

April 23, 2025

Office of Personnel Management
1900 E Street NW
Washington, DC 20415-1000

Re: RIN 3206-AO80, “Improving Performance, Accountability and Responsiveness in the Civil Service”

Dear OPM,

I am a career regulatory analyst in the “Office of Policy” of a federal agency with over 10 years of experience in my current position. As one of the 50,000 federal employees who could lose my job as a consequence of Schedule Policy/Career, I strongly oppose this rulemaking. Despite OPM’s assurances to the contrary, I fear that officials in the current administration, or in a future administration, will exploit Schedule Policy/Career to facilitate “mass head-count reductions in the federal bureaucracy.”¹

Given my experience, I am under no illusions that anything I say will persuade OPM to abandon its implementation of amended Executive Order 13957 and Schedule Policy/Career. Indeed, OPM has telegraphed that a reversal isn’t happening, asserting that it “must comport with” Executive Order 13957 and that “[d]eclining to help the President execute this directive would be a dereliction of OPM’s statutory duty.”² Fair enough; it would be unrealistic to expect OPM to second-guess an executive order issued by the current President. Accordingly, feds like me will pin our hopes on the judicial branch, which will independently assess whether the Trump administration’s novel reinterpretation of the Civil Service Reform Act of 1978 is the “best reading” of that statute under *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244, 2266 (2024).³

While the outcome of this rulemaking may be preordained, I have written this comment for one important purpose. Taking advantage of the candor afforded by anonymity, I hope to refute the disparaging suspicion of federal employees at the heart of Executive Order 14171—not only to underscore that this initiative is unnecessary, but to convey to Trump administration officials that

¹ Elon Musk and Vivek Ramaswamy, *The DOGE Plan to Reform Government*, Wall Street Journal (Nov. 20, 2024), <https://www.wsj.com/opinion/musk-and-ramaswamy-the-doge-plan-to-reform-government-supreme-court-guidance-end-executive-power-grab-fa51c020><https://www.wsj.com/opinion/musk-and-ramaswamy-the-doge-plan-to-reform-government-supreme-court-guidance-end-executive-power-grab-fa51c020>.

² 90 FR 17200, 17218.

³ As a regulatory analyst, it would be supremely ironic if the *Loper Bright* decision ends up saving my job.

they can trust in the capability and professionalism of career policy staff. Whether you believe it or not, *we are here to help you*.

However, trust is a two-way street, and OPM has done much to diminish its credibility in the initial months of this administration.⁴ To the extent OPM is sincere in promising that “employees who faithfully perform their jobs to the best of their ability have little to fear from Schedule Policy/Career,”⁵ I urge OPM to implement meaningful safeguards beyond those included in its NPRM—in particular, language that would prohibit the arbitrary firing or mass firing of Schedule Policy/Career employees. Such safeguards would demonstrate OPM’s sincerity about the stated intent of amended Executive Order 13957—*i.e.*, holding bad actors accountable—while mitigating some of its harms.

A Solution in Search of a Problem

Before getting into the details of the NPRM, I wish to share my perspective as a federal employee who will likely be reclassified into Schedule Policy/Career, retaining my anonymity for obvious reasons. For context, I previously commented in support of OPM’s 2024 rule and was quoted at length in the preamble of that rule.⁶

As I described in my earlier comment, I am a GS-13 regulatory analyst who works in the “Office of Policy” of a prominent federal agency. For better or worse, my agency engages in some of the most contentious policy work in the federal government. For example, my agency’s policy priorities change dramatically depending on the political party in charge of the Presidency. Our rulemakings typically attract thousands of comments and have been the subject of Congressional committee hearings. Adverse stakeholders challenge our rules and sub-regulatory guidance in court, with disputes occasionally reaching the U.S. Supreme Court. My “substantive participation” in this contested policy work is important and exciting,⁷ but given its sensitivity, I am scrupulous to maintain the effort, professionalism, and objectivity expected of a taxpayer-funded federal employee.

