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#### 1. Civil service modernization outweighs the case. The admin state is systemically broken for reasons far beyond the plan. Pay scales and job classifications haven't been revisited in 70 years, managers can't pay good performers or fire bad, there are a fractured 120 hiring authorities, 28 pay systems, and disjointed training and HR, that’s Neal and Limon.

<<LIMON FOR REFERENCE>>

The federal workforce has operated under outdated frameworks for decades. Layer upon layer of legislation, scattered across agency-specific statutes and national defense authorizations, have created a labyrinth of obstacles since 1978. For example, today there are 120 hiring authorities, 28 separate pay systems and a fractured approach to training and human resources technologies that supervisors and HR professionals must navigate to hire one employee. At times, hiring within the federal government feels closer to miracle than process. The constant scaffolding of recruiting, hiring, performance management, accountability and HR IT systems have been crumbling around us for decades. Rather than taking an honest and strategic approach to reform, the current administration has exploited these challenges to drag us back to the spoils’ system to enable an unitarian President to eventually hire and fire all federal employees at will.

The solution is clear. Reform must be led by those who know the system best: former career CHCOs, employment attorneys, hiring officials, union leaders and experts in federal HR IT systems. An independent review panel, much like the one assembled in 1978, could put forward a serious set of legislative proposals for Congress and the next administration to build upon and strengthen the 1978 law.

<<NEAL FOR REFERENCE>>

We attempt to meet that essential requirement with civil service pay and job classification processes driven by a law that is 72 years old and a hiring process that limits the government’s ability to compete for talent. For a deep dive on the government’s human capital challenges, check out the National Academy of Public Administration study “No Time to Wait.”

Even with such immense challenges and a clear need for reform, civil service issues are not immune to our toxic political climate. There are clear partisan battle lines on civil service issues that make significant changes difficult.

It is not just the parties who fight over civil service issues. Other constituencies have their own interests. I participated in a roundtable discussion in 2019 where virtually everyone in the room had an issue they considered sacrosanct. They mostly agreed civil service modernization is necessary, as long as their issue was untouched. Unions wanted to protect collective bargaining and the institutional rights of the unions themselves. Veteran Service Organizations (VSOs) wanted to protect veterans preference as it is handled today. Conservative think tanks wanted fewer federal workers, with lower pay, less generous benefits, and less job security. Individual agencies wanted flexibility for themselves, even if it makes things more difficult for other agencies. Whether you agree or disagree with those interests, the idea that various groups have issues that they want off the table before they discuss civil service reform is the primary barrier to modernization.

#### 2. The 1AC tries to solve a systemic crisis by just hoping that unions will bargain for the necessary protections. Planks S1-4 addresses these issues directly by empowering agency managers to flexibly hire, drastically increase pay AND job security for high performers, and fire low performers. It eliminates political interference by reinstating civil service exams AND prohibiting political firing.

<<FOR REFERENCE>>

I believe a process modeled on the BRAC process is the best approach to achieve real bipartisan civil service modernization. It is clear that we cannot have reform if no one is willing to talk about their favorite issues or either political party believes it is the big loser in reform. All the civil service issues have to be on the table and considered by a bipartisan Commission that is charged with developing a comprehensive reform package that addresses the talent needs of the government, not just the parochial interests of the various constituencies. A bipartisan Commission that conducts public hearings, provides the opportunity for all interest groups to present their views, and conducts a transparent review and analysis, can work. The size of government would not be within the purview of the Commission, because it is a completely different issue.

#### Dorning is about preventing politicization and ensuring scientific integrity, which the CP fiats. Insert in gray.

**1NC Dorning 25** [Jennifer; September 1; JD, president of the Department for Professional Employees, AFL-CIO, serves on the Labor Advisory Committee for Trade Negotiations and Trade Policy; The Hill, "Congress must immediately restore the union rights of federal employees," https://thehill.com/opinion/congress-blog/labor/5477873-trump-union-busting-attack/]

Over the last month, the Trump administration has started to implement the president’s union-busting executive order by unilaterally and unlawfully terminating union contracts at the Environmental Protection Agency, Federal Emergency Management Agency, U.S. Citizenship and Immigration Services and the Department of Veterans Affairs.

Union rights provide federal employees a way to improve their workplaces and report wrongdoing. The loss of union rights, therefore, not only impacts federal employees, but also the American people, who depend on the federal government and the services it provides.

That is why, on this Labor Day, we are calling on Congress to immediately pass the Protect America’s Workforce Act.

The Protect America’s Workforce Act is bipartisan legislation introduced by Reps. Brian Fitzpatrick (R-Pa.) and Jared Golden (D-Maine) and cosponsored by 222 members of Congress.

It restores the collective bargaining rights of the union federal employees impacted by President Trump’s attempted union-busting. It has the majority support needed to pass if it came to the House floor for a vote today.

Members of Congress on both sides of the aisle back the Protect America’s Workforce Act because they know that employees with a voice in their workplace have higher morale and are able to better serve the American people.

In fact, Republicans supporting the bill wrote to President Trump emphasizing that collective bargaining in the federal government plays a positive role by providing a structured way for employees and management to communicate and address workplace concerns.

Specifically, through collective bargaining, federal employees are able to offer expertise and experience that improves processes, reduces waste and generates efficiencies.

Officers at the Transportation Security Administration have been able to negotiate for policies that provide for better work-life balance and expanded benefits that have helped performance and retention at the agency.

Additionally, collective bargaining at the Department of Veterans Affairs led to an improved promotion process, which is important to ensuring the agency can retain talented staff.

At the Social Security Administration, union members secured more time for employees to attend and complete training that helps them perform their responsibilities more effectively.

Union rights also provide federal employees with a voice and protections that allows them to push back against politically motivated requests to compromise professional standards or ignore facts without putting their jobs at risk.

For example, EPA staff secured scientific integrity provisions and whistleblower protections in their union contract to ensure federal scientists cannot be pressured to alter climate data to align with political agendas. FEMA employees, who support communities that have suffered from natural disasters, negotiated for the right to refuse unlawful orders.

If federal employees’ union rights are not restored, we can expect to see a politicized civil service that puts politicians and special interests ahead of the American people. This means that the effectiveness of government services will suffer, which will result in worse outcomes for everyday Americans.

**5. Espionage internal link is about civil servants being dismissed out of hand and looking for jobs when laid off. CP resintates federal workers that are high-value, which solves.**

**Walton ’25** [Calder; March 4; PhD, assistant director of the Belfer Center's Applied History Project and Intelligence Project at Harvard University; Bulletin of the Atomic Scientists, "The spies Musk sent into the cold are a counterintelligence disaster in the making," https://thebulletin.org/2025/03/the-spies-musk-sent-into-the-cold-a-counterintelligence-disaster-in-the-making/]

Fired workers are targets for foreign spies. Musk’s efficiency entity poses a second threat to US national security by the manner in which it is firing large numbers of US civil servants. Abruptly dismissed US workers are guaranteed to be prime targets for foreign intelligence services. History shows that grievances and money are significant motivating factors for espionage.

In the early Cold War, the Soviet Union achieved some of its most important espionage achievements through ideologically committed agents—think of the Five Cambridge Spies or the atom spies like Klaus Fuchs inside the Manhattan Project. Late in the Cold War, Western services, like Britain’s MI6, were likewise able to recruit ideologically committed agents behind the Iron Curtain, one of the most successful of whom was Oleg Gordievsky, a KGB bureau chief in London who passed secrets to British intelligence.

Some of the most damaging spies during the Cold War were, however, motivated less by ideology and more by a sense of grievance against their employer and the desire for flamboyant lifestyles. This was the case with Aldrich Ames inside the CIA and Robert Hansen within the FBI. Neither Ames nor Hansen was the “secret agent” they wanted to be. Their senses of insecurity and desire for money were skillfully exploited by Soviet and then Russian intelligence services.

The manner in which dedicated civil servants are being dismissed out of hand effectively constitutes a ticking time bomb for US counterintelligence. Gone are the days of having to recruit spies in-person; China’s intelligence services are known to have recently recruited US sources with security clearances simply by using LinkedIn. And it is not difficult to imagine a foreign intelligence service preying on a sense of grievance among those abruptly dismissed from the US federal civil service, as well as offering handsome payments for any US state secrets they may hold in their heads. With the rising cost of living and mortgage payments to meet, US federal workers—whether newly laid off or merely uncertain about their job prospects—may unfortunately be tempted to look elsewhere to keep their families solvent.

Evidence that the Trump administration is not following a well-thought-through plan when it comes to dismissing US workers has been demonstrated in public: More than 300 employees at the Department of Energy’s National Nuclear Security Administration, whose jobs include safeguarding US nuclear secrets, were abruptly let go on February 13th—but then were equally abruptly rehired when it became apparent their jobs were essential for US national security. The same has reportedly occurred to experts in avian flu at the Department of Agriculture, dismissed as the US faces an outbreak of avian flu.

**6. Their evidence says overhaul is key.**

**Schleusener ’25** [Luke; October 29; President and co-founder of Out in National Security; Foreign Policy, “The U.S. Government’s Repair Bills Are Coming Due,” https://foreignpolicy.com/2025/10/29/trump-outsourcing-austerity-shutdown-united-states-government/]

By mid-2025, that brittleness was impossible to hide. President Donald Trump’s February executive order on domestic government efficiency imposed rapid staffing cuts across civilian agencies. Nearly 150,000 federal employees departed through layoffs, buyouts, or early retirements, and another roughly 150,000 workers were placed on paid leave pending reorganization.

