



May 28, 2025

Charles Ezell
Acting Director, U.S. Office of Personnel Management
1900 E Street, N.W.
Washington, DC 20415

Re: “Improving Performance, Accountability and Responsiveness in the Civil Service,” Proposed Rule, 90 Fed. Reg. 17182, Docket ID: OPM-2025-0004

Dear Acting Director Ezell:

The Project On Government Oversight (POGO) submits the following comments in opposition to the Office of Personnel Management’s (OPM) proposed rule, “Improving Performance, Accountability and Responsiveness in the Civil Service.”¹ POGO is a nonpartisan independent watchdog that investigates and exposes waste, corruption, abuse of power, and when the government fails to serve the public or silences those who report wrongdoing. We advocate for common sense policy reforms to make the federal government more effective, ethical, and accountable to the people.

POGO has advocated for decades to protect federal whistleblowers and strengthen government accountability. Since President Donald Trump’s first term, POGO has actively monitored and responded to the attempted implementation of Schedule F, and now Schedule Policy/Career, through investigating, lobbying, and testifying.² This new proposed rule would undermine the civil service and the delivery of government services by increasing politicization, prioritizing partisan loyalty, risking harm to communities, silencing whistleblowers, and increasing corruption and abuse of power.

Historical Context

A nonpartisan, professional civil service is a foundational component of a free nation where the government belongs to the people, not an individual president or political party. While the proposed rule notes, “Beginning with the Administration of George Washington, the appointment ... and removal of federal officers occurred at the President’s discretion,” it equates Washington appointing those who

¹ Improving Performance, Accountability and Responsiveness in the Civil Service, 90 Fed. Reg. 17182, (proposed April 23, 2025), <https://www.federalregister.gov/documents/2025/04/23/2025-06904/improving-performance-accountability-and-responsiveness-in-the-civil-service>.

² Nick Schwellenbach, “Schedule Effed,” Project On Government Oversight, December 2, 2020, <https://www.pogo.org/analysis/schedule-effed>; Project On Government Oversight, Comment Letter on Proposed Rule on Upholding Civil Service Protections and Merit System Principles (November 17, 2023), <https://www.pogo.org/public-comments/public-comment-protecting-civil-servants>; *Ensuring a Trustworthy Government: Examining the National Security Risks of Replacing Nonpartisan Civil Servants with Political Appointees*, Hearing before the Senate Committee on Homeland Security and Governmental Affairs, 118th Cong., (September 17, 2024), (testimony of Joe Spielberger, Project On Government Oversight), <https://www.pogo.org/testimonies/pogo-to-congress-protect-our-national-security-from-schedule-f>.

believed in the *very system of government* with subsequent presidents making new appointments to advance a political agenda, minimizing President Washington's commitment to merit system principles.³

Although the proposed rule notes that President James Garfield's assassination by a disgruntled job-seeker finally sparked Congress to pass the Pendleton Act, it understates the severity of the spoils system, arguing "the costs of the spoils system outweighed its benefits."⁴ George William Curtis, a founder of the civil service, provides a bleaker outlook: "Every four years, the whole machinery of the Government is pulled to pieces. The country presents a most ridiculous, revolting, and disheartening spectacle ... The country seethes with intrigue and corruption. Economy, patriotism, honesty, honor, seem to have become words of no meaning."⁵ These were the circumstances that grounded congressional debates about the civil service. Senator George Pendleton, citing President Thomas Jefferson, emphasized that federal jobs are "trusts for the people," and should be filled by those embodying "fidelity, capacity, [and] honesty." Those elements were "necessary to an honest civil service, and that an honest civil service was essential to the purity and efficiency of administration, necessary to the preservation of republican institutions."⁶