As a career analyst, I have worked closely and successfully with political appointees under the Obama, Trump, and Biden administrations to issue regulations and policy guidance consistent with the policy priorities of those administrations. Naturally, I have personal opinions about the policy work I do, and I sometimes disagree with my politically appointed leaders about specific

⁴ See, e.g., Eric Katz, *As Re-Firings Begin, Judge Demands Trump Administration Tell Probationary Employees They Were Not Let Go for Poor Performance*, Politico (April 21, 2025), <https://www.politico.com/news/2025/02/27/opm-firing-probationary-federal-agency-employees-judge-ruling-00206615>; Billy Mitchell, *OPM Quietly Swapped Out Privacy Assessment for Governmentwide Email System Central to Ongoing Litigation*, FedScoop (March 3, 2025), <https://fedscoop.com/opm-email-privacy-assessment-swap-ongoing-litigation/>.

⁵ [90 FR 17218](#).

⁶ See [89 FR 25001](#) (Comment 3195).

⁷ E.O. 13957, sec. 5(c)(i).

policies or projects. In fact, robust civil service protections have empowered me—and, collectively, my coworkers and other career employees—to occasionally share policy recommendations or serious concerns with agency leadership, which sometimes results in our leadership changing course. This is a perfectly normal and healthy process, as career civil servants are supposed to provide candid deliberative advice to the politically appointed leaders who ultimately make the decisions. As OPM continues to recognize,⁸ candid internal feedback from career policy staff helps to ensure that regulatory changes and other policy initiatives are maximally effective, sustainable, and legally defensible.

At the same time, I and other career federal employees certainly understand that we are *not* the decisionmakers. Elections in a democracy have consequences, and it is entirely appropriate for agencies to pursue the policy preferences of the elected President who appoints its leaders. This is widely understood by all federal employees, who typically go above and beyond Hatch Act requirements to refrain from appearing politically biased whether we're on or off the clock. Speaking personally, I have often worked to delay, withdraw, rescind, and/or replace rules that I helped a previous administration to promulgate. Occasionally, I have drafted preamble language rebutting the very same language that I personally authored years before in an earlier rulemaking. I have also proactively “pitched” policy ideas to agency leadership in every Presidential administration, including in this administration. In fact, I and my coworkers have already brainstormed numerous ideas for regulatory relief consistent with the deregulatory aims of Executive Orders 14192 and 14219.⁹

Given this experience, I am incredulous at OPM's assertion that policy resistance is “a widespread phenomenon.”¹⁰ This assertion is a reversal from OPM's findings last year,¹¹ and it flies in the face of my personal experience. Sensationalist claims about a widespread “deep state” or “resistance” within the federal civil service simply do not reflect reality. For example, if there truly *was* widespread “policy resistance” against the Trump administration among the 50,000 employees who might be reclassified into Schedule Policy/Career, one would expect ubiquitous leaks about agency rulemakings and other sensitive policy initiatives to news outlets and adverse stakeholders. Here, OPM cites to just one example of a career employee ever leaking a policy document—a draft Presidential executive order promoting classical and traditional architectural styles in the design of federal buildings.¹² This one example, involving a seemingly trivial policy issue, does not establish that policy resistance is a “widespread” phenomenon.¹³

⁸ See [90 FR 17208](#) (“Career staff critiques, especially those coming from a political perspective that differs from political appointees, ultimately strengthens policymaking and produces better agency decisions.”).

⁹ See [90 FR 9065](#) (Executive Order 14192); [90 FR 10583](#) (Executive Order 14219).

¹⁰ [90 FR 17194](#).

¹¹ [89 FR 25000](#) (“OPM does not agree that employing civil servants ... thwarts the agenda of any President, and [such assertions] lack any well-founded support.”).

¹² [90 FR 17193 n. 151](#).

¹³ To be clear, I do not condone the actions of that apparently disgruntled architect.

The truth is that, like me, the overwhelming majority of career staff respect the integrity of the policymaking process and the importance of deferring to our Presidentially-appointed leaders. OPM's citation to unscientific poll results and a handful of clickbait articles do not make a persuasive case to the contrary.

In sum, Schedule Policy/Career appears to be a solution in search of a problem. I am not opposed to holding bad actors accountable, but I have never witnessed or heard about insubordination or "policy resistance" at my agency of the kind imagined in the NPRM. So, as a threshold matter, I disagree that there is a problem serious enough to justify stripping civil service protections from me and 50,000 other federal employees.