The intention was modernization. The effect was paralysis. Grant disbursements slowed, audits were suspended, and critical permitting backlogs doubled. Trump’s so-called Department of Government Efficiency did not break a functioning machine; it exposed one already in deficit.

These failures have international consequences. Allies now confront a United States that can fund commitments more easily than it can implement them. NATO coordination meetings proceed without U.S. representation at working levels. Defense cooperation agreements lapse as legal offices miss renewal deadlines. In a global system that depends on reliable U.S. execution, administrative fragility becomes a strategic risk. State capacity is credibility.

Administrative fragility also undermines the country’s credibility abroad. Foreign ministries and international organizations depend on predictable American follow-through. When agencies cannot execute, commitments fracture, and allies hedge. The gap between U.S. funding promises and implementation timelines shapes how other governments plan their defense and economic policies. Bureaucratic capacity, in this sense, is not only a domestic concern but also a core instrument of power. The ability to fulfill commitments abroad begins with competence at home.

Other powers have recognized this dynamic. The European Union’s regulatory apparatus and China’s sprawling development bureaucracy both convert administrative coherence into geopolitical influence. When the United States struggles to coordinate its own agencies, it forfeits leverage in settings where procedural reliability is power. Competence, not just capability, has become a metric of global standing. Rebuilding state capacity is therefore not nostalgia for mid-century bureaucracy; it is a strategic necessity in an era when governance itself is a contest of systems.

Reform cannot start everywhere at once, but repair begins where consensus still exists. Congress can act on visible service failures that cut across ideology. The Internal Revenue Service’s modernization program shows that targeted funding, iterative updates, and transparent performance metrics can restore trust while improving efficiency. Similar pilots could stabilize agencies whose breakdowns the public notices most, including the Federal Emergency Management Agency, the Social Security Administration, and the Centers for Medicare and Medicaid Services. When competence is visible, legitimacy follows.

Cybersecurity investment offers another near-term opportunity. The Cybersecurity and Infrastructure Security Agency already coordinates state and local partnerships, but on a scale disproportionate to the risks that it manages. Treating cybersecurity as national security would justify predictable multiyear funding, standardized cyber hygiene protocols, and exchange programs between federal and private-sector professionals. These measures are technocratic, not ideological, yet they generate political returns through reliability.

The deeper challenge is human infrastructure. Pay compression and limited advancement have driven talent toward the private sector for decades. Rebuilding career ladders within the civil service would reverse that migration. Indexing pay to market equivalents, creating apprenticeship pipelines, and restoring mid-career training would make government once again a place where expertise accumulates instead of evaporates. The Office of Personnel Management could publish open data on retirement risk and skill shortages, aligning incentives for long-term planning.

In the same spirit, the balance between in-house expertise and contracted labor must change. Outsourcing should supplement, not replace, institutional knowledge. The government’s own audits show that insourcing core technical functions, procurement, IT, and analytics results in higher quality and lower cost over time. Maintenance should be understood as a strategic function, not a discretionary one.

Repair also depends on governance. Expanding collective bargaining within the federal workforce would stabilize retention and create feedback channels between management and staff. The decline of organized labor has deprived the government of both interlocutors and institutional conscience. Restoring inspector general budgets would strengthen accountability. And enforcing the would prevent presidents from withholding funds that Congress has appropriated, protecting administrative continuity from partisan interference. Designed after Watergate to preserve the separation of powers, the act ensures that presidents execute rather than suspend Congress’s will. Enforcing it today would reaffirm that bureaucratic discipline is constitutional discipline—the habit of carrying out commitments once made.

Administrative repair at home would also reinforce democratic credibility abroad. Allies and adversaries alike judge the strength of U.S. leadership by its capacity to govern itself. Rebuilding that capacity is therefore not only an act of domestic reform but also a reaffirmation of constitutional democracy as a system capable of self-correction. When Congress functions as a coequal branch and the civil service performs with reliability, it strengthens the foundations of U.S. diplomacy. The renewal of state capacity is, ultimately, the renewal of U.S. legitimacy.

Restoring capacity is therefore a civic project as much as a bureaucratic one. Citizens cannot sustain confidence in institutions that they rarely encounter or do not understand. Visible competence, the timely arrival of a benefit, the smooth operation of a public website, and the consistent enforcement of a rule, are the most persuasive arguments for democratic government. Each successful act of administration becomes an act of persuasion, reminding citizens that the state is neither distant nor hostile but capable and fair. Legitimacy accrues not from rhetoric but from reliability.

Rebuilding legitimacy will require more than competence. Policy advocate Heather McGhee has shown how racialized zero-sum thinking erodes public support for shared goods. A credible renewal of administrative capacity must make equity a matter of design. Reliability must be even across constituencies so that citizens experience the state as consistent rather than conditional. Equity, in this sense, is an engineering principle: Systems that deliver unevenly are systems that fail under stress.

Governance, like infrastructure, decays when maintenance is deferred. The metaphor of technical debt clarifies what austerity obscured: Neglect incurs obligations, and those obligations compound. The United States cannot innovate its way out of decay; it must restore the capacity to maintain.

### S---AT: Unions Key---Generic---2NC

#### 2. CP solves the impact to the deficit. The total package replicates the benefits of unions without the efficiency and capacity costs---state experiments prove.

Judge Glock & Renu Mukherjee 25, Judge Glock, Director of Research and Senior Fellow at Manhattan Institute, Contributing Editor at City Journal, Former Senior Director of Policy and Research at Cicero Institute, Former Visiting Professor of Economics at West Virginia University, PhD in History with focus on Economic History from Rutgers University, Author of The Dead Pledge: The Origins of the Mortgage Market and Federal Bailouts 1913-1939; Renu Mukherjee, Fellow at Manhattan Institute, PhD Student in American Politics at Boston College, Former Paulson Policy Analyst at Manhattan Institute, "Radical Civil Service Reform Is Not Radical Lessons for the Federal Government from the States," Report, Manhattan Institute, March 4th, 2025, https://manhattan.institute/article/radical-civil-service-reform-is-not-radical-lessons-for-the-federal-government-from-the-states

For decades politicians and commentators have bemoaned the state of the federal civil service. There are widespread complaints that the system fails to reward good performers and punish bad ones and that it does not nimbly respond to social needs. President Donald Trump’s and the Department of Government Efficiency’s efforts to dismiss federal employees and streamline the bureaucracy have revived the debate about whether reforms to such a system can bring positive results.

Yet most federal civil service reform proposals involve modest changes to the hiring or firing capabilities of the president and federal managers. Even Trump’s Schedule F plan, now titled Schedule Policy/Career, which creates functional at-will employment for higher-level officials, by one estimate would affect only about 2% of federal civilian employees.[1]

There are examples of far more radical civil service reform efforts with bipartisan pedigrees. Starting especially with a 1996 reform under Georgia’s Democratic Governor Zell Miller, about 20 states have implemented some version of radical civil service reform.[2] These reforms have made many or almost all state employees at-will, decentralized hiring capabilities to agency managers, allowed more variation in pay based on capabilities and performance, and limited collective bargaining with public employee unions. Most observers and researchers agree that state reforms’ effects have been either positive or, at worst, neutral. There have been general reports of improved performance with little evidence of politicization. These broad state-level efforts demonstrate that root-and-branch civil service reform is more than a mere possibility.

Despite the decades of evidence, states’ reforms have had remarkably little impact on the conversation about the federal civil service. Yet the federal government can and should learn from them. This report describes the recent civil service reforms in the American states, their effects, and what lessons can be imported to the federal service.

Four major lessons emerge from this analysis:

At-will employment should be the norm, not the exception, for federal workers. States that have created at-will employment and kept employee grievances inside departments have seen improved management and limited evidence of politicization or patronage.

Decentralized and flexible hiring should be fully adopted by the federal government. Many states since the 1990s have granted individual departments extensive flexibility for hiring; the federal government, despite some notable reforms, lags behind.

More flexibility for pay should be adopted at the federal level. Many states have limited the number of job classifications, collapsed the number of pay bands and expanded their range, and increased the use of merit pay. The reports on these reforms have been generally positive, although the manner in which they have been implemented has determined whether or not they were a success.

Union collective bargaining over the conditions of employment should be banned at the federal level. States that have limited or have resisted public employee union collective bargaining by all reports have more efficient service.

Although there is no civil service panacea, and much of the success of the system will depend on the management capabilities of political appointees or civil service officials, these four systematic reforms will give qualified federal managers more opportunities to exercise their influence and improve the efficiency and accountability of the federal workforce. The evidence that the reforms have done the same in the states is convincing.