Nearly a century later, another national political crisis once again spurred Congress to act. In the wake of the Watergate scandal, congressional investigations helped expose President Richard Nixon's efforts to politicize the civil service. White House memos recommended someone taking "the lead in the program to politicize the Departments and Agencies" and a need to "form[] a political network in each Department," especially since pressuring nonpartisan civil servants to support the president's political agenda would backfire and lead to bad publicity if plans were leaked.⁷ The widespread public distrust of government after Watergate served as the backdrop for Congress to pass the Civil Service Reform Act. Especially by establishing the Merit Systems Protection Board (MSPB) and strengthening whistleblower protections, the law fundamentally helped ensure that federal workers were and continue to be "protected against arbitrary action, personal favoritism, or coercion for partisan political purposes."⁸

What President Nixon attempted to do secretly is what Schedule Policy/Career's authors seek to do publicly. Civil servants already lack sufficient protection from retaliation and undue political influence, but this policy would undo generations of progress. Federal workers deserve the full rights they have earned. While we will continue to support and improve those protections, we are equally concerned about protecting the public from an increasingly politicized federal government.

The Importance of a Nonpartisan Civil Service

Federal workers play an essential role in protecting the public in communities across the country. They provide emergency care, research infectious diseases, monitor food safety, deliver disaster relief, investigate crimes and unsafe workplaces, fight the flow of illicit drugs, enforce our laws, protect our national security, and ensure that federal taxpayer dollars are properly distributed to communities in need.

³ Improving Performance, Accountability and Responsiveness in the Civil Service, 17,183 [see note 1]; John Adams, Vice President, to Sylvanus Bourne, about President George Washington judging applicants for public office "more independently than any man I ever knew" and hoping to "never see the time that any man will have influence with him beyond the powers of reason and argument," August 30, 1789, <https://csac.history.wisc.edu/wp-content/uploads/sites/281/2020/10/JA-to-Sylvanus-Bourne.pdf>.

⁴ Improving Performance, Accountability and Responsiveness in the Civil Service, 17,184 [see note 1].

⁵ Bernard Rosen, "The Merit System in the United States Civil Service," U.S. House Committee on Post Office and Civil Service, December 23, 1975, 9, <https://www.govinfo.gov/content/pkg/CPRT-94HPRT63632/pdf/CPRT-94HPRT63632.pdf>.

⁶ 14 Cong. Rec. 206 (1882), <https://www.congress.gov/47/crecb/1882/12/12/GPO-CRECB-1883-pt1-v14-8-1.pdf>.

⁷ 120 Cong. Rec. 26949 (1974), <https://www.congress.gov/93/crecb/1974/08/06/GPO-CRECB-1974-pt20-5-1.pdf>.

⁸ 5 U.S.C. § 2301(b)(8)(A), <https://www.law.cornell.edu/uscode/text/5/2301>.

Because of the complex and technical nature of this work, it is essential that people serving in these critical roles are there first and foremost because of their expertise, not political loyalty.

Research shows that politicizing a civil service leads to worse outcomes, whereas recruiting and hiring by merit, protecting civil servants, and promoting impartiality and professionalism are strongly associated with less corruption and more effective government.⁹

Experts also need to do their jobs without political pressure. Sometimes that means pushing back on a supervisor attempting to censor, undermine, or inhibit their work. Sometimes that means giving candid advice that might not be what a political appointee wants to hear. Sometimes that means speaking out when they have knowledge of illegality, abuse of power, and other wrongdoing. This red line between politics and expertise is how we can help ensure our government remains accountable and responsive to the needs of the people.

The American people recognize the risks posed by policies like Schedule Policy/Career.¹⁰ Strong majorities of Republicans, Democrats, and independents believe that having a nonpartisan civil service is important for a strong democracy, and that civil servants should serve the people and the Constitution more faithfully than any individual president. Stripping worker protections and making federal jobs less secure will not result in more effective government, just more terrified employees. Traumatizing federal workers may be one stated goal of a Schedule Policy/Career architect,¹¹ but doing so would only risk the services, benefits, and support that empower people to live safer and healthier lives.

