

The Detrimental Effects of the Proposed Rule on Civil Service Performance and Accountability

1. Introduction: The Perils of Politicizing the Civil Service

The proposed rule, published in the Federal Register on April 23, 2025 ¹, seeks to implement Executive Order 14171 and establish a new personnel category known as Schedule Policy/Career within the civil service. The stated aim is to enhance performance, accountability, and responsiveness within the federal workforce.¹ However, this initiative, which reinstates and amends the previous Schedule F executive order ², presents a significant threat to the foundational principles of a merit-based, nonpartisan civil service. This report argues against the implementation of this rule, asserting that it undermines the established merit system, erodes job security for dedicated career professionals, risks increased politicization and a decline in government effectiveness, raises substantial legal and statutory concerns, and could negatively impact accountability mechanisms, including whistleblower protections. The purported objectives of improved "performance, accountability, and responsiveness" appear to be contradicted by the very mechanisms proposed in the rule. The focus on "policy-influencing" roles, coupled with the removal of critical job protections, suggests an underlying intention to exert greater political control over the civil service rather than a genuine effort to enhance governmental functions. Furthermore, the reintroduction of this type of reform, following previous attempts, indicates a persistent agenda to fundamentally reshape the civil service in a manner that could lead to instability and a loss of invaluable institutional knowledge with each change in presidential administration.

2. Undermining Merit-Based Principles: A Return to Patronage

A cornerstone of the proposed rule is the incorporation of Schedule Policy/Career as an excepted service schedule specifically targeting career positions with policy influence.¹ This shift fundamentally challenges the long-standing merit-based principles that have traditionally governed the selection and retention of civil servants. The establishment of Schedule F, the precursor to Schedule Policy/Career, was designed to remove competitive examination requirements, potentially paving the way for appointments based on factors other than demonstrated competence and expertise.³ This approach contrasts sharply with the traditional merit-based system, where recruitment and disciplinary actions are ideally based on qualifications and performance.⁴ Under the proposed rule, employees in Schedule Policy/Career positions could be hired and potentially dismissed at the executive's discretion, raising the specter of political affiliation playing a dominant role in staffing decisions, thereby

undermining the principle of selecting individuals based on their training and experience.⁴ Public sentiment overwhelmingly favors a merit-based civil service, with 95% of Americans believing that hiring and promotion should be based on merit rather than political beliefs.⁵ The proposed rule, therefore, stands in direct opposition to the widely held view that competence and qualifications should be the primary determinants of civil service employment. This deviation from merit-based hiring practices carries the risk of diminishing the overall quality and expertise within the civil service. When individuals are selected based on political considerations rather than their skills and qualifications, it can lead to inefficiencies, errors, and a decline in the quality of government programs and services. Such a system could also cultivate a culture where political loyalty takes precedence over professional competence, incentivizing individuals to prioritize pleasing political superiors over serving the public interest with their best judgment and expertise. The proposed rule thus presents a danger of reverting the civil service system to a patronage model, reminiscent of historical periods characterized by corruption and a lack of qualified personnel.⁷

3. Erosion of Due Process and Job Security: The "At-Will" Threat

A particularly concerning aspect of the proposed rule is the clarification that employees in Schedule C and the newly created Schedule Policy/Career positions will not be covered by the procedural requirements of chapter 75 of Title 5 of the U.S. Code, which govern adverse actions and appeals.¹ This represents a significant departure from established civil service protections, stripping a considerable portion of the federal workforce of crucial safeguards against unfair dismissal. Under the framework of Schedule F, which Schedule Policy/Career effectively reinstates, positions would lose the "for cause" requirement for removal, meaning that employees could be terminated at will, akin to political appointees, without the need for documented performance or conduct issues.³ Employees reclassified under this schedule would forfeit rights traditionally afforded to government employees through the Civil Service Reform Act, including advance notice of disciplinary actions, protection against politically motivated or arbitrary firing, merit-based performance standards, and the right to appeal to the Merit Systems Protection Board (MSPB).⁴ Furthermore, the proposed rule seeks to amend 5 CFR part 432 to exclude Schedule Policy/Career positions from the performance-based removal procedures outlined in chapter 43 of Title 5.¹ This further restricts the avenues for appeal and challenges to termination, even in cases where poor performance is alleged. The absence of job security and due process protections could trigger a significant exodus of experienced and skilled civil servants seeking more stable employment opportunities elsewhere. This "brain drain" would further deplete the government's expertise and

institutional knowledge.⁸ Moreover, the precarious nature of employment under this rule could create a chilling effect on civil servants' willingness to offer candid and objective advice, especially if their perspectives diverge from the administration's policies, as they would understandably fear reprisal in the form of dismissal.⁹ By eliminating fundamental due process protections, the proposed rule effectively transforms career civil servants in policy-influencing roles into at-will employees, thereby undermining the stability and professionalism that are essential for an effective civil service.