A Brief History of Civil Service Reform

The original movement for a merit-based civil service was a movement for efficiency. Business groups that depended on the mail or on customs inspectors demanded a nonpoliticized federal personnel system to improve these services and reduce their costs. A review of votes for the Pendleton Civil Service Act of 1883 showed that the presence of a large post office or customhouse in a congressman’s district increased his chance of voting for the bill, meaning that those areas more affected by civil service reform were more likely to vote for it.[3] The original act imposed objective standards and tests for government positions that substituted for previous political patronage. Starting with New York in 1883, nine states adopted civil service systems over the next 50 years.[4]

There is evidence that the original civil service reform movement worked. The earliest reports of the U.S. Civil Service Commission, although obviously self-interested, demonstrated many examples of increased efficiency and provided testimonials of postmasters and customs collectors on improvements. An early independent estimate found millions of dollars in savings in customs alone.[5] One recent study found that U.S. cities affected by the Civil Service Act reduced postal delivery errors and increased productivity.[6]

But the movement for a professional civil service soon went beyond objective hiring standards. Pushed by a growing public-sector union movement, it advocated for more protections for workers from dismissal and discipline, a greater focus on seniority over merit in compensation and promotion, and other changes that together reduced efficiency.[7] As part of the New Deal and specifically as a requirement of the 1939 amendments to the Social Security Act, the federal government began requiring states to adopt formal civil service systems, and over the following decades top-down civil service became the norm at the federal and state levels.[8] President Jimmy Carter told Congress in 1978 that the civil service system “has become a bureaucratic maze which neglects merit, tolerates poor performance, permits abuse of legitimate employee rights, and mires every personnel action in red tape, delay and confusion.”[9] Yet the Civil Service Reform Act (CSRA), which passed that year and is still the basis for the modern federal civil service, if anything cemented the power of the traditional civil service and expanded the input of unions in the system.[10]

In the 1990s, many states began making substantial reforms to their legacy civil service systems. These states were often late to adopt a formal civil service (a general civil service system was not embraced until the 1940s in Georgia and the 1970s in Texas), but they were willing to end procedural restrictions on dismissals and centralized hiring based on tests and to give managers substantially more discretion in terms of their power to organize and direct their workforce. After a first burst of reform in the 1990s and early 2000s, state civil service reform slowed for a time.[11] But after the Republican state-level victories in 2010, there was an increase in new reform laws, and new decentralizing civil service laws have continued to pass up to present day.[12]

The general consensus is that the worst-case scenarios predicted by opponents of what became known as “radical civil service reform” have not played out, and most post-reform reports and studies indicate more satisfaction among government managers and a more flexible and productive workforce. At this point, so-called radical reform has become normal. Although the federal government has adopted some reform measures recently, such as giving managers more authority over hiring, it has not adopted the more comprehensive models of the reformed states.

Reforms to Discipline and Removal Procedures

No aspect of the civil service is more controversial than protections against the disciplining or removal of employees. Yet the protection of employees against discipline was a relative latecomer to the civil service system. The first federal law affecting dismissal, the Lloyd-La Follette Act, was passed in 1912, almost 30 years after the original Pendleton act, and its protections were minimal. The act allowed managers to remove employees for general reasons of efficiency and only provided the removed employees with a limited opportunity to respond to charges, and only inside their own agencies, without a resort to outside arbiters or courts.[13] The Civil Service Commission eventually issued regulations that gave it more power to oversee dismissals, and courts later became involved in supervising dismissals as well. But it was not until 1978’s CSRA that the Merit Systems Protection Board (MSPB) provided statutory outside review of disciplinary actions.[14] Most states did not establish similar protections against discipline until the post–New Deal era.

Starting in the 1990s, several states ended or sharply limited statutory protections for civil service employees. In 1996 Georgia’s Democratic Governor Zell Miller, who had become a fan of Philip Howard’s book The Death of Common Sense, announced in his State of the State Address that the “solution” of the establishment of formal civil service protections in 1943 was now the “problem.” He said the existing law did not reward merit and “only provides cover for bad workers.” The Senate Majority Leader used a pile of more than 1,100 pages that he said the state had accumulated to fire a single bad employee. The personnel directors in the agencies themselves were tired of the old system and became effective allies for reform.[15] The resulting act made every state employee hired after July 1, 1996 at-will with no appeal rights against disciplinary action. In 1998 the governor, after a push from the legislature, did require agencies to set up formal appeal processes for bad performance reviews or termination for cause. Those appeals, however, could only go as high as the director of the agency.[16]

Other states followed Georgia. In 2001, Florida passed Service First, which put a large number of higher-ranking state workers into the Selected Exempt Service, which is at-will. It also ended the previous policy of layoffs based only on seniority for all state workers.[17] Although most Florida employees remained in the protected career service, the reform made termination for that class easier, such as by ending the reimbursement of legal fees when employees appealed adverse personnel actions.[18] Utah gradually expanded the number of at-will employees around this time until they comprised more than a third of state employment.[19] In 2010 the state ended the Career Service Review Board and replaced it with a more constrained office, and it limited the number of personnel actions for which career employees could file grievances.[20]

After a wave of Republican victories in the states in 2010, many other states began radical civil service reform. After passage of a new state civil service law in 2011, Indiana vastly increased the number of employees in the “unclassified” or at-will service. Its state employee handbook notes that the state now adheres to “the employment at-will doctrine.” The handbook’s entire section on disciplinary action is four sentences long and only says to consult individual supervisors for specifics.[21] In 2012 Arizona also eliminated civil service protections for new hires. Employees who accepted a raise, promotion, or transfer were transitioned to at-will status.[22] The percentage of the Arizona state workforce that was at-will went from 21% to 67% in two years.[23] In 2012 Tennessee made comprehensive reforms to its civil service system, including streamlining the appeals of grievances and allowing layoffs that were determined by factors other than seniority.[24] A 2015 Kansas law directed that new hires, rehired employees, and those voluntarily transferred or promoted be put in the unclassified or at-will service. The number of unclassified or at-will positions grew from about a third to a large majority of state positions by 2020.[25] Many state employees voluntarily gave up classified status in exchange for pay raises or promotions.[26]

Texas is somewhat sui generis in that it has a long-standing policy of decentralized manager power and at-will employment going back decades, with even the modestly powerful Texas Merit Council eliminated in the mid-1980s. The state’s compilation of employee laws notes that absent a specific contract or stated policy, “all state employees are employed ‘at-will.’”[27] There is no probationary period or appeal process for state employees, although, like other at-will states, there usually are internal grievance processes inside agencies.

The evidence that at-will employment increased performance is suggestive but convincing. A 2002 study of Texas, Georgia, and Florida found that the length of time for firing “decreases significantly” after reform and that “satisfaction levels with personnel administration generally increase.”[28] A comprehensive 2010 survey of human resource (HR) directors in Colorado, Florida, Georgia, Kansas, Missouri, and South Carolina found that “managers’ attitudes are mixed, but they are more likely to register agreement with positive assessments of at-will employment than negative assessments.”[29] Interviews in the same year by Governing magazine with Florida personnel directors were all positive about the Service First implementation. David Ferguson, the head of personnel for the Florida Department of Transportation for 30 years, said that Service First was the best thing that ever happened to personnel administration in Florida. He did not have complaints about politicization.[30] In Indiana, the state personnel director found that formal complaints by employees were down the year after reform, and that “[a]gency performance [was] up in almost every category, including customer service and teamwork.”[31] A recent survey of 214 public HR professionals found that those in at-will systems tended to rate their states’ management capacities higher than those in traditional civil service systems, including in retention.[32]

Dismissal rates in civil service reform states that more closely approximate the private sector are another indication of reform success. When Utah’s state auditor looked at annual dismissal for cause rates in 2010, it found that typical civil service employees had a rate of 0.3% but that personnel outside of the typical service system had a rate of 1.93%, close to the private-sector involuntary separation rate of around 2% at that time.[33] The auditor partially attributed this to the fact that grievances in the non-civil service systems were limited to inside particular departments and could not be appealed to an outside board.[34]

The higher dismissal rates could be evidence of a politicized system, but there is limited evidence for politicization or even serious downsides to at-will employment. Although Georgia continued to leave open the possibility of litigation for those fired for nonjustifiable reasons, the state personnel office did not report a single lawsuit based on improper firing in the first five years after the system’s creation.[35] A 2006 survey of Georgia employees did find that most felt at-will created a “less-trusting environment” and was less “motivational.” Yet a study by Georgia’s State Personnel Administration found no substantial problems with overall job satisfaction after the state reform.[36] The 2002 study of Texas, Georgia, and Florida found “no convincing evidence presented of widespread, systemic abuse in any of the three states” analyzed.[37]

Federal Options for Discipline and Removal

The inability of federal managers to discipline or remove poor performers has been one of the most consistent complaints about the federal civil service. There have been few substantive reforms to these processes since the CSRA of 1978, and the reforms in that act and subsequent ones have proven ineffectual.