The president is authorized to reclassify employees out of the competitive service only when “necessary” and “as conditions of good administration warrant.”¹² Schedule Policy/Career is neither necessary nor warranted by good administration. It would needlessly elevate partisan ideology over expertise and the rule of law, risking harm to communities.

Reclassifying tens of thousands of federal employees into political positions would dramatically increase politicization and incentivize agencies to prioritize partisan goals instead of the public’s best interest. At worst, when done en masse, this would empower an administration to punish employees who refuse to pledge loyalty to a political agenda.

The proposed rule tries to assure, “Employees 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.” However, it confuses the question of loyalty, in that employees “are required to faithfully implement administration policies to the best of their ability, consistent with their constitutional oath and the vesting of executive authority solely in the President. Failure to do so is grounds for dismissal.”¹³ Will failure to “faithfully implement administration policies” target someone who defends scientific integrity, disseminates accurate public health advice, publicizes truthful weather emergency reports, or provides honest analysis of the impact of administration policies? The proposed rule’s language gives the

⁹ Donald P. Moynihan, “Rescuing state capacity: Proceduralism, the new politicization, and public policy,” *Journal of Policy Analysis and Management*, 44 no. 2 (February 17, 2025), <https://onlinelibrary.wiley.com/doi/10.1002/pam.22673>; Eloy Oliviera, et al., “What does the evidence tell us about merit principles and government performance?” *Public Administration*, 102 no. 2 (June 2024), <https://onlinelibrary.wiley.com/doi/10.1111/padm.12945>.

¹⁰ Partnership for Public Service, “The State of Public Trust in Government 2024,” 2024, <https://ourpublicservice.org/publications/state-of-trust-in-government-2024/>.

¹¹ ProPublica, *We Want the Bureaucrats to be Traumatically Affected*, video, October 28, 2024, 00:01, https://www.youtube.com/watch?v=oBH9TmeJN_M.

¹² 5 U.S.C. § 3302(1).

¹³ Improving Performance, Accountability and Responsiveness in the Civil Service, 17,222 [see note 1].

administration extensive authority to fire anyone deemed a threat to its political agenda, regardless of that person's performance on the job. It fails to acknowledge that a presidential order may potentially be unconstitutional, putting employees in that scenario at risk if they choose to uphold their oath.

Any assurances of respecting those who put their oath above partisan loyalty are further belied by Schedule Policy/Career proponents, including some who would play a leading role in implementing this policy. Where one may question whether to follow the law or obey an illegal order, it is little comfort that Office of Management and Budget (OMB) Director Russell Vought believes explicitly that federal workers should serve a president's personal agenda. According to Vought, "Civil servants should be oriented to accomplishing the agenda of a president, not the office of the president, not their institutions."¹⁴ Where applicants may question whether they will be treated fairly in the hiring process, it is concerning that the Office of Personnel Management's General Counsel, Andrew Kloster, has said, "I think the first thing you need to hire for is loyalty ... [Y]ou can learn policy. You can't learn loyalty."¹⁵

Vetting civil servants for political loyalty and expecting them to obey any order will impact the delivery of basic services, which could be weaponized against or withheld from disfavored groups. People who live in recovering communities need disaster relief to arrive swiftly.¹⁶ People who apply for federal grants need to know they are receiving fair consideration for contracts and business opportunities.¹⁷ People who are waiting for social security checks, veterans' benefits, lifesaving medications, and to exercise their right to vote need their mail to arrive on time.¹⁸ People recovering from weather emergencies need to know the government will serve them fairly without regard to politics.¹⁹ People need to be able to trust that what the government tells them about job reports,²⁰ deadly pandemics,²¹ the census,²² and natural disasters,²³ is true and unmanipulated information.

Substituting partisanship for expertise, however, may mean that disaster relief gets obstructed if the president thinks a community is disloyal to the administration. Businesses may lose contracts to

¹⁴ NPR, "If Trump is reelected, the independence of federal agencies could be at risk," August 16, 2023, <https://www.npr.org/transcripts/1192432628>.