4. Increased Politicization and Reduced Government Effectiveness: Loyalty Over Expertise

The proposed rule explicitly states that while employees in Schedule Policy/Career positions are not required to pledge personal loyalty to the President, they must diligently implement the President's policies, with failure to do so constituting grounds for dismissal.¹ Despite the disclaimer regarding personal loyalty, the emphasis on strict adherence to the administration's policies and the threat of termination for non-compliance can be interpreted as establishing a de facto loyalty test. Research has consistently demonstrated that a reliance on political appointees and the politicization of the civil service undermine government performance.¹¹ Studies conducted during previous administrations have indicated that more politicized environments within the federal government negatively impact the incentives for career bureaucrats to invest in their skills, often leading them to seek employment outside of government.¹¹ This further corroborates the concern about a potential "brain drain" and the detrimental effects on skill development and retention within the civil service. The consensus among experts is that politicization generally leads to a decline in government capacity and overall performance.¹¹ Concrete examples illustrate the potential for negative consequences, such as government agencies with a higher number of political appointees being more likely to award government contracts to firms connected to the ruling party, even if those firms do not offer the most cost-effective solutions.¹² The emphasis on policy alignment over independent expertise could also lead to the suppression or manipulation of crucial scientific and technical information if it happens to contradict the administration's political agenda. This could have severe implications for public health and safety in agencies like the Environmental Protection Agency (EPA) or the Food and Drug Administration (FDA).⁷ Furthermore, increased political turnover within the civil service, a likely outcome of the proposed rule, could disrupt the continuity of long-term projects and initiatives that require sustained effort and expertise across multiple administrations. This would hinder the government's ability to effectively address complex challenges that

demand consistent attention and a long-term perspective.⁸ By prioritizing the implementation of a specific political agenda over the independent expertise of career civil servants, the proposed rule risks transforming the civil service into an instrument of partisan objectives, thereby undermining its fundamental purpose of serving the public interest based on professional competence and neutrality.

5. Legal and Statutory Concerns: Exceeding Executive Authority

The proposed rule and the underlying Executive Order 14171 have already faced significant legal challenges. Plaintiffs have argued that the Executive Order is unlawful because it exceeds the statutory authority granted to the President by Congress and runs contrary to congressional intent, particularly as it seeks to reclassify career employees rather than solely political appointees.¹⁴ Legal complaints assert that the implementation of Executive Order 14171 would facilitate the dismantling of the civil service and its replacement with political loyalists, thereby violating the Civil Service Reform Act (CSRA) and infringing upon Congress's constitutional authority to establish and regulate the civil service system to ensure a merit-based federal workforce free from political retribution.¹⁵ Lawsuits have also been filed contending that the President has illegally overstepped his authority by attempting to unilaterally roll back existing regulations that protect the rights of civil servants.¹⁶ The National Treasury Employees Union (NTEU) has similarly filed suit to block the implementation of Schedule F, arguing that it is "contrary to congressional intent" and wrongly applies employment rules intended for political appointees to career staff, deprives federal employees of their promised due process rights, and disregards established Office of Personnel Management (OPM) regulations.¹⁸ The attempt by the OPM to bypass the traditional notice-and-comment rulemaking process for rescinding portions of previous regulations raises further legal concerns regarding transparency and adherence to the Administrative Procedure Act (APA).²⁰ The OPM's assertion of a vague presidential authority to "nullify" existing federal rules without following the standard rulemaking procedures mandated by the APA is likely to face legal scrutiny. Should the courts ultimately rule against the administration in these legal challenges, the implementation of this rule could be subject to injunctions and potential reversals, leading to significant instability and uncertainty within the civil service. This could necessitate the reinstatement of employees who were previously reclassified and potentially terminated, further disrupting government operations. The proposed rule and the Executive Order upon which it is based face substantial legal hurdles, with arguments centered on the exceeding of presidential authority, contravention of the Civil Service Reform Act, and potential violations of the Administrative Procedure Act, casting serious doubt on their long-term legal standing and practical implementation.

