields such as IT, cybersecurity, and artificial intelligence.

The criteria (“guideposts”) that would be used to reclassify civil servants to schedule Policy/Career are vague, and the proposed rule notes that “The President may move a greater

or smaller number of positions.” Thus, it is unclear how many public servants would be affected by this involuntary reclassification and loss of civil service protections – many estimates are over 50,000, and preliminary analysis suggests that many lower-level staffers could be impacted. These changes would have a chilling effect on freedom of speech for these employees, which is likely to have ripple effects on speech throughout and beyond their agencies. Although the proposed rule claims that “*career employees...are not required to pledge personal loyalty to the President or his policies,*” media reports give many examples of implicit or explicit loyalty tests being applied to federal employees and applicants.

The proposed rule goes on to state that career employees “*must diligently implement and advance, to the best of their ability, the policies of the President and the administration, and that failure to do so is grounds for dismissal. This language clarifies what is required of Schedule Policy/Career employees: they do not need to personally support the President's policies, but they must execute them faithfully and to the best of their ability.*” Civil servants already faithfully execute the policies of the President. The oath of office required of every career federal employee states, “*I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.*” For all executive branch employees, faithfully discharging the duties of office requires earnest efforts to implement all (legal) policies and directives issued by all levels of the chain of command, from the immediate supervisor through to the politically appointed agency head, and ultimately to the President.

Notwithstanding the good faith efforts of civil servants to execute the policies of the sitting President, the employee’s oath is to the Constitution and *not* to the office or the current inhabitant of the Presidency. The proposed rule would undermine this most basic tenet of public service, and would incentivize and potentially require federal employees to put personal or party loyalty – real or feigned – ahead of the Constitution, the rule of law, and the best practices of their various professional disciplines. Indeed, Moynihan (2022) warns, “*... Giving a president ... the means to demand personal loyalty from career officials seems plainly at odds with the framer’s concerns about centralized power leading to tyranny.*”

Much of the proposed rule lays out OPM’s case that there is an urgent need for reforms to facilitate the removal of poor or underperforming employees. Even if this is a pervasive problem, the proposed rule is not the solution and will create many other problems that are far worse. The proposed rule will not meaningfully improve agencies’ ability to remove poor performers because, notwithstanding its broad and worrisome ramifications, the proposed rule would only directly apply to about 2 percent of the civilian workforce; thus it is not a panacea for addressing the purportedly widespread problem of underperforming employees across the government. However, for those employees who are involuntarily converted to “at will,” the effect is likely to be chilling, undermining integrity and transparency and degrading performance across the government. By allowing for adverse actions and removals without cause, the proposed rule opens the door to subjectivity, favoritism, conflicts of interest, politicization, and outright

corruption by managers who supervise Schedule Policy/Career employees. Being thus subjected to adverse actions at the whim of management, Schedule Policy/Career employees will hesitate to present facts or findings – no matter how robustly supported by evidence – that risk running afoul of the prevailing group-think or the preconceived answers sought by the administration. As a workplace culture of fear takes hold, performance will decline across the government (Pustov *et al.* 2024), harming the American people who rely on a broad array of federal services. If OPM is truly concerned about improving performance of government employees, they will rescind this rule and replace it with a proposal to strategically enhance management's ability to address underperformers within the existing civil service framework, which ensures transparency and accountability for career staff and supervisors alike.

The proposed rule states, *"Schedule Policy/Career positions remain career positions, and employees who perform well and faithfully implement the President's agenda to the best of their ability have little reason to fear dismissal based on non-merit factors. Firing experienced policy-influencing employees who are helping advance his policy agenda would undermine the President's ability to implement that agenda. The President has unsurprisingly forbidden agencies from doing so."* This statement is belied by the actions of this administration to date. In just under four months, federal employees have been confronted with the "fork in the road" ultimatum, managed by an OMB Director who's stated purpose is traumatizing civil servants, illegally fired *en masse* except when such actions were blocked by the courts, and surveilled via AI for communications that are deemed insufficiently loyal to the administration. Taken together, these actions can only be construed as a coordinated and intentional effort to create an atmosphere of fear across the federal workforce, communicating loud and clear that loyalty to the administration – not the Constitution – will be the job requirement of public servants going forward.

The proposed rule will result in a disastrous return to the spoils system. The implications for our country are particularly dire considering that, when the spoils system last prevailed in 1883, the federal government served a population of about 50 million Americans, as opposed to almost 350 million today. The federal workforce of 1883 could not have conceived a world with social media, satellites, artificial intelligence, gene editing, nuclear weapons, global supply chains, air traffic control, climate change, drones, cryptocurrency, and ongoing effects from a global pandemic. The scale and complexity of America in the 21st Century demand the maintenance and strengthening of the non-partisan, merit-based, professional federal civilian workforce that has served this country well for the past 142 years. The proposed rule seeks to dismantle that workforce and replace it with an army of apparatchiks and sycophants.

For all the reasons listed above, I vehemently oppose the proposed rule. I urge OPM to withdraw the proposed rule, and I implore the President to rescind the associated Executive Order.

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