¹⁵ Jonathan Swan, "Trump's Revenge," *Axios*, July 23, 2022, <https://www.axios.com/2022/07/23/donald-trump-news-schedule-f-executive-order>.

¹⁶ Nicole Acevedo, "New probe confirms Trump officials blocked Puerto Rico from receiving hurricane aid," NBC News, April 22, 2021, <https://www.nbcnews.com/news/latino/new-probe-confirms-trump-officials-blocked-puerto-rico-receiving-hurricane-rcna749>.

¹⁷ Chris Mills Rodrigo, "Grants for projects favored by McConnell raise ethical questions for Elaine Chao: report," *The Hill*, June 10, 2019, <https://thehill.com/homenews/administration/447682-grants-favored-by-husband-mcconnell-raise-ethical-questions-for-chao/>.

¹⁸ Sam Levine and Alvin Chang, "Revealed: evidence shows huge mail slowdowns after Trump ally took over," *The Guardian*, September 21, 2020, <https://www.theguardian.com/us-news/2020/sep/21/usps-post-office-mail-slowdowns-louis-dejoy>.

¹⁹ Emma Bowman, NPR, "FEMA worker fired for telling hurricane responders to avoid homes with pro-Trump signs," November 9, 2024, <https://www.npr.org/2024/11/09/g-s1-33601/fema-worker-hurricane-trump-signs-florida>.

²⁰ Madeline Conway, "Spicer claims that jobs numbers 'may have been phony' before, but now they're 'very real,'" *Politico*, March 10, 2017, <https://www.politico.com/story/2017/03/trump-monthly-jobs-numbers-sean-spicer-235936>.

²¹ Daniel Dale and Tara Subramaniam, "Lying again about the pandemic, Trump made 200 false claims from early June to early July," CNN, July 18, 2020, <https://www.cnn.com/2020/07/18/politics/fact-check-trump-june-july-2020/index.html>.

²² Tara Bahrapour, "New evidence disputes Trump's citizenship question rationale for census," *Washington Post*, July 20, 2022, <https://www.washingtonpost.com/dc-md-va/2022/07/20/new-evidence-disputes-trump-administrations-citizenship-question-rationale/>.

²³ Emily Stewart, "The incredibly absurd Trump/CNN SharpieGate feud, explained," *Vox*, September 6, 2019, <https://www.vox.com/policy-and-politics/2019/9/6/20851971/trump-hurricane-dorian-alabama-sharpie-cnn-media>.

politically connected competitors. People’s federal benefits may lapse or lag based on agency officials’ inexperience or political viewpoints. One’s ability to vote may be further curtailed if mail delays prevent ballots from being received and counted on time. These issues impact people the same, red state or blue. Regardless of which party is in power, people deserve a government that serves them fairly, no matter who they are, where they live, or how they vote. Schedule Policy/Career would further jeopardize this basic foundational principle, especially because the impact is likely to be felt throughout federal agencies that deliver critical services to the public.

A Likely Impact of far More Than 50,000

While OPM claims Schedule Policy/Career would apply to approximately 50,000 employees, the real number is likely to be much higher.²⁴ During President Trump’s first term, one of the two agencies that completed their initial reclassification analysis was the OMB, which the administration reportedly wanted to “serve as an example for other agencies to follow,” according to a former OPM official involved in implementing the executive order.²⁵ Under Vought’s leadership, OMB attempted to reclassify 88% of its entire workforce into what was then Schedule F.²⁶ Far from what many would assume to be policy-related positions, reclassified roles included economists, IT specialists, Freedom of Information Act (FOIA) officers, office managers, human resources specialists, and administrative assistants, demonstrating just how far-reaching administration officials would interpret this authority.