Weak Protections and Hollow Assurances

Section 6 of amended Executive Order 13957 provides that "[e]mployees in or applicants for Schedule Policy/Career positions are not required to personally or politically support the current President or the policies of the current administration," and separately instructs agencies to "establish rules to prohibit the same personnel practices prohibited by [5 U.S.C. 2302(b)] with respect to any employee or applicant for employment in Schedule Policy/Career of the excepted service."¹⁴ Additionally, amended Executive Order 13957 deviates from the original Executive Order 13957 by designating the new schedule as "Schedule Policy/Career" rather than "Schedule F"—ostensibly to rebut "misinformation" that the administration will use the new schedule as "a means of converting career positions to political positions."¹⁵

These protections are better than nothing, but they seem functionally unenforceable. As OPM noted last year:

Once hirings and firings are at-will ... [an] employee might not have an entitlement to written notice of the reasons for [an] adverse action, an opportunity to respond, or a written decision. Nor would the decision generally be appealable. It would thus be, at a minimum, difficult for employees to protect themselves from actions based on political beliefs or party allegiance because no cause (or evidence) would be required prior to such an action. Under Schedule F, because such an employee would be at-will, the employer would need to give little or no reason prior to a termination. In short, Schedule F leaves innumerable ways for politics to factor into these traditionally merit-based decisions in a manner that would be difficult to detect or remedy.¹⁶

Even in its new NPRM, OPM acknowledges the risk that "some [agency] officials" may "treat Schedule Policy/Career positions as noncareer positions" and fire employees for perceived

¹⁴ E.O. 13957, sec. 6.

¹⁵ [90 FR 17200](#).

¹⁶ [89 FR 24994](#) (citations omitted).

political disloyalty.¹⁷ In response, OPM replies that it will “be heavily involved in the implementation of Schedule Policy/Career” and “if necessary ... can recommend additional measures to prevent abuses.”¹⁸ Respectfully, these vague assurances are not good enough. OPM is the federal agency with the duty to implement amended Executive Order 13957 and should not wait for predictable harms to materialize before merely “recommend[ing]” solutions. Indeed, section 6(a) of amended Executive Order 13957 instructs that “agencies”—including OPM—“*shall* establish rules to prohibit [certain] personnel practices” against Schedule Policy/Career employees,¹⁹ but OPM’s NPRM fails to include any language about prohibited personnel practices in the proposed reg text for 5 CFR 213.3501.²⁰ At minimum, OPM should fix that oversight in its final rule.

Of course, the bigger problem is that nothing in OPM’s NPRM or in the express text of amended Executive Order 13957 will protect Schedule Policy/Career employees from mass firings. As OPM notes, “placing ... employees into Schedule Policy/Career makes them functionally at-will.”²¹ Thus, as long as agencies do not discriminate when they fire *individual* employees, agency heads will be newly empowered to quickly fire large groups of federal employees for no reason at all—as many as 50,000 across the federal government, according to OPM’s estimate in the NPRM.²² Contemplating the protections afforded to Schedule Policy/Career employees, one is reminded of Joseph Stalin’s infamous distinction between tragedies and statistics.

In a tacit acknowledgement of concerns that Schedule Policy/Career could be used for mass firings, OPM assures that “employees who faithfully perform their jobs to the best of their ability have little to fear from Schedule Policy/Career ... [as] agencies have strong incentives not to dismiss employees who are competently performing their assigned duties.”²³ Of particular relevance to me, OPM aptly notes that “drafting regulations and guidance ... are complex tasks that require considerable experience with the subject matter and technical procedures” which “[f]ew newly hired employees—career or noncareer—can do ... effectively,” concluding that “a President who wants agencies to implement his policies has strong incentives not to dismiss experienced regulation writers who are performing timely and quality work, no matter their personal political affiliation.”²⁴ Relatedly, OPM asserts that “the President and his appointees have additional incentivizes to maintain a career workforce that contains a diversity of views and opinions ... [as] frank and fearless advice to agency leadership ... helps agencies make better decisions, which the President and agency leaders value.”²⁵

¹⁷ [90 FR 17209](#).