In the federal government, a removal, demotion, suspension, furlough, or reduction in pay grade or pay of an employee for cause is an “adverse action.” Under Title 5 of the U.S. Code, agencies can take adverse actions against employees under Chapter 43 or Chapter 75. Prior to the CSRA, Chapter 75 was the only statutory mechanism by which an agency could discipline or remove a poorly performing employee.[38] To take adverse actions under this statute, agencies were required (and are still required when using this statute) to use “a preponderance of the evidence” to show that the actions would “promote the efficiency of the service.”[39] This proved to be an incredibly difficult bar for agencies to meet. In 1976, Congress found, for example, that only 226 out of 2,833,000 federal employees (0.0079%) were fired under Chapter 75 for poor job performance.[40]

In response to this finding and others, Congress enacted another statutory mechanism for discipline and removal of poorly performing federal employees—Chapter 43. Congress believed that this statute would “provide agencies with a streamlined, merit-based removal process that was designed to exclusively address poor performance.” Unlike Chapter 75, Chapter 43 allows agencies to remove employees if they do not meet necessary performance requirements and requires a lower burden of proof for discipline and removal. Additionally, Chapter 43 created a performance appraisal system that agencies can use to evaluate employees’ performance against specific performance standards.[41]

By and large, Chapter 43 has failed to make discipline and removal of poorly performing employees easier. A report from MSPB found that between 1998 and 2007, agencies removed 62% of poorly performing employees using Chapter 75 and only 38% of such employees using Chapter 43. Managers seem to find Chapter 43, like Chapter 75, to be “too complex, rigid, burdensome, and antiquated to effectively address poor performing employees.”[42] The inability to remove bad employees was brought to public attention when Department of Veterans Affairs (VA) medical facilities were caught using fraudulent wait time records and secret wait lists to misrepresent how long veterans waited for medical appointments. Only eight employees were held accountable, despite the fact that 177,000 veterans had to wait extra months to receive care and more than 40 died.[43]

Perhaps as important as the formal standards around discipline is the fact that federal employees have the right to appeal a suspension, demotion, or removal to an outside body. An employee can first appeal an adverse action to the MSPB. If the employee loses at the MSPB, then the employee can ask the U.S. Court of Appeals for the Federal Circuit to review the decision.[44] The federal removal procedures take agencies, on average, between 6 and 12 months to complete (and that is without counting appeals).[45] The federal government dismisses only about half a percent of its employees a year, about a third of the rate of private-sector employers.[46]

President Trump in his first term made some reforms to the system through executive order. In May 2018, he issued Executive Order (EO) 13839, “Promoting Accountability and Streamlining Removal Procedures Consistent with Merit System Principles.” Among other things, EO 13839 encouraged agencies, when taking action under Chapter 43, to lessen performance improvement plan (PIP) times and not get bogged down in uniform standards of discipline and removal because “disciplinary action should be calibrated to the specific facts and circumstances of each individual employee’s situation.” In October 2020, President Trump signed EO 13957, which aimed to reclassify several high-ranking federal positions as “Schedule F.” Those within these positions could be removed at-will. President Biden rescinded both EOs in 2021. A 2024 regulation formalized the preexisting removal procedures to preempt a return of Schedule F, although Trump released a new EO to reimpose a version of it after his second inauguration.[47]

More expansive reforms to the disciplinary procedures will require congressional action. If Congress is willing, it could amend the CSRA to implement the wholesale at-will model that states such as Georgia have pioneered. But if Congress does not want to go that far, other reforms can be made. First, the probationary or trial period that exists for federal employees in the competitive service can be extended. The federal probationary period typically lasts one year, and during this time, newly hired employees have very limited procedural and appeal rights. Congress should amend Title 5 of the U.S. Code to allow agencies to extend the probationary period so that they have more leeway to dismiss poorly performing employees.

Congress can also amend Chapters 43 and 75 to provide more flexibility for managers in firing. For example, the time that employees are given to respond to an action against them under Chapter 43, currently 30 days, should be severely cut down. Moreover, agencies should not be required to provide poorly performing employees with an opportunity to improve their performance under a PIP before discipline or removal; they should be able to hold their employees accountable immediately in certain circumstances. Finally, the ability of the MSPB to meddle in agency affairs should be sharply limited. The MSPB should not be able to second-guess an adverse action that an agency has taken, nor should the MSPB be able to handle employee appeals over agency heads.

In a similar vein, Congress should allow each agency to conduct reductions in force (RIFs), or layoffs, however that agency sees fit. An RIF occurs when an agency decides to eliminate positions, and RIF regulations determine whether employees in the agency get to keep their positions or are entitled to different positions. These regulations require four factors to be taken into account in an RIF: tenure of employment (e.g., type of appointment), veteran’s preference, length of service, and performance rating. Length of service or seniority is typically considered the most important factor, so a “first in, last out” policy is typical.[48] Allowing agencies to set their own regulations governing RIF proceedings would require statutory and regulatory reform—similar to that conducted in the states—that would allow them to decide their own methods of layoffs.

Beyond the evidence of the states, there are other reasons to believe that broad federal civil service reform would not lead to mass politicization or patronage. For one, Supreme Court jurisprudence from Elrod v. Burns (1976) onward states that the First Amendment forbids governments from making personnel decisions based on patronage or party membership unless personnel are in policymaking positions.[49] There also are separate whistleblower laws that should largely remain in place; they prevent firing for impure or nefarious motives and should still be enforced by some reformed version of the MSPB. Any reform to general discipline would not end federal offices such as the Office of Special Counsel, which enforces rules concerning whistleblower protection and the Hatch Act, among others.[50] Some argue that the federal government would experience more politicization due to the rapid shifts in political control in Washington, D.C., versus the states. Yet several civil service reform states, including Texas and Georgia, have seen complete changes in partisan control without attendant politicization or patronage.[51] Widespread and comprehensive at-will employment in the federal government would most likely work in a similar manner to that of the states by creating more efficiency with minimal politicization.

Reforming and Decentralizing Hiring Practices

The primary goals of the original civil service movement were to limit patronage and to ensure that hires could pass objective tests. The tests would both ensure competency and prevent politicians from controlling who took particular jobs. The core of the Pendleton act of 1883 was the creation of a testing system for federal employees to be administered by a new and independent Civil Service Commission.[52] This model was similar to that put in place in New York State the same year, which was extended by the state the following year to local governments.[53] After the New Deal, the creation of so-called merit hiring with an independent commission or agency supervision became the state model everywhere.[54]

Yet in recent years, civil service reform states have decentralized hiring again and allowed agency managers to hire whomever they think is best, without explicit approval from an outside agency or formal tests. Agencies can now hire based on an applicant’s “knowledge, skills, and abilities” (KSAs) or general “competencies.” Formal job applications and tests that were required to be administered to all comers have been replaced with department and manager discretion. Central civil service commissions in many states have been transformed into independent personnel departments whose job is assisting agencies in hiring rather than administering a mandatory hiring program across all agencies. In some states, an agency manager can hire someone directly off the street if he or she thinks that the individual would fit the position.[55]

Several states have demonstrated the possibilities of decentralized hiring processes. Starting with reforms that allowed agencies to hire internally in 1994, Florida has expanded the realm of discretion of state managers.[56] Today, the state still requires agencies to use the People First online system to advertise vacancies, but they are allowed to limit the search to different possible recruits, including internal ones. As a Florida State Personnel System manual says, “Recruiting efforts and hiring decisions are carried out in the sound discretion of each agency’s head.” The state says its “employment process is decentralized with each state agency being responsible for their recruitment, selection, and hiring decisions.”[57] Georgia substantially decentralized hiring as well as part of its 1996 reforms.

Until 2012, Tennessee had a registry and a point system where managers had to hire from a limited number of approved candidates (three to five) who had acquired the highest number of points. After the passage of the Tennessee Excellence, Accountability and Management (TEAM) Act[58] that year, the state ended formal civil service exams and allowed agencies to rewrite job descriptions for KSAs. The central personnel agency then would provide agencies with a list of all potential employees who met those qualifications and allow them to hire from that list. The state also started hiring outside recruiters to find the best employees.[59] As part of Kansas’s 2015 civil service reform, all future hires went into the “unclassified” service, which was not only at-will but could be filled by direct appointment,“with or without competition,” as the Kansas Legislative Research Department’s 2020 Briefing Book states.[60]

Other states have gone much further in allowing completely decentralized hiring. Texas does not even have a central personnel office, and agency heads can hire however they see fit. As one research report noted, “The state of Texas’ human resource (HR) function is renowned for its decentralization and deregulation.”[61] Yet joint groups such as the State Agency Coordinating Council allow smaller agencies with limited resources to borrow models and resources from larger ones. Texas does, like other states, have a centralized website for hiring, but the job postings are decided by agency managers.[62]

The evidence that more decentralized hiring has helped managers is convincing. As the 2002 study of Texas, Florida, and Georgia stated:

Ask almost any state government manager in almost any of the other 47 states about what it’s like to find and hire good people, and what you’ll invariably hear is a long list of complaints. … Ask personnel officials or hiring authorities in Texas, Georgia, or Florida how they like their style of personnel management, and you’ll hear how relieved they are not to have to suffer the dictates of a highly structured, centralized, rule-driven personnel system.[63]

Due to the extent of decentralization in Texas, it provides a good case study for the effects of reformed hiring practices. According to a survey of independent agency HR leaders in the state, which encompassed the large majority of such leaders when performed in the early 2000s, most HR officials appreciated the decentralized system. Almost 75% said they had the expertise and staff inside their departments to be effective, while only 19% disagreed; 91% said they used discretion under state law to create HR policies tailored to the specific needs and of their agencies; and only 11.6% said they could ever “think of an instance” when someone’s political beliefs or connections influenced hiring, promotion, or other job rewards. Considering the large number of employees such managers come in contact with in their work, this means a vanishingly small percentage of job actions involved favoritism. More than 75% believed that a central HR office would remove the “flexibility that state agencies need to be effective.”[64] A previously discussed survey of 214 state HR professionals found that those in reformed civil service states ranked their system higher on effectiveness in recruitment, hiring, promotion, and retention.[65]

Federal Options for Hiring Decentralization

The federal government, like many states, has decentralized hiring and no longer relies mainly on formal civil service tests. Most hires are through résumé-based requirements for KSAs.[66] Although the central personnel office for the federal government—the Office of Personnel Management (OPM)—technically still has final examining authority for most civil service positions, the 1978 CSRA allowed OPM to give what’s known as Delegated Examining Authority to agencies to make the decisions themselves. In recent years, agencies have also been able to acquire a less constrained Direct-Hire Authority from OPM when there is a shortage of candidates or a critical hiring need.

