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June 7, 2025

Charles Ezell
Acting Director
Office of Personnel Management
1900 E Street, NW
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Re: “Improving Performance, Accountability and Responsiveness in the Civil Service,” 5 CFR Parts 210, 212, 213, 302, 432, 451, and 752 [Docket ID: OPM-2025-0004] RIN 3206-AO80

Americans for Tax Reform (ATR) appreciates the opportunity to comment on the Office of Personnel Management’s (OPM) proposed rule on improving performance and accountability in the civil service.

ATR is a nonprofit, 501(c)(4) taxpayer advocacy group which was founded in 1985 at the request of President Ronald Reagan. ATR works to limit the size and cost of government and opposes higher taxes at the federal, state, and local levels and supports tax reform that moves towards taxing consumed income one time at one rate.

ATR is highly supportive of the proposed rule, which would carry out Executive Order 14171 by reclassifying a portion of policy-influencing federal employees as “Schedule Policy/Career” employees.¹ By placing policy-influencing career employees into at-will employment status, the proposed rule will hold federal employees accountable for their performance and conduct, increasing their answerability to the American people and preventing the squandering of tax dollars. Importantly, the proposed rule is also well within the legal authority of the President to implement.

The proposed rule is constitutional and limited in scope.

Article II of the U.S. Constitution states that the “executive Power shall be vested in a President of the United States of America.” The bureaucracy is not an independent body; rather, it is part of the executive branch and falls under the leadership of the President. The Supreme Court has broadly upheld that the President has the authority to manage the affairs of the executive branch and its employees.

The proposed rule, however, does not even seek to impact the entire federal workforce of 2.4 million employees. To the contrary, the proposed rule is very narrow, seeking to reclassify only 50,000 federal positions into Schedule Policy/Career, or about two percent of the federal workforce.

¹ Donald J. Trump, *Executive Order 14171: Restoring Accountability to Policy-Influencing Positions Within the Federal Workforce*, 90 Federal Register 8625 (January 31, 2025), <https://www.federalregister.gov/documents/2025/01/31/2025-02095/restoring-accountability-to-policy-influencing-positions-within-the-federal-workforce>.



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In particular, the rule aims only to move “policy-influencing career positions” into Schedule Policy/Career. The President and OPM have long had the power to exclude certain employees of a “confidential, policy-determining, policy-making, or policy-advocating character” from the chapter 75 procedural requirements regarding the disciplinary process for federal workers, as outlined in Title 5 of the U.S. Code.² This proposed rule would use existing presidential powers.

“Policy-influencing” employees are a particular subset of federal employees who serve a key role the President’s policymaking and interpretation process. Schedule Policy/Career as constructed does not apply to the vast majority of federal workers, including frontline federal workers such as border patrol agents or wage and hour inspectors.³

Importantly, the proposed rule also does not allow for discrimination based on political ideology or discrimination based on other personal factors like race, sex, or religion. Rather, the rule would establish a more meritocratic system for federal workers, where workers who perform well are rewarded while poor performers can be removed. While protecting the rights of federal employees to hold their own political views, the rule would also allow for the removal of employees who refuse to do their job, which is to execute the policy agenda of the President who the American people elected.

The rule makes bureaucrats more answerable to the American people.

If the elected President is unable to effectively make employment decisions for policy-influencing employees, then the American voter has no recourse in the event that those employees fail them. When the American people elect a President to lead the executive branch, they are voting with the expectation that the federal workforce can and will be mobilized in pursuit of the agenda put forth by that President. Allowing unelected bureaucrats to undermine that agenda without recourse would stand contrary to democratic values.

Currently, it is far too difficult to address poor-performing or insubordinate employees in the federal government. As of April 2025, private-sector employees faced “layoffs and discharges” at a much higher rate (1.2 percent) than government employees overall (0.2 percent) or federal government employees (0.1 percent), according to the Bureau of Labor Statistics.⁴ This stark contrast in the rate of firings and other separations is largely due to the burdensome review process present in the federal government.

² 5 U.S.C. § 7511 (2023), <https://www.govinfo.gov/content/pkg/USCODE-2023-title5/pdf/USCODE-2023-title5-partIII-subpartF-chap75-subchapII-sec7511.pdf>.

³ The White House, "Fact Sheet: President Donald J. Trump Creates New Federal Employee Category to Enhance Accountability," April 18, 2025, <https://www.whitehouse.gov/fact-sheets/2025/04/fact-sheet-president-donald-j-trump-creates-new-federal-employee-category-to-enhance-accountability/>.

⁴ U.S. Bureau of Labor Statistics, *Job Openings and Labor Turnover – April 2025*, USDL-25-0924, released June 3, 2025, <https://www.bls.gov/news.release/pdf/jolts.pdf>.



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This difficulty of addressing poor-performing employees is borne out in surveys of supervisors within the federal government. The Merit Systems Protection Board's (MSPB) 2016 Merit Principles Survey found that only 26 percent of supervisors are confident that they could remove an employee based on poor performance while only 41 percent are confident that they could remove an employee even in the face of "serious misconduct."⁵ Similar concerns, and support for change, are also found among federal workers themselves and others affected by the difficulty of removing poor-performers in the federal government.

Addressing poor-performers is supported by those impacted by the problem.

Before the effects of poor performance in the government are even felt by the American people, hardworking and dedicated employees feel the effects of their poor-performing colleagues as a greater workload is shifted onto them instead. As a portion of federal employees either work inefficiently or refuse to perform their duties at all, the work that they should be completing is added onto the plates of the federal employees who work efficiently and consistently. This unfair circumstance is exemplified in surveys of federal workers.

