

Comment on Improving Performance, Accountability and Responsiveness in the Civil Service

Docket Number: OPM-2025-0004

This comment is submitted in response to OPM’s proposed rule, which asserts the goal of improving performance, accountability, and responsiveness within the federal civil service. The proposed changes claim to update and reinforce civil service practices, yet they risk destabilizing a system that has long relied on clear, merit-based protections. In addressing concerns over underperformance and the handling of problematic employees, the proposal institutes a broad overhaul rather than implementing focused, targeted reforms. A more specific set of reforms would promote accountability and responsiveness while preserving the essential stability of the nonpartisan, merit-based workforce.

Neglected Reliance Interests and Stakeholder Implications

Federal employees and the American public have long depended on a stable, merit-based civil service system. This rule disregards these critical interests by dismantling due process protections from politicized job actions—the very cornerstones of federal employment. It sends a clear message: that career civil servants are undervalued and expendable.

This concern is compounded by alarming rhetoric; for example, President Trump recently stated on Truth Social—reported by Axios—that “if these government workers refuse to advance the policy interests of the President, or are engaging in corrupt behavior, they should no longer have a job. This is common sense, and will allow the federal government to finally be ‘run like a business.’” Coupled with mass layoffs and reclassifications, such messaging has sown tremendous and persistent distrust and uncertainty within the workforce.

The resulting instability not only demoralizes current employees but also erodes the capacity of federal agencies to carry out essential and effective services. By undermining the very framework that has long ensured a professional and nonpartisan civil service, the rule alienates key stakeholders who depend on the continuity and integrity of government operations. It is a direct affront to the principles of fairness and reliability that underpin public trust in federal institutions.

Ambiguities in Defining Policy-Influencing Roles

The proposed rule employs vague, overly broad, poorly-defined terms like “policy-making,” “policy-determining,” and “policy-advocating” to classify positions subject to revised civil service protections. Such imprecise language risks arbitrary reclassification and punitive actions. Recent reports suggest that the Administration has instructed agencies to begin reclassifying tens of thousands of federal employees under such pretexts, stripping them of job protections. The absence of narrowly tailored and clearly defined criteria for identifying “policy influencing” positions invites inconsistent applications across agencies and administrations, thereby raising the specter of politically motivated decisions that undermine the nonpartisan protections essential to our merit-based system.

Statutory Authority and Separation of Powers

While the Office of Personnel Management derives its authority from the Civil Service Reform Act and the Administrative Procedure Act, the rule’s application of that authority is alarming and inconsistent with longstanding statutory principles. Rather than a measured, evidence-based approach, OPM is transforming career positions into at-will roles for policy-influencing employees en masse—a marked departure from the protections Congress enshrined. Recent litigation further underscores this *ultra vires* action, with unions arguing that nullifying established protections without proper notice violates statutory limits and subverts Congress’s intent.

This overreach not only exceeds the statutory authority, but also serves as a desperate, grasping attempt to unconstitutionally concentrate power within the executive branch, bypassing the essential checks and balances that underpin our constitutional system. This is something our nation’s founders specifically warned about, and designed the Constitution to try to prevent.

Recent news reports document concerns raised by experts and policymakers alike, warning that such expansive reinterpretation essentially grants political appointees unfettered authority to remove employees on a whim, eroding decades-old safeguards. This shift is a dangerous encroachment upon the separation of powers, one that jeopardizes the impartiality and durability of the merit-based civil service.

Statutory and Constitutional Authority Concerns

The proposed rule attempts to justify stripping essential job protections by invoking Section 3302 of the Civil Service Reform Act and related statutory provisions.

However, this interpretation stretches the language far beyond its intended purpose and completely disregards the constitutional safeguards integral to our federal employment system. By effectively authorizing discretionary, unchecked executive control over personnel decisions, the rule bypasses the due process and judicial review for career employees. Many commentators see this expansive reading as a gross overreach—a deliberate circumvention of Congress’s intent to balance efficiency with fairness.