Yet the federal government still has a stultified hiring process by all reports. The federal government today has an average time-to-hire almost triple that of the private sector.[67] The difficulty of getting qualified hires through the process can be daunting. David Shulkin explained the problems with recruiting when he became Under Secretary for Health at the VA: “Perversely, I wasn’t allowed to see résumés, which were instead filtered by the human resource professionals and then sent to a committee of three Senior Executive Service (SES) employees.” When the hiring group applied the formal criteria and suggested someone who worked at the Federal Aviation Administration, Shulkin noted that the candidate had no healthcare experience. His request to see the résumés of the other candidates was refused. When he rejected the candidate, the position had to be reposted and competed for again. Shulkin noted, “Time and time again, I referred experienced health care executives who had worked with me in previous positions to apply for open VA hospital jobs, but they never made it through the screening process.”[68]

One of the main reasons the current hiring system is strained is that to obtain hiring authority from OPM, a department needs to adhere to OPM regulations, including the 318-page OPM document on hiring practices, which includes requirements such as an eight-point recruitment process plan. OPM also approves minimum employee qualification standards for agency hiring.[69]

Since a 2010 presidential memorandum, the standard hiring procedure for federal positions is known as Category Rating. Departments must perform a “job analysis” of positions with a “clear definition” of evaluations and, generally, create a point system for these evaluations. The candidates are then placed into three categories: Best Qualified, Well-Qualified, and Qualified. Agencies have discretion to hire only within the top tier. They must complete a formal certificate of all eligible hires and document all actions relative to these hires for potential auditing by OPM. Eligible veterans get bonus points to determine their category rating and then must be hired over non-veterans if they make it to the highest category ranking of candidates.[70]

A common complaint among federal managers is that HR generalists, as opposed to hiring managers or subject matter experts, typically review résumés and rate candidates. Although managers set the frameworks and methods of evaluating applicants, HR offices decide if applications meet the minimum qualification requirements, how they achieve the quality ranking factors, and if they have any independent selective placement factors.[71]

In some cases, agencies use software to match keywords in the requirements and to rate résumés. The National Commission on Military, National, and Public Service explained, “These approaches miss applicants with relevant skills and experience that do not lend themselves to an exact keyword match; they also advantage applicants familiar with the process who craft resumes that closely mirror job descriptions.” Worse still, agencies often rely on a candidate’s self-assessment as part of the application process (Figure 1). During the self-assessment, many job seekers indicate that they are an “expert” on every item, regardless of whether they are actually qualified, because they want to advance to the next stage of the hiring process. Meanwhile, highly qualified applicants who rate themselves honestly are rejected.[72] The Chance to Compete Act, passed in December 2024, allows a “subject matter expert” in an agency to develop job assessments “in partnership with human resources employees” and to “administer the assessment,” but doesn’t make clear how this will be implemented. President Trump issued an executive order to support the intentions of the act in January 2025.[73]

Another centralized aspect of federal hiring is OPM’s main website. USAJOBS was created in 1996 and initially lauded as a way for agencies to more easily fill vacancies with qualified candidates. Yet today, agencies and federal job applicants alike consider USAJOBS confusing and difficult to use. A public comment, for example, noted: “A significant barrier to public service (especially Federal public service) is the unwieldy application process. I have used USAJOBS many times, and have found the process extremely complicated, easy to mess up, and to take so long that even if I was offered my dream Federal job, I would have already had to take another position.”[74]

The formalized system of OPM hiring, combined with the centralized job site, leads to an overall ineffective process. The National Commission report said that most USAJOBS announcements are “unintelligible to job seekers who are not familiar with Federal personnel systems.” The report also found that applicants who apply to a federal job using a standard one-page résumé, which is common in the private sector, “are disadvantaged by review systems that emphasize the presence of specific keywords rather than a holistic assessment of an applicant’s qualifications.” According to an employee with the U.S. Digital Service: “We did an analysis of what an application looked like for a software engineer in the private sector at a major company versus USAJOBS. The former was a paragraph long, stated the mission, and had an easy apply button. The USAJOBS [posting] was seven pages long, and the description of what the job was, was three-quarters of the way down the page.”[75]

Congress could take a lesson from the states and completely decentralize hiring authority. Individual agencies would be given the authority to hire in a manner that they saw fit. They should especially be able to have different hiring procedures for different jobs, so that the process for hiring a custodian would not match that for hiring a research scientist. The only formal requirement would be that all jobs be posted on USAJOBS, although the website would not be the only means by which to apply. OPM would transition into an advisory agency whose job would be to assist departments that need hiring assistance or to gather different HR departments together to share ideas and methods.

If the federal government is not going to completely decentralize hiring, there are many paths they could take to loosen the strictures on it. They could expand Direct-Hire Authority beyond when departments had a “critical hiring need” or “severe shortage of candidates.” OPM could allow managers to directly oversee rating and hiring, instead of delegating it out to an independent HR department, thus expanding the reforms of the Chance to Compete Act.[76] Many small reforms—such as ending requirements for formal points scoring—that would more closely bring the federal government in line with civil service reform states would allow federal managers far more flexibility.[77]

Compensation and Classification Reform

In earlier years, Congress appropriated lump sums to agencies, and agency managers had discretion to use those lump sums for what they determined were the right number of employees at the right pay scale.[78] But agency pay discretion angered some union groups and led to demands for standardized job “classification” schedules that would place different jobs into distinct pay grades. According to one history, the main advocates for classification at the federal level were the National Association of Letter Carriers, the National Federation of Federal Employees, and similar unions. The Classification Act of 1923 provided congressionally fixed salaries that could respond to the demands of unions and Congress for generalized pay raises. These classifications could also establish more equality in pay among similar jobs in the system. The unions also successfully demanded that these classification and pay categories focus on seniority rather than efficiency ratings or performance.[79] States in the 20th century likewise began to more systematically classify jobs based on their titles and tried to ensure equity for titles across different agencies. Classifications were typically enforced by a central classification agency or a general civil service commission. Hundreds or thousands of different job classifications and pay bands that were tied tightly to job classifications and seniority made compensation straightforward albeit unresponsive to individual agency demands.

As part of recent civil service reforms, many states have simplified their classification systems in a process known as broadbanding, which reduces the number of job classifications and pay scales. Broadbanding has allowed agency heads more discretion to classify employees into sevent different types of positions and to decide employee pay within those positions. States also began to allow more discretion to managers to provide particular types of incentive pay or create pay-for-performance programs and to move beyond seniority-based pay increases.

Florida has performed some of the most expansive classification reforms. In 1994 Florida agencies were given flexibility to increase the base rate of pay outside of the previous classification system. The following year, 25 of 27 agencies used that flexibility. Florida’s policy analysis office concluded that this effort, combined with the other reforms, “appears to have had a generally positive impact on state government.”[80] After another reform act in 2001, the state collapsed 3,300 separate title classifications into just 38 broad occupational groups, with 25 pay bands stretched across them. There were no automatic steps inside the pay bands based on seniority.[81] The Florida Department of Management Services’ Workforce Operations program still handled general job classification and policy, but Florida managers had the ability to increase pay inside those bands up to 300% above the minimum pay.[82]

Other states have made similar reforms. Wisconsin in the 1990s adopted a broadband pay structure, with many job classifications collapsed into broad groups with wider pay ranges.[83] South Carolina in 1996 reduced job classes from 2,500 to 500 and the number of pay ranges from 50 to 10.[84] After civil service reform in 1996, Georgia kept its State Job Classification System, which gave each pay grade a minimum, market average, and maximum pay rate. But the state allowed starting salaries above the minimum and up to the market rate depending on the background of the applicant.[85] By 2008, 12 states used general broadband systems, while another 4 used it for at least some of their workforce.[86]

Several comprehensive reports have found evidence of efficiency from broadbanding, although the type of implementation mattered. A 2003 report by the National Academy of Public Administration, “Broadband Pay Experience in the Public Sector,” looked at broadbanding in five states as well as some individual federal agencies. The federal agencies’ officials supported the changes and found them generally successful. Of the states, Florida’s reform was “highly successful.” Virginia reported that “[a]necdotal reactions are favorable,” and in Washington 83% of those surveyed supported the system. Two states, Wisconsin and South Carolina, reported no problems with broadbanding, but provided no particular evidence of success, either.[87] A Volcker Commission report from the same year surveyed broadbanding experience and came out in support of it.[88] An academic survey of agency managers in six states found generally positive responses to broadbanding. In South Carolina, managers stated that they appreciated the reform, and the Division of State Human Resources said that pay band reform helped the state improve recruitment, retention, and employee development generally. More than 40% of HR professionals in states generally thought that broadbanding increased flexibility and improved efficiency. Although this was less than a majority, the study did not report those who weren’t sure or found no effect, and it did not find significant negative responses.[89] One reported downside to broadbanding is that overall employee costs typically go up. But that change has to be balanced with the increased productivity and flexibility of the government workforce overall. Concerns about increased costs have been met by capping overall compensation for each department.