Similarly, recent reporting shows how some agencies plan to continue this expansive approach. Acting Social Security Commissioner Leland Dudek would reclassify all high-level career leaders except the chief actuary, and entire offices within the agency, which advocates calculate to total approximately 10,000 SSA positions.²⁷ This suggests there will be no meaningful limits to how far this policy can extend. If additional agencies follow the lead of OMB in 2020 or SSA’s current proposal, the 50,000 estimation would necessarily skyrocket and have a systematic impact across the government. This scheme would undermine the government’s ability to deliver quality services, including vital benefits like Social Security. Moreover, the pervasiveness of Schedule Policy/Career would further instill a culture of fear, silencing whistleblowers and increasing corruption throughout our government.

Silencing Whistleblowers and Dissent

Schedule Policy/Career would silence whistleblowers, leaving untold levels of corruption and wrongdoing to fester behind closed doors, away from the public spotlight. Whistleblowers, often called the eyes and ears of the American taxpayer, are on the front lines and best positioned to expose waste, fraud, and abuse of power. Disclosing “waste, fraud, abuse, and corruption” is a basic obligation of public service.²⁸ Whistleblowers play a critical role in the oversight process regardless of which political party

²⁴ Improving Performance, Accountability and Responsiveness in the Civil Service, 17,220 [see note 1].

²⁵ U. S. Government Accountability Office, “Agency Responses and Perspectives on Former Executive Order to Create a New Schedule F Category of Federal Positions,” September 2022, 19, <https://www.gao.gov/assets/730/723120.pdf>.

²⁶ Philip Wegman, “OMB Lists Positions Stripped of Job Protections Under Trump Order,” *RealClear Politics*, November 21, 2020, https://www.realclearpolitics.com/articles/2020/11/21/omb_lists_workers_stripped_of_job_protection_under_trump_order_144708.html.

²⁷ Nathan Layne and Tim Reid, “Social Security may lose thousands more staff under new Trump rule,” Reuters, April 25, 2025, <https://www.reuters.com/world/us/social-security-may-lose-thousands-more-staff-under-new-trump-rule-2025-04-25/>; Erich Wagner, “Dudek calls for entire SSA offices to be converted to new Schedule F,” *Government Executive*, April 22, 2025, <https://www.govexec.com/workforce/2025/04/dudek-calls-entire-ssa-offices-be-converted-new-schedule-f/404755/>.

²⁸ 5 CFR § 2635.101(b)(11).

controls the White House.²⁹ During previous administrations, we learned about abuse of power and corruption within the government thanks to individuals who refused to obey unlawful orders or blew the whistle, and thereafter had their careers ended or curtailed.³⁰ They have been celebrated by both Republicans and Democrats and even, on occasion, by President Trump.³¹ However, the ability of whistleblowers to come forward has fluctuated.

According to an OPM employee survey conducted during Vought's leadership in 2020, only 40% of OMB employees agreed with the statement, "I can disclose a suspected violation of any law, rule or regulation without fear of reprisal." That figure immediately doubled to 80% in 2021 after Vought left the agency.³² Vought's return to lead OMB already undermines any commitment to the proposed rule's titular goals of "[a]ccountability" and [r]esponsiveness," let alone supporting whistleblowers. This is without even acknowledging the administration's efforts to systematically weaken independent agencies and fire government officials, including the head of the Office of Special Counsel, an MSPB board member, and 18 inspectors general, who are all responsible for responding to whistleblower disclosures and holding agencies accountable for retaliation and other violations of employee rights.

It is already extremely difficult, even with current protections in place, for people to speak out about unlawful or corrupt activity. Whistleblowers take huge risks, putting their jobs, careers, and livelihoods on the line simply to do the right thing: ensure agencies are fulfilling their missions and being accountable to the people. It is only through due process that whistleblowers can come forward at all, knowing that there is at least some form of recourse available if their employer retaliates against them.