6. Negative Impacts on Accountability and Whistleblower Protections: Silencing Dissent

Critics have voiced significant concerns that the implementation of Schedule Policy/Career, mirroring the previously proposed Schedule F, could lead to a resurgence of a patronage-based system within the government, where political loyalty trumps merit and expertise in hiring and retention decisions.³ They also warn that the potential for mass removals of civil servants during transitions of power could severely disrupt essential government services and result in a significant loss of valuable institutional knowledge accumulated over years of dedicated public service.³ A particularly alarming consequence highlighted by legal experts is the potential loss of whistleblower rights for reclassified employees.⁹ This erosion of protections could have a profoundly chilling effect on civil servants' willingness to report waste, fraud, and abuse within their respective agencies, ultimately leading to a less accountable and potentially more corrupt government.¹⁰ Weaker civil service laws, such as those proposed under this rule, inherently undermine whistleblower protections, which are crucial for safeguarding the career federal workforce from retaliation and political favoritism. This weakening of protections would not only make the government less effective but also pose risks to the public. Furthermore, it would impede Congress's ability to conduct effective oversight of the executive branch, as federal employees within agencies serve as vital sources of information. Without robust protections and due process, these sources would be far less likely to come forward with crucial information.²³ Advocacy organizations have strongly condemned the proposed rule, emphasizing that if the administration is permitted to disregard the Constitution and the Civil Service Reform Act, it would effectively eliminate whistleblower protections, posing a fundamental threat to democracy. By potentially stripping thousands of employees of their rights to report illegal activities, waste, and abuse, the administration would create an environment where corruption, secrecy, and political cronyism could flourish unchecked, leading to a significant decline in good governance and causing substantial harm to the American people.¹⁵ The fear of arbitrary dismissal, a direct consequence of the diminished job security under this rule, could discourage civil servants from reporting any wrongdoing, fostering a less transparent and accountable government. The erosion of whistleblower protections would also weaken the essential checks and balances within the government system, making it considerably more difficult for both Congress and the public to hold the executive branch accountable for its actions.¹¹ By diminishing job security and potentially undermining critical whistleblower protections, the proposed rule creates a dangerous environment where civil servants are less likely to hold the administration accountable, significantly increasing the risk of waste, fraud, and abuse within the

federal government.

7. Conclusion: Preserving a Professional and Nonpartisan Civil Service

In conclusion, the proposed rule to implement Executive Order 14171 and establish Schedule Policy/Career represents a misguided approach that would undermine the fundamental principles of the American civil service. The analysis indicates that this rule threatens to erode the merit-based system, replacing it with a model susceptible to political influence and patronage. It strips away essential due process protections and job security for career professionals, potentially leading to a "brain drain" and a chilling effect on the willingness of civil servants to provide objective advice. The increased politicization of the civil service, a likely outcome of this rule, risks diminishing government effectiveness and potentially leading to the suppression of vital scientific and technical information. Furthermore, the legal and statutory concerns surrounding the rule and the underlying Executive Order raise serious questions about their legitimacy and long-term viability. Finally, the potential negative impacts on accountability and whistleblower protections could foster an environment where waste, fraud, and abuse go unreported and unchecked. A professional, nonpartisan civil service, built on merit and dedicated to serving the public interest, is a cornerstone of a well-functioning democracy.⁵ The proposed rule represents a dangerous step towards a politicized civil service that would ultimately harm the American people and undermine the principles of good governance. Therefore, the implementation of this rule should be reconsidered to safeguard the integrity and effectiveness of the civil service.

Table: Comparison of Traditional Civil Service and Proposed Schedule Policy/Career

Feature	Traditional Civil Service	Proposed Schedule Policy/Career
Hiring Basis	Merit, based on qualifications and competitive examinations	Potentially based on political loyalty and policy alignment ³
Job Security	Significant protections, "for cause" removal ⁴	Reduced protections, potential for "at-will" termination ³

Due Process	Comprehensive adverse action procedures and appeal rights ⁴	Limited or no coverage under standard adverse action procedures ¹
Political Loyalty	Not required ¹	Implicit requirement to faithfully implement administration policies ¹
Whistleblower Protection	Robust protections against retaliation ²³	Potentially weakened ⁹
Union Protections	Generally applicable ⁴	Potentially diminished or eliminated ⁴

Works cited

1. Improving Performance, Accountability and ... - Federal Register, accessed April 23, 2025, <https://www.federalregister.gov/documents/2025/04/23/2025-06904/improving-performance-accountability-and-responsiveness-in-the-civil-service>
2. Restoring Accountability To Policy-Influencing Positions Within the Federal Workforce, accessed April 23, 2025, <https://www.whitehouse.gov/presidential-actions/2025/01/restoring-accountability-to-policy-influencing-positions-within-the-federal-workforce/>
3. What is Schedule F and What You Need to Know as a Federal Employee, accessed April 23, 2025, <https://www.fedelaw.com/what-is-schedule-f-for-federal-employees/>
4. The Potential Impact of Schedule F on Federal Employees, accessed April 23, 2025, <https://www.pinesfederal.com/legal-blog/impact-of-schedule-f-on-federal-employees/>
5. Civil Service 101, accessed April 23, 2025, <https://www.civilservicestrong.org/civil-service-101>
6. New Partnership for Public Service report finds despite low levels of trust in the federal government, the American public overwhelmingly supports a nonpartisan, merit-based civil service, accessed April 23, 2025, <https://ourpublicservice.org/press-release/new-partnership-for-public-service-report-finds-despite-low-levels-of-trust-in-the-federal-government-the-american-public-overwhelmingly-supports-a-nonpartisan-merit-based-civil-service/>
7. The Historic Dangers of Politicizing Our Civil Service | TIME, accessed April 23, 2025, <https://time.com/7244554/dangers-of-politicizing-our-civil-service/>
8. Is the U.S. Civil Service really broken? What the research says about bureaucratic efficiency and reform - Haas News, accessed April 23, 2025,