¹⁸ *Id.*

¹⁹ E.O. 13957, sec. 6(a) (emphasis added).

²⁰ See [90 FR 17222](#).

²¹ [90 FR 17218](#).

²² [90 FR 17220](#).

²³ [90 FR 17218](#).

²⁴ [90 FR 17208](#).

²⁵ [90 FR 17208-09](#).

I wholeheartedly agree with OPM's statements quoted in the paragraph above, but they ring hollow in light of other actions and statements from the Trump administration exhibiting extreme hostility towards federal employees,²⁶ including from President Trump. For example, in describing his regulatory freeze order issued on January 20, 2025, President Trump deviated from prepared remarks to quip that "Most of those bureaucrats are being fired, they're gone. Should be all of them, but some sneak through, but we have to live with a couple I guess."²⁷

In this context, in the absence of specific safeguards to prevent us from being fired for arbitrary reasons, OPM's assurances to career staff in the NPRM feels like gaslighting from the villain in a predictable horror film. "I'm so happy to have you for dinner! Would you mind stepping down into that soundproof basement?"

Conclusion

While civil service protections are important for all federal employees, they are particularly important for career policy staff, who perform important work for considerably less pay than what they could earn in the private sector.²⁸ Candor is key to our jobs, and civil service protections are key to our candor. Unfortunately, amended Executive Order 13957 and new Schedule Policy/Career will strip civil service protections from thousands of federal employees who are already weary and demoralized—an extremely misguided policy move. Among other harms, the new Schedule Policy/Career will:

- jeopardize the careers and livelihoods of thousands of federal employees;
- deter career staff from providing candid deliberative advice for fear of perceived "resistance;" and
- damage government efforts to recruit, hire, and retain talent, thereby reducing the speed and effectiveness of the federal government.

²⁶ See Executive Order 14210 of February 11, 2025, [90 FR 9669](#) (instructing agencies to "promptly undertake preparations to initiate large-scale reductions in force"); see also, e.g., Molly Redden and Andy Kroll, "Put Them in Trauma": Inside a Key MAGA Leader's Plans for a New Trump Agenda, ProPublica (Oct. 24, 2024), <https://www.propublica.org/article/video-donald-trump-russ-vought-center-renewing-america-maga>; Taylor Giorno, "We Are Terrified": Musk Puts USAID Through 'Wood Chipper,' The Hill (Feb. 3, 2025), <https://www.thehill.com/policy/technology/5122676-usaid-shutdown-elon-musk-doge/>.

²⁷ See <https://www.youtube.com/live/SzozeHjyLv4?t=656s>; see also Erich Wagner, *Trump: Agencies Should Fire 'All' Bureaucrats*, Government Executive (Jan. 20, 2025), <https://www.govexec.com/workforce/2025/01/trump-agencies-should-fire-all-bureaucrats/402353/>.

²⁸ For example, according to the Congressional Budget Office, "Federal workers with a professional degree or doctorate—about 10 percent of the federal workforce—earn about 29 percent less, on average, than their private-sector counterparts." Congressional Budget Office, "Comparing the Compensation of Federal and Private-Sector Employees in 2022," (April 2024) at 1, <https://www.cbo.gov/publication/60235>.

Additional safeguards—such as a language prohibiting the arbitrary firing or mass firing of Schedule Policy/Career employees—could mitigate some of these harms, but this administration’s damage to the federal workforce has already been immense. I don’t fault other federal employees who have decided to move on, but I plan to stick around as long as I can, as I continue to believe in the mission of my agency and in the importance of my job to that mission.

Going forward, I hope to work in partnership with my agency’s new leadership, who I do not hold at fault for the actions of others in this administration. I had positive personal relationships with political appointees from the first Trump administration, and I hope that a successful collaboration this time around can serve as a positive example for the rest of the federal government. At the same time, consistent with OPM’s recommendation, I will continue to provide “frank and fearless advice to agency leadership” when I see critical mistakes.²⁹ This comment is submitted in that spirit.

Thank you for your consideration.

²⁹ [90 FR 17209](#).