States have now had extensive experiences with incentive pay programs as well.[90] The success of these reforms has been more ambiguous and highly dependent on the administration in different states. Part of Georgia’s 1996 civil service reforms was GeorgiaGain, which allowed increased pay-for-performance programs. Two surveys found that employees reported dissatisfaction with the management of the incentive program.[91] Georgia state officials were more positive: They argued that efficiency had improved and noted that the largest raises had been given to “outstanding” employees. The tying of performance pay to ratings and the limitations on general agency budgets have also meant that agency heads reduced the tendency to rank many or most employees as outstanding.[92] One study noted that resignations increased in Georgia agencies after reforms, but those resignations were largely among average-rated staff. Higher-performing staff tended to stay, as one would expect with an incentive pay program.[93]

Texas has the Texas Incentive and Productivity Commission, which administers two separate merit-based reward programs. A survey of Texas HR professionals found that almost two-thirds believed that merit pay reflected actual differences in performance, while 28% said they didn’t know and 10% said that it didn’t.[94] A cross-state survey of civil service reform states, however, found that many HR professionals thought office politics was more important than performance in incentive pay programs. As many as 50% thought that the pay programs increased productivity in Florida and South Carolina, but very few thought so in Kansas and Missouri.[95] On the whole, performance pay seems beneficial but is dependent on the implementing state and agency. Agencies with clear measures of output or productivity seem to benefit more than those with ambiguous goals and outcomes.

Federal Options for Compensation and Classification Reform

OPM and federal agencies have decentralized classification to some extent since the post-Carter period, so agencies generally have delegated authority to classify the jobs under their purview. The era when outside personnel specialists performed detailed individual classification checks after the fact is largely over.[96] Yet OPM still decides the nature of positions and of classifications and oversees the job classification process.[97]

OPM’s Handbook of Occupational Groups and Families contains more than 200 pages with detailed descriptions of 49 major “groups” or “families” of occupations for employees (such as “0300 – General Administrative, Clerical, and Office Services Group”). Inside these groups are often two dozen or more “series” of jobs (such as “Computer Operation Series 0332”). Other documents clarify the specific “classes of positions” or jobs inside these series. The document on the Computer Operation Series is 55 pages and describes that a computer operator is a position “the paramount duties of which involve operating or supervising the operation of the controls of the digital computer system.” After defining terms such as “modem,”“hardware,” and “online,” the document explains how classifiers are supposed to group employees into six different classes of position of Computer Operator. The document explains that there are nine factors that determine the class of positions (such as the “complexity” and “guidelines” of the position’s work), and each factor has several subfactors. These subfactors allow the allocation of up to 2,350 “points,” which then help distribute positions into the seven different salary scales.[98]

A job position’s salary is determined by the classification system, which is now governed by the Classification Act of 1949 and has been codified in Chapter 51 of Title 5 of the U.S. Code.[99] The system has 15 grades (GS-1 to GS-15), with 10 steps in each grade.[100] Above those grades is the SES, where compensation is somewhat more flexible and more closely based on performance.[101]

The process for classifying individual positions for GS work is done by the departments, but as with hiring capability, this is the result of delegation that can be revoked. Chapter 51 permits agencies to classify positions in their respective classes and grades, develop internal guides to help with classification, and organize and assign work for each position. OPM monitors agencies to ensure that they are classifying positions in accordance with these standards. If OPM believes that an agency is not adhering to its published standards, then it can revoke or suspend the agency’s authority to classify positions. Moreover, OPM provides the final decision on any classification appeals filed by agencies or employees.[102]

OPM also sets the overall pay structure and pay administration policies for GS employees; these policies are tightly controlled.[103] Grade increases are considered to be promotions and include a 10%–15% increase in pay, while step increases, also known as within-grade increases (WGIs), are considered to be periodic raises and include a 2%–3% increase in pay.[104] One of the most rigid parts of the federal pay program is that the steps inside classifications are based on longevity instead of performance. In steps 1–3, employees must wait one year for a step increase; in steps 4–6, two years; and in steps 7–9, three years. According to OPM, it normally takes an employee 18 years to advance from step 1 to step 10 within a single grade. The only way in which an employee can advance through his or her grade faster is by receiving a quality step increase (QSI). QSIs are additional step increases that award outstanding performance by employees. However, they are few and far between; employees can only receive, at most, one QSI every year, and these are given out sparingly.[105] An employee can be promoted to a higher GS grade, depending on OPM regulations, qualification standards, and agency-specific policies, only up to the full promotion potential advertised in the original job posting to which the employee applied. Otherwise, to get a grade promotion, the employee has to apply for a different job.[106]

Congress could provide agencies with greater discretion by amending the law to allow broadbanding, as Wisconsin, Florida, South Carolina, and other states have done. There is precedent for this in the federal government. The so-called China Lake experiment at the Naval Weapons Center gave line managers greater authority over assigning, promoting, and rewarding subordinates by lumping the then-18 GS grades into only 6 or fewer. Reports showed better recruiting and lower turnover, but at the cost of increased overall spending.[107] The National Institute of Standards and Technology (NIST) and the Government Accountability Office (GAO) have adopted broadbanding and found the system to be successful. For example, after NIST switched from the GS system to broadbanding, employee and supervisor surveys showed that employees felt that higher performance was better rewarded, more employees were satisfied with their pay, and supervisors felt that they had more control over their employees’ pay and could better reward them.[108]

Two comprehensive federal broadbanding reforms have been the subject of some study. In 1995, Congress established the Acquisition Demo program to give broader discretion to reward defense procurement officials. A decade later, an evaluation of the program found that it led to higher retention levels for “high contributors” and increasing separations for “low contributors.” Employees in the system believed that there was a stronger connection between pay and performance than employees in a control group.[109] Even more dramatically, in the wake of 9/11, the 2004 National Defense Authorization Act allowed the Department of Defense to overhaul its entire personnel system, including changes to hiring, firing, discipline, and especially pay. The new program became known as known as the National Security Personnel System (NSPS). An analysis by the Institute for Defense Analyses argued that the plan had a positive effect on “new talent hiring” and “appears to have outperformed the old General Schedule (GS) when it came to addressing poor performers and motivating top performers.” It recommended that the Defense Department be allowed to override the GS classification system and establish special classifications for special positions, but the NSPS was dismantled after a change in administration in 2009.[110]

As in the states, there is some possibility for direct incentive or pay-for-performance programs in the federal government, and there is precedent as well. In earlier American history, many if not most government jobs had some sort of dependence on fees or gratuities for services granted, from the number of cases decided for judges to the number of public land certificates granted or the number of immigrant naturalizations provided. It was only in the early 20th century that a concern about civil servants balancing competing demands (e.g., granting an excessive number of naturalization documents) led to a universal salary standard.[111] More recently, the 1978 CSRA attempted to create incentive pay systems. Career SES employees could earn up to 20% of their base salary in performance bonuses each year, and presidentially designated “distinguished” executives could earn bonuses of up to $20,000, while middle-level managers could also get substantial bonuses based on a merit pay system.[112] Yet as early as 1982, two surveys of employees showed that bonuses tended to be spread out among large numbers of individuals and that the rewards tended to be small for mid-level managers.[113] By 1984, Congress had replaced the merit pay system with a Performance Management and Recognition System that was even more closely based on the General Schedule, but this more limited program effectively ended in 1993.[114] Although China Lake, Acquisition Demo, and the NSPS all had aspects of pay-for-performance, and although both the GAO and National Academy of Public Administration have recommended more pay-for-performance in the federal system, broad-based bonus systems have not flourished at the federal level.[115]

One reason for failures in pay-for-performance systems is the widespread tendency across government for salary compression.[116] Since politically it is easier to attack “overpaid” high-skilled employees who make more than the salary of the median voter and difficult to attack overpaid manual workers, governments tend to have a much narrower salary range than the private sector. While the lowest-skilled federal employees are significantly overpaid relative to the private sector, the highest-skilled are underpaid, with the underpayment beginning with those with a master’s degree and increasing for those with a professional degree or doctorate.[117] Even pay-for-performance models have not changed this tendency. After the supposed merit-pay reforms of the 1978 CSRA, the GAO noted that pay compression had worsened at the top ranks of the government.[118] This wage compression effect was also demonstrated after the passage of the 1989 Financial Institutions Reform, Recovery, and Enforcement Act, which aimed to provide federal bank regulatory agencies with more discretion to raise salaries in order to compete with well-paying private-sector finance jobs. In reality, the reform led to broad boosts in salary for federal regulators, especially for lower-skilled positions. By 2012, although the average employee in the banking industry earned just under $50,000, the average compensation for employees in the Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, and Consumer Financial Protection Bureau exceeded $190,000, with secretaries, for instance, making almost $80,000.[119] The highest-paid and most skilled individuals still received higher income in finance.

The lesson from past pay-for-performance programs is that they should be used most extensively in select agencies where it is possible to clearly judge output or outcomes and where political demand for wage compression is less pressing. The success of China Lake and some other demonstrations among research facilities proves that, among scientists and highly skilled individuals with divergent productivity, pay-for-performance can work well. States and the federal government have shown that in the right circumstances both general broadbanding and individual pay-for-performance programs can improve efficiency.

Reforms to Public Unionization

Like restraints on discipline and removal, collective bargaining with public-sector unions is a relatively recent addition to the civil service. It was not until the “Little Wagner Act” of 1958 that New York City adopted the earliest comprehensive public-sector collective bargaining law in the country. In 1959 and 1962, Wisconsin passed laws that made it the first state to conduct collective bargaining with its employees. Soon public collective bargaining was adopted in some form in most of the states.[120] In 1962 the federal government issued an executive order encouraging negotiations with unions, but this was not put into statute until the 1978 CSRA.[121]

Since the mid-20th century’s public unionization movement, states have maintained an immense range of different approaches on every aspect of union policy. States have mandated or banned collective bargaining entirely or in part, sometimes limiting bargaining to either just wages and benefits or conditions of employment. They have required or banned automatic union-dues checkoffs by agencies. They have expanded or restricted the ability of unions to involve themselves in employee grievances. They have banned or allowed the use of government pay for “union time” or “official time” activities that support the union. They have expanded or restricted the proportion of bargaining-unit votes needed to certify a union. They have expanded or limited the need for unions to “recertify” in new votes to show that they are still representing their members.