Schedule Policy/Career would further chill lawful dissent, possibly eliminating whistleblowing altogether. Removing employees from merit system protections, especially those in the Whistleblower Protection Act, and reclassifying them as "at-will" would functionally eliminate their whistleblower rights, leaving them at the mercy of their agencies. These employees would be much easier to fire and have fewer ways to challenge their terminations. Although the proposed rule cites, in a footnote no less, that the original Schedule F executive order calls on agencies to prohibit personnel practices outlawed by 5 U.S.C. § 2302(b), protections against whistleblower retaliation would be largely enforced by the same agencies engaging in retaliation themselves.³³ When people cannot safely come forward and expose wrongdoing, it ensures that more corruption will go unaddressed and government transparency, accountability, and public trust will erode even further. Moreover, this sweeping dismantling of civil service protections is wholly unnecessary because agencies already have the authority they need to hold problematic employees accountable.

Unnecessary Escalation of Authority to Fire Civil Servants

The proposed rule highlights why President Trump issued Executive Order 14171: "MSPB research showing only a [sic] 41 percent of supervisors are confident they could remove a subordinate for serious

²⁹ Gabe Rottman, "On Leak Prosecutions, Obama Takes it to 11 (Or Should We Say 526?)," ACLU, October 14, 2014, <https://www.aclu.org/news/free-speech/leak-prosecutions-obama-takes-it-11-or-should-we>.

³⁰ Dan Lamothe, "Army officer who reported Trump probably faced retaliation, inquiry finds," *Washington Post*, May 18, 2022, <https://www.washingtonpost.com/national-security/2022/05/18/yevgeny-vindman-trump-inspector-general/>; Jim Acosta and Caroline Kelly, "White House pulls nomination of key Pentagon official who questioned legality of Ukraine aid hold," CNN, March 2, 2020, <https://www.cnn.com/2020/03/02/politics/mccusker-nomination-pulled/index.html>.

³¹ Billy Perrigo, "President Trump Calls 5-Year Prison Sentence for NSA Whistleblower Reality Winner 'Unfair,'" *Time*, August 24, 2018, <https://time.com/5377202/donald-trump-reality-winner-sentence-unfair/>.

³² U.S. Office of Personnel Management, "Federal Employee Viewpoint Survey Dashboard," February 13, 2025, <https://www.opm.gov/fevs/reports/opm-fevs-dashboard>.

³³ Improving Performance, Accountability and Responsiveness in the Civil Service, 17,224 [see note 1].

misconduct, and just 26 percent are confident they could remove one for poor performance.”³⁴ However, the same MSPB research indicates a myriad of contributing factors, particularly that supervisors cite poor hiring practices as playing the greatest role in performance deficiencies. Of supervisors who were not confident in their ability to remove an employee for misconduct, 63% cited their own lack of understanding as a challenge.³⁵ Previous MSPB research also found “approximately 95 percent of officials used a higher standard of proof than is required by law or regulation” for removal actions.³⁶ This research suggests the real barriers are much less supervisors’ *ability* or *authority* to fire but rather misunderstanding the process and misapplying a higher standard than is necessary. This lack of understanding is not grounds for undermining the entire merit system.

For the foregoing reasons, POGO opposes this proposed rule. Thank you for your consideration of these comments. For any questions, please reach out to joe.spielberger@pogo.org.

Sincerely,



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Project On Government Oversight

³⁴ Improving Performance, Accountability and Responsiveness in the Civil Service, 17,188 [see note 1].

³⁵ U.S. Merit Systems Protection Board, “Remedying Unacceptable Employee Performance in the Federal Civil Service,” June 18, 2019, 6, https://www.mspb.gov/studies/researchbriefs/Remedying_Unacceptable_Employee_Performance_in_the_Federal_Civil_Service_1627610.pdf.

³⁶ U.S. Merit Systems Protection Board, “Addressing Misconduct in the Federal Civil Service: Management Perspectives,” December 2016, 1, https://www.mspb.gov/studies/publications/Addressing_Misconduct_in_the_Federal_Civil_Service_Management_Perspectives.PDF.