Overreliance on Presidential Discretion and Erosion of Checks and Balances

The rule’s concentration of power in the executive branch is most alarming. By converting policy influencing positions into at-will roles and dismantling established adverse action procedures, it grants unfettered discretion to the President and his appointees—leaving little room for judicial or legislative oversight. This centralization transforms the merit-based system into a politically volatile instrument. In practice, such an erosion of institutional checks and balances not only compromises the longstanding impartiality of federal service but also invites arbitrary, partisan actions that threaten the integrity of our democratic institutions. The stakes are too high for a system that should protect career civil servants from transient political impulses. The statutory and constitutional overreaches raise profound questions about executive power, but they also translate directly into challenges for daily operations and internal workforce stability.

Balancing Merit System Principles with Accountability

Federal agencies are said to face challenges managing underperformance and addressing misconduct—issues raised in Federal Employee Viewpoint Surveys. The current system can sometimes shift poor performers rather than remedying shortcomings with timely, targeted performance improvement plans.

The proposed rule seeks to enhance accountability by reclassifying policy influencing positions to allow for swift removal from critical roles. However, this approach risks undermining the essential balance between ensuring rapid corrective measures and maintaining robust procedural safeguards. Rapid removals may sometimes be necessary, yet, if pursued in a manner that diminishes objective, performance-based evaluations, they can incentivize arbitrary decisions and invite political manipulation into a system that must remain insulated from transient partisanship.

A wiser, more measured approach would involve targeted reforms to streamline and enforce existing performance improvement procedures without a wholesale alteration of civil service protections. Strengthening mechanisms such as clearly defined

performance improvement plans and enhanced supervisory training can improve accountability without eroding the stability and fairness integral to the federal workforce.

Recommendations for a Balanced, Enduring Reform

Given the significant concerns raised by the proposed rule, a more measured, targeted approach is required. Rather than embracing a one-size-fits-all radical overhaul, OPM must return to a framework that emphasizes sound performance management while safeguarding due process.

OPM should engage directly with congressional oversight bodies and labor representatives in a genuine, transparent dialogue—one that prioritizes the long-term stability and nonpartisan integrity of our civil service. Concrete measures should include enhanced supervisory training and robust performance improvement plans. Moreover, OPM must ensure that any future revisions adhere rigorously to the notice-and-comment requirements of the Administrative Procedure Act—an obvious imperative underscored by recent litigation—to safeguard the legitimacy and longevity of the merit-based system.

Questionable Economic and Operational Assumptions

The rule is premised on the notion that stripping certain protections will yield modest cost savings, streamlined separations, and reduced litigation—thus promising enhanced agency performance. However, these assumptions are flawed. Increased turnover, the loss of institutional knowledge, and a surge in litigation can rapidly outweigh any short-term efficiencies gained from shifting to at-will employment. Rather than delivering genuine operational improvements, the rule risks creating a façade of fiscal prudence while sowing the seeds for long-term dysfunction. The hidden costs—including diminished employee morale, reduced agency effectiveness, and the destabilization of key government functions—are likely to impose a far heavier burden on federal operations.

Challenges to Future Recruitment and Perceptions of Federal Service

The rule sends a negative message to all prospective federal employees, especially recent graduates. Disparaging rhetoric from both the Administration and Congress, alongside policies that imply federal workers are expendable, may deter talented and committed individuals from considering federal service. The proposed rule, along with the messaging, implicitly suggests that federal workers are no longer valued—that the system

has shifted from one of professional respect to one of disregard, as though “we don’t want you.” This message risks more than just tarnishing morale; it will shrink the pool of talented, committed individuals willing to serve the public, thereby imperiling the long-term efficacy and neutrality of our federal workforce. Any reform efforts should not only address performance challenges but also actively reinforce the message that federal service remains a stable, worthy, and respected career path.

Conclusion

In short, the proposed rule represents a sweeping departure from the core principles of merit-based employment and due process that have long underpinned federal service. Its broad, imprecise definitions and politically charged revisions risk transforming the federal workforce into an instrument of arbitrary, partisan manipulation, rather than genuine accountability. Reforms should uphold fairness, predictability, and nonpartisan integrity, rather than enabling arbitrary removals and destabilizing internal structures.

Thank you for considering my comments.

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