Right now, only three states have complete bans on public-sector employees’ collective bargaining at both the state and local level: Utah, North Carolina and South Carolina.[122] But many other states have sharply limited collective bargaining to specific areas or subjects. Texas, for instance, forbids collective bargaining except for firefighters and police officers.[123] States such as Indiana, Oklahoma, and Kentucky allow bargaining only for firefighters, police, and teachers.[124] Many other states, such as Mississippi, Utah, and Arkansas, have no public-sector union law, meaning that although individual local governments sometimes negotiate with unions and enter into agreements, the state as an employer generally doesn’t.[125]

Changes to public union rules were not as prominent in the civil service reform movement of the 1990s and onward as other reforms, for the simple reason that states with more powerful public unions were less likely to engage in civil service reform.[126] Although Florida did not abandon collective bargaining with its employees, as part of the Service First reform, the governor was allowed to bypass mediation after contract disagreements and ask the legislature for a final resolution of disputes.[127] In 2023 Florida required public labor unions to have at least 60% of members paying dues in order for a union to be recognized by state law and banned government employers from deducting union dues from paychecks (with a typical exemption for police and firefighter unions). Many state unions were decertified when the law went into effect.[128]

In 2017, Iowa made comprehensive reforms to several aspects of public-sector bargaining. The state increased the percentage of employees who had to give written consent for union representation. Bargaining units were required to have a vote on retaining a union before the end of every contract, and the “yes” vote now required a majority of the whole unit, not just a majority of those voting. Many subjects were removed from the realm of collective bargaining, including seniority, transfers, job classifications, and staff reductions. The state prohibited dues checkoffs collected automatically by the public employer.[129] In 2018, Missouri forbade collective bargaining over wages, benefits, conditions of employment, and union time and required recertification votes every three years.[130]

The most prominent public-sector union reform by far was Wisconsin’s Act 10 in 2011. After the passage of the hotly contested act, the state allowed collective bargaining only over wages, and even those wage negotiations were limited to no more than the rate of inflation. The law also allowed state workers to opt out of paying union dues and required unions to face regular recertification votes. The law has been a prominent source of debate in the state for more than a decade. In recent years, both Wisconsin’s and Missouri’s laws have been overturned at least in part by their state supreme courts.[131]

General studies of public-sector unionization and collective bargaining across states and cities have had clear results: Unions increase costs and reduce efficiency. One early research paper found that the existence of union bargaining boosted pay significantly and increased the number of employees in unionized agencies.[132] A 2008 paper found significant wage premiums for public-sector union workers.[133] A 2015 paper found that public-sector unions tended to increase wages and, most especially, benefits.[134]

Wisconsin’s Act 10 provided an important source of evidence for the effects of changing public-sector union laws.[135] Some of the biggest effects of the law were found in the state’s schools. One study found “an increase in the quality of the prospective teacher pool in Wisconsin” as a result of the reform, since school compensation schemes could afterward be based on performance rather than collective bargaining agreements (CBAs) and seniority.[136] Another found that school districts where unions were decertified had better test scores and attendance, especially for low-income and nonwhite students.[137] The new Wisconsin pension and health care standards for employees that replaced previous CBAs under the act saved the government billions of dollars in a few years, according to state estimates.[138] The evidence that reducing union power in the government workforce will improve efficiency is strong.

Federal Options for Union Reform

Although collective bargaining was not made official in the federal workforce until recently, federal unions have been among the premier agents in shaping the nature of the civil service system. From securing limited protections against removal in 1912 to creating one of the earliest pension systems in the country in 1920 to standardizing pay classification in 1923 and to extending all of these changes afterward, research shows unions to be one of the most important forces in shaping the nature of the civil service system, typically in ways that counteract productivity.[139]

It was Title VII of the 1978 CSRA, also known as the Federal Service Labor-Management Relations Statute (FSLMRS), that enshrined organizing and collective bargaining rights of federal workers into law. The statute allows federal workers to organize, bargain collectively, and participate in labor organizations related to their line of work.[140] Although federal unions under the act cannot negotiate directly over most pay and benefits, they can negotiate over conditions of employment. The FSLMRS also created the Federal Labor Relations Authority, an independent agency in the executive branch that protects federal employees’ collective bargaining rights, resolves disputes, provides guidance to agencies on union rights, conducts union elections, and investigates unfair labor practices within the federal government.

A core tenet of the FSLMRS is the belief that public unionization “safeguards the public interest, contributes to the effective conduct of public business, and facilitates and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment.”[141] The statute thereby requires agencies and collective bargaining representatives to secure CBAs that promote an efficient and effective government.[142] In practice, there has been no attempt to ensure CBAs are promoting more efficient government.

One complaint about existing CBAs is that if an agency changes a “condition of employment,” the FSLMRS requires the agency to engage in negotiations and bargaining with its union. According to the federal government, “conditions of employment” in practical terms refers to the “physical, environmental and operational features affecting employees’ daily work lives. Conditions of employment encompass ‘working conditions’ which can range from the size of an employee’s work cubicle to the system for calculating employee incentive awards.” The government notes that even a long-standing “past practice,” such as the provision of free bottled water or the prices in cafeterias, can become a condition of employment and therefore subject to bargaining if changed.[143] Current CBAs also include provisions for taxpayer-funded “union time”: time that federal employees use to represent labor organizations and participate in other non-agency matters during work hours.

The FSLMRS does not require regular union recertification elections. Once a public union has been certified through a secret ballot election as an employee representative, the union does not have to hold another vote.[144] A 2024 report from the Foundation for Government Accountability found that only 6% of unionized employees voted to certify the unions that represent them.[145]

There have been some attempts at reforms to federal collective bargaining. In 2018, President Trump signed EOs that limited the extent of CBAs. EO 13836 called on agencies to secure CBAs that allow for greater flexibility in handling operational needs, in addition to rewarding high performers and holding low performers accountable. Meanwhile, EO 13837 encouraged greater transparency, accountability, and efficiency in taxpayer-funded union time. President Biden rescinded both EOs in 2021.

Ideally, the federal government could institute a complete ban on collective bargaining in the federal government. But if lawmakers were not willing to go that far, there are several reforms that can be made. The president should issue EOs to limit, to the maximum extent possible, union time and CBAs that give unions expansive say over conditions of employment. Congress can pass the Paycheck Protection Program, which would ban public unions from automatically deducting dues from federal employees’ paychecks. It could pass the No Union Time on the Taxpayer’s Dime Act, which would ban taxpayer-funded union time, such as barring unions from using such time to represent employees in grievance procedures within agencies. Finally, Congress could amend the FSLMRS to limit what constitutes “conditions of employment” and require unions to be recertified annually.

Conclusion

Since one of the most prominent goals of past civil service reform efforts has been to give the executive more direct control over the workforce, and since congressional reform of the civil service process has been rare, presidents have taken the lead in trying to reform the workforce at the federal level. In many cases, these presidential efforts have proven futile. As Richard Nathan, a former Nixon Office of Management and Budget official, described in The Plot That Failed: Nixon and the Administrative Presidency, Nixon’s work to form a “counter-bureaucracy” in the White House to monitor the civil service ended up causing departments to push decision-making down to a lower level, outside of the purview of White House officials. The “Malek Manual” to insert more loyalists into the lower levels of the departments ended up with many former loyalists losing direct contact with the White House.[146]

There have been concrete examples of presidents successfully exerting more influence over the bureaucracy. The best example of comprehensive reform was President Dwight Eisenhower’s creation of Schedule C in 1953, which allowed for hiring outside of the typical civil service for policymaking positions. Eisenhower also created a “two-hat” arrangement for the chair of the then–Civil Service Commission to serve as a staff adviser to the president on personnel matters, an arrangement that had been recommended by the Hoover Commission on government reform in 1949. Although later abandoned, this combined role did give the executive more say over personnel issues.[147]

Presidents in the past have also worked to establish new agencies with more freedom from traditional civil service rules. As David Lewis shows in Presidents and the Politics of Agency Design, from 1946 until 1997, the executive branch created 248 new agencies under its own initiative using repurposed funds. One of the main reasons was to allow executive control of new appointments. Although the so-called Russell Amendment technically prevents funds from going to new agencies for more than a year without congressional authorization, it has been read in a very limited fashion.[148]

The transformation of the Civil Service Commission to OPM as part of the 1978 CSRA was one salutary effect of that act since it gave the president more control over workforce policies. Before the act, the only presidential appointees in the Civil Service Commission were the three commissioners. By the end of President Carter’s administration, and despite the reduction of the three commissioners to one presidentially appointed director, there were 12 presidential appointees at OPM, including 9 Schedule Cs. Donald Devine, Reagan’s first OPM head, increased the number of appointees to 37 by 1984. Devine’s reorganization led to OPM giving individual departments increased control over their personnel, and it helped decrease federal personnel costs—by $6.4 billion, according to one estimate—even while decreasing the number of personnel at OPM itself by almost 30% in the first six years.[149]