- <https://newsroom.haas.berkeley.edu/is-the-u-s-civil-service-really-broken-what-the-research-says-about-bureaucratic-efficiency-and-reform/>
9. Trump moves to invoke Schedule F to make it easier to fire some federal workers - AP News, accessed April 23, 2025,
<https://apnews.com/article/donald-trump-civil-service-workforce-e6e4cf979b910b0f89877a9a09e7c4a4>
 10. The Schedule F Threat to Democracy: A Project 2025 Explainer - Kettering Foundation, accessed April 23, 2025,
<https://kettering.org/the-schedule-f-threat-to-democracy-a-project-2025-explainer/>
 11. The risks of Schedule F for administrative capacity and government accountability, accessed April 23, 2025,
<https://www.brookings.edu/articles/the-risks-of-schedule-f-for-administrative-capacity-and-government-accountability/>
 12. Politicisation of the Civil Service will result in worse outcomes for citizens | UCL Policy Lab, accessed April 23, 2025,
<https://www.ucl.ac.uk/policy-lab/news/2023/may/politicisation-civil-service-will-result-worse-outcomes-citizens>
 13. The civil service, explained - Protect Democracy, accessed April 23, 2025,
<https://protectdemocracy.org/work/the-civil-service-explained/>
 14. Restoring Accountability to Policy-Influencing Positions Within the Federal Workforce (Trump EO Tracker) - Akin Gump, accessed April 23, 2025,
<https://www.akingump.com/en/insights/blogs/trump-executive-order-tracker/restoring-accountability-to-policy-influencing-positions-within-the-federal-workforce>
 15. Protect Democracy and Selendy Gay File Lawsuit to Defend a Cornerstone of American Democracy, accessed April 23, 2025,
<https://www.selendygay.com/news/general/2025-02-06-the-government-accountability-project-and-narfe-challenge-executive-order-14171>
 16. Public Service Unions File Lawsuit Challenging Trump Administration Efforts to Politicize the Civil Service - AFGE, accessed April 23, 2025,
<https://www.afge.org/publication/public-service-unions-file-lawsuit-challenging-trump-administration-efforts-to-politicize-the-civil-service/>
 17. AFGE, AFSCME File Lawsuit Challenging Trump's Schedule F, Efforts to Politicize Civil Service, accessed April 23, 2025,
<https://www.afge.org/article/afge-afscme-file-lawsuit-challenging-trumps-schedule-f-efforts-to-politicize-civil-service/>
 18. As Trump seeks to reshape the federal workforce, unions blast his Schedule F plan, accessed April 23, 2025,
<https://www.cbsnews.com/news/donald-trump-executive-order-schedule-f-unions/>
 19. Federal Employees Union Challenges Trump Schedule F Order - Lawfare, accessed April 23, 2025,
<https://www.lawfaremedia.org/article/federal-employees-union-challenges-trump-schedule-f-order>

20. OPM proposes rule to formally revive Schedule F - Government Executive, accessed April 23, 2025,
<https://www.govexec.com/workforce/2025/04/opm-proposes-rule-formally-revive-schedule-f/404699/>
21. Federal worker unions sue to block Trump order rolling back civil service protections, accessed April 23, 2025,
<https://www.wusa9.com/article/news/politics/national-politics/federal-worker-unions-sue-to-block-trump-executive-order-rolling-back-civil-service-protections-schedule-f-career-policy/65-d47c5e56-6514-465b-9973-9e41ed4c9641>
22. Executive Order 14171: A Deceptive Tool for Democratic Erosion, accessed April 23, 2025,
<https://democratic-erosion.org/2025/02/14/executive-order-14171-a-deceptive-tool-for-democratic-erosion/>
23. Gutting Civil Service Laws Would Reduce Senior Official Accountability, accessed April 23, 2025,
<https://www.pogo.org/investigations/gutting-civil-service-laws-would-reduce-senior-official-accountability>
24. Full article: New development: Loyalty to principle or politics—The US civil service under attack ... but is it justified?, accessed April 23, 2025,
<https://www.tandfonline.com/doi/full/10.1080/09540962.2024.2376373>