The Federal Employee Viewpoint Survey (FEVS) conducted by OPM provides key insight into the opinions of federal employees on this topic. The FEVS has consistently shown that a minority of federal workers agree that any steps at all "are taken to deal with a poor performer who cannot or will not improve" in his or her work unit. In recent decades, this minority share has varied from around 26 percent⁶ to 42 percent.⁷

In 2018, a flash poll of 176 federal employees conducted by the Government Business Council asked whether the workers "support or oppose the administration's efforts to make it easier to fire poorly-performing employees." That poll found that a majority (51 percent) of federal workers support or strongly support the proposal, while just 24 percent oppose it.⁸

Federal workers who perform their jobs well are understandably displeased with the portion of their colleagues who continue to perform poorly without consequence. So are the American people more broadly. Polls have consistently shown that Americans believe that the federal government and its workforce have a lack of efficiency; for

⁵ U.S. Merit Systems Protection Board, *Remedying Unacceptable Employee Performance in the Federal Civil Service* (Washington, DC: U.S. Merit Systems Protection Board, 2016), 6, 15.

⁶ U.S. Office of Personnel Management, *2011 Federal Employee Viewpoint Survey Results*, <https://www.opm.gov/policy-data-oversight/data-analysis-documentation/employee-surveys/results/2011-employee-survey-results/>.

⁷ U.S. Office of Personnel Management, *2021 Federal Employee Viewpoint Survey: Governmentwide Management Report*, <https://www.sss.gov/wp-content/uploads/2024/06/2021-FEVS-Governmentwide-Final-Report.pdf>.

⁸ Erich Wagner, "Survey: Half of Feds Support White House Attempts to Ease Firing Process," *Government Executive*, June 8, 2018, <https://www.govexec.com/management/2018/06/survey-half-feds-support-trump-efforts-firing/148818/>.



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example, a 2024 Pew Research poll found that a majority (56 percent) of Americans agree with the statement that “government is almost always wasteful and efficient.”⁹

While Americans seek efficiency boosts for the federal workforce, some solutions have already been tested at the state level and can be used as case studies for federal reform.

Similar proposals at the state level have been fruitful.

Policies similar to the proposed rule have been introduced at the state level in a number of states, among them Arizona, Florida, Georgia, Indiana, Kansas, Texas, and Utah.

Although Texas has had a long-standing policy of at-will employment for its state employees, in the 1990s Georgia was among the first states to limit previously existing civil service protections for state employees. Beginning in July 1996, every newly hired state employee in Georgia was employed at-will and could be disciplined for poor performance or other cause without a required appeals process, though a lower-level appeals process was later established.¹⁰ Other states including Arizona, Florida, Indiana, Kansas, and Utah soon implemented similar policies over the following two decades.¹¹

One study focusing on Florida, Georgia, and Texas in 2002 concluded that there are significant decreases in the amount of time it takes to remove poor-performing workers as well as increases in “satisfaction levels with personnel administration.”¹² Multiple surveys of human resources professionals in the relevant states have also shown that at-will employment is preferable to more regulated employment structures.¹³

Policies which transfer public employees into at-will status have been largely successful at the state level, both in limited forms and broader forms. The proposed rule’s narrow scope of reclassifying just two percent of the federal workforce who influence policymaking should find similar success.

⁹ Pew Research Center, *Governments’ Scope, Efficiency, and Role in Regulating Business*, June 24, 2024, <https://www.pewresearch.org/politics/2024/06/24/governments-scope-efficiency-and-role-in-regulating-business/>.

¹⁰ Judge Glock and Renu Mukherjee, “Radical Civil Service Reform Is Not Radical: Lessons for the Federal Government from the States,” *Manhattan Institute*, March 4, 2025, <https://manhattan.institute/article/radical-civil-service-reform-is-not-radical-lessons-for-the-federal-government-from-the-states>.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.



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The proposed rule will save taxpayer dollars.

As poor performers are rooted out and replaced with better-performing workers, the overall number of employees who must be hired to complete the same amount of government work will decrease. This adjustment could result in a significant reduction in the overall labor costs faced by agencies with large numbers of policy-influencing employees.

There are also savings at the internal administrative level: As the number of employees who require an extended appeals process is reduced, agency leadership will need to spend less time and money conducting such appeals. OPM estimates that having policy-influencing employees face Schedule Policy/Career procedures instead of more costly chapter 43 or 75 procedures would save agencies approximately \$13.2 million per year, or more than \$130 million over ten years.¹⁴

Conclusion

The proposed rule is appropriate, legal, and necessary. OPM's rule would make the federal workforce more accountable to the American people, increase government efficiency, and save money for taxpayers. Similar proposals at the state level have found great success, and the lessons from these state-level case studies should be used to improve the efficiency and accountability of the federal workforce next.

Americans for Tax Reform supports the proposed rule and encourages its implementation.

Sincerely,

Rowan Saydlowski
Federal Affairs Manager,
Americans for Tax Reform

¹⁴ U.S. Office of Personnel Management, *Improving Performance, Accountability, and Responsiveness in the Civil Service*, Proposed Rule, 90 Federal Register 22935 (April 23, 2025), <https://www.federalregister.gov/documents/2025/04/23/2025-06904/improving-performance-accountability-and-responsiveness-in-the-civil-service>.