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June 3, 2025

Mr. Charles Ezell
Acting Director
Office of Personnel Management
1900 E Street, NW
Washington, DC 20415

RE: Comments on the Notice of Proposed Rulemaking, RIN 3206-AO80, OPM-2025-0004, Improving Performance, Accountability and Responsiveness in the Civil Service.

Dear Acting Director Ezell:

I write to express opposition to the Office of Personnel Management's (OPM) proposal regarding the reclassification of certain career employees in the federal civil service and removal of their due process rights for adverse actions.¹

Rule 10(1)(e) of the House of Representatives vests in the Committee on Education and Workforce oversight into the "organization, administration and the general management" of the federal agencies in the Committee's jurisdiction to ensure such agencies are protecting and delivering for America's students and workers. Part of that oversight includes the agencies' workforces and their ability to implement and enforce statutes, produce regulations and guidance, and develop and manage programs. Further, I am obligated to ensure that the federal civil servants working in these agencies can perform their jobs and utilize their expertise for working people without partisan interference and intimidation.

On January 20, 2025, President Trump issued Executive Order (EO) 14171, *Restoring Accountability to Policy-Influencing Positions Within the Federal Workforce*, creating a new "Schedule Policy/Career" (Schedule P/C) under which federal career employees are exempt from civil service rights and protections.² OPM's proposed rule to implement EO 14171 would reclassify tens of thousands of nonpartisan civil servants in so-called "policy-influencing"

¹ Improving Performance, Accountability and Responsiveness in the Civil Service, 90 Fed. Reg. 17182 (Apr. 23, 2025) (to be codified at 5 C.F.R. pts. 210, 212, 213, 302, 432, 451, and 752) [hereinafter Proposed Rule].

² Exec. Order. No. 14,171, 90 Fed. Reg. 8625 (Jan. 20, 2025).

positions from competitive service to Schedule P/C where they can be terminated at-will with no recourse or right to appeal.

The proposed rule is a significant threat to maintaining the nonpartisan nature of the federal civil service because it allows a President to inexplicably remove skilled civil servants who faithfully enforce federal laws and regulations to protect Americans from corporate abuses as well as administer programs that support millions. This politicization runs directly contrary to the intentions of longstanding civil service laws and protections. Both the *Civil Service Reform Act of 1978*³ and the *Pendleton Act of 1883*⁴ were enacted to terminate the spoils system of the past and keep partisan political actors and influences out of the hiring and firing of civil servants. Instead of fostering an expert workforce willing to objectively analyze policies on their merits and feasibility, OPM's proposal makes it easier for partisan officials to terminate experienced career employees for simply being perceived to be working contrary to the President's policies or whims.⁵

Furthermore, career employees could even face indirect or direct pressure to follow policies that may not comport with federal laws or the Constitution. Without for cause protections or due process under Schedule P/C, career employees are at the whims of political officials who may lack institutional knowledge and subject matter expertise and decide to take adverse action believing certain actions are "insubordination." Without proper recourse against political officials who may ask them to take improper or unlawful action, career employees will be faced with the stark choice of betraying the core values of the civil service or losing their livelihoods.

In addition, the broad language used in OPM's proposed rule leaves open the door for a wide swathe of the civil service to fall under Schedule P/C. While OPM estimates that roughly 50,000 career employees and positions will be converted to Schedule P/C,⁶ the true figure could be higher due to the proposed rule's failure to properly define the factors and considerations that would render a position as "confidential, policy-determining, policymaking or policy-advocating character." Federal agencies may interpret it to apply to more positions than OPM had originally calculated.

Finally, if this rule were to go into effect, civil servants under Schedule P/C who have accumulated expertise and institutional knowledge can be replaced by political loyalists who lack the credentials and skills needed to secure the same occupation under the previous merit-based hiring system. Under EO 14171, and OPM's proposed implementation rule, the Administration is effectively skyrocketing the number of political appointees across the federal government, which will not guarantee effective or efficient governance and operation. In fact, a study examining political appointees in the federal government found that "programs run by political

³ 5 U.S.C. 1101-05.

⁴ 22 Stat. 403.

⁵ See Proposed Rule, *supra* note 1 at 17,182.

⁶ See Proposed Rule, *supra* note 1 at 17,219.

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appointees and agencies with large numbers of appointees perform worse than other agencies on a diverse set of metrics.”⁷

In sum, I am deeply concerned this proposal will not only cause detrimental effects on the morale of civil servants but also create instability and uncertainty within federal agencies and surrounding services upon which millions of Americans rely. For the aforementioned reasons, I oppose this proposed rule and urge OPM to withdraw it.

Sincerely,



ROBERT C. "BOBBY" SCOTT

Ranking Member

⁷ DAVID E. LEWIS, CTR. FOR EFFECT. GOV'T, U. OF CHI., POLITICAL APPOINTEES TO THE FEDERAL BUREAUCRACY (Feb. 20, 2024), <https://effectivegov.uchicago.edu/primers/political-appointees-to-the-federal-bureaucracy>.