There are more possibilities for executive reform of the civil service system under the CSRA that have seen little use. Under Title VI, OPM is allowed to create a “demonstration project” to see “whether a specified change in personnel management policies or procedures would result in improved Federal personnel management.” This authority would allow OPM to work with agencies to change “the methods of classifying positions and compensating employees,” “the methods of disciplining employees,” and “the methods of involving employees, labor organizations, and employee organizations in personnel decisions,” among other reforms. By this method, OPM could create substantial changes in up to 10 demonstration projects with up to 5,000 employees in each project.[150]

Although it is too early to know if President Trump’s executive civil service reforms will bring results, Congress can still act on the lessons of the radical civil reform states to bring more extensive reforms to the federal system. States have attempted several variations of removal processes, hiring systems, payment schedules, and union bargaining. For more radical civil service reform efforts, states have provided Congress with many models that they can adopt in part or in full. States have attempted several variations of removal, hiring, payment schedules, and union relations systems and have shown which have worked. The states demonstrate that increased discretion to managers has created more effective working environments without politicizing the system, as many anti-reform groups had feared.[151]

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For decades politicians and commentators have bemoaned the state of the federal civil service. There are widespread complaints that the system fails to reward good performers and punish bad ones and that it does not nimbly respond to social needs. President Donald Trump’s and the Department of Government Efficiency’s efforts to dismiss federal employees and streamline the bureaucracy have revived the debate about whether reforms to such a system can bring positive results.

Yet most federal civil service reform proposals involve modest changes to the hiring or firing capabilities of the president and federal managers. Even Trump’s Schedule F plan, now titled Schedule Policy/Career, which creates functional at-will employment for higher-level officials, by one estimate would affect only about 2% of federal civilian employees.[1]

There are examples of far more radical civil service reform efforts with bipartisan pedigrees. Starting especially with a 1996 reform under Georgia’s Democratic Governor Zell Miller, about 20 states have implemented some version of radical civil service reform.[2] These reforms have made many or almost all state employees at-will, decentralized hiring capabilities to agency managers, allowed more variation in pay based on capabilities and performance, and limited collective bargaining with public employee unions. Most observers and researchers agree that state reforms’ effects have been either positive or, at worst, neutral. There have been general reports of improved performance with little evidence of politicization. These broad state-level efforts demonstrate that root-and-branch civil service reform is more than a mere possibility.

Despite the decades of evidence, states’ reforms have had remarkably little impact on the conversation about the federal civil service. Yet the federal government can and should learn from them. This report describes the recent civil service reforms in the American states, their effects, and what lessons can be imported to the federal service.

Four major lessons emerge from this analysis:

At-will employment should be the norm, not the exception, for federal workers. States that have created at-will employment and kept employee grievances inside departments have seen improved management and limited evidence of politicization or patronage.

Decentralized and flexible hiring should be fully adopted by the federal government. Many states since the 1990s have granted individual departments extensive flexibility for hiring; the federal government, despite some notable reforms, lags behind.

More flexibility for pay should be adopted at the federal level. Many states have limited the number of job classifications, collapsed the number of pay bands and expanded their range, and increased the use of merit pay. The reports on these reforms have been generally positive, although the manner in which they have been implemented has determined whether or not they were a success.

Union collective bargaining over the conditions of employment should be banned at the federal level. States that have limited or have resisted public employee union collective bargaining by all reports have more efficient service.

Although there is no civil service panacea, and much of the success of the system will depend on the management capabilities of political appointees or civil service officials, these four systematic reforms will give qualified federal managers more opportunities to exercise their influence and improve the efficiency and accountability of the federal workforce. The evidence that the reforms have done the same in the states is convincing.

A Brief History of Civil Service Reform

The original movement for a merit-based civil service was a movement for efficiency. Business groups that depended on the mail or on customs inspectors demanded a nonpoliticized federal personnel system to improve these services and reduce their costs. A review of votes for the Pendleton Civil Service Act of 1883 showed that the presence of a large post office or customhouse in a congressman’s district increased his chance of voting for the bill, meaning that those areas more affected by civil service reform were more likely to vote for it.[3] The original act imposed objective standards and tests for government positions that substituted for previous political patronage. Starting with New York in 1883, nine states adopted civil service systems over the next 50 years.[4]

There is evidence that the original civil service reform movement worked. The earliest reports of the U.S. Civil Service Commission, although obviously self-interested, demonstrated many examples of increased efficiency and provided testimonials of postmasters and customs collectors on improvements. An early independent estimate found millions of dollars in savings in customs alone.[5] One recent study found that U.S. cities affected by the Civil Service Act reduced postal delivery errors and increased productivity.[6]

But the movement for a professional civil service soon went beyond objective hiring standards. Pushed by a growing public-sector union movement, it advocated for more protections for workers from dismissal and discipline, a greater focus on seniority over merit in compensation and promotion, and other changes that together reduced efficiency.[7] As part of the New Deal and specifically as a requirement of the 1939 amendments to the Social Security Act, the federal government began requiring states to adopt formal civil service systems, and over the following decades top-down civil service became the norm at the federal and state levels.[8] President Jimmy Carter told Congress in 1978 that the civil service system “has become a bureaucratic maze which neglects merit, tolerates poor performance, permits abuse of legitimate employee rights, and mires every personnel action in red tape, delay and confusion.”[9] Yet the Civil Service Reform Act (CSRA), which passed that year and is still the basis for the modern federal civil service, if anything cemented the power of the traditional civil service and expanded the input of unions in the system.[10]

In the 1990s, many states began making substantial reforms to their legacy civil service systems. These states were often late to adopt a formal civil service (a general civil service system was not embraced until the 1940s in Georgia and the 1970s in Texas), but they were willing to end procedural restrictions on dismissals and centralized hiring based on tests and to give managers substantially more discretion in terms of their power to organize and direct their workforce. After a first burst of reform in the 1990s and early 2000s, state civil service reform slowed for a time.[11] But after the Republican state-level victories in 2010, there was an increase in new reform laws, and new decentralizing civil service laws have continued to pass up to present day.[12]

The general consensus is that the worst-case scenarios predicted by opponents of what became known as “radical civil service reform” have not played out, and most post-reform reports and studies indicate more satisfaction among government managers and a more flexible and productive workforce. At this point, so-called radical reform has become normal. Although the federal government has adopted some reform measures recently, such as giving managers more authority over hiring, it has not adopted the more comprehensive models of the reformed states.

Reforms to Discipline and Removal Procedures

No aspect of the civil service is more controversial than protections against the disciplining or removal of employees. Yet the protection of employees against discipline was a relative latecomer to the civil service system. The first federal law affecting dismissal, the Lloyd-La Follette Act, was passed in 1912, almost 30 years after the original Pendleton act, and its protections were minimal. The act allowed managers to remove employees for general reasons of efficiency and only provided the removed employees with a limited opportunity to respond to charges, and only inside their own agencies, without a resort to outside arbiters or courts.[13] The Civil Service Commission eventually issued regulations that gave it more power to oversee dismissals, and courts later became involved in supervising dismissals as well. But it was not until 1978’s CSRA that the Merit Systems Protection Board (MSPB) provided statutory outside review of disciplinary actions.[14] Most states did not establish similar protections against discipline until the post–New Deal era.

Starting in the 1990s, several states ended or sharply limited statutory protections for civil service employees. In 1996 Georgia’s Democratic Governor Zell Miller, who had become a fan of Philip Howard’s book The Death of Common Sense, announced in his State of the State Address that the “solution” of the establishment of formal civil service protections in 1943 was now the “problem.” He said the existing law did not reward merit and “only provides cover for bad workers.” The Senate Majority Leader used a pile of more than 1,100 pages that he said the state had accumulated to fire a single bad employee. The personnel directors in the agencies themselves were tired of the old system and became effective allies for reform.[15] The resulting act made every state employee hired after July 1, 1996 at-will with no appeal rights against disciplinary action. In 1998 the governor, after a push from the legislature, did require agencies to set up formal appeal processes for bad performance reviews or termination for cause. Those appeals, however, could only go as high as the director of the agency.[16]

Other states followed Georgia. In 2001, Florida passed Service First, which put a large number of higher-ranking state workers into the Selected Exempt Service, which is at-will. It also ended the previous policy of layoffs based only on seniority for all state workers.[17] Although most Florida employees remained in the protected career service, the reform made termination for that class easier, such as by ending the reimbursement of legal fees when employees appealed adverse personnel actions.[18] Utah gradually expanded the number of at-will employees around this time until they comprised more than a third of state employment.[19] In 2010 the state ended the Career Service Review Board and replaced it with a more constrained office, and it limited the number of personnel actions for which career employees could file grievances.[20]

After a wave of Republican victories in the states in 2010, many other states began radical civil service reform. After passage of a new state civil service law in 2011, Indiana vastly increased the number of employees in the “unclassified” or at-will service. Its state employee handbook notes that the state now adheres to “the employment at-will doctrine.” The handbook’s entire section on disciplinary action is four sentences long and only says to consult individual supervisors for specifics.[21] In 2012 Arizona also eliminated civil service protections for new hires. Employees who accepted a raise, promotion, or transfer were transitioned to at-will status.[22] The percentage of the Arizona state workforce that was at-will went from 21% to 67% in two years.[23] In 2012 Tennessee made comprehensive reforms to its civil service system, including streamlining the appeals of grievances and allowing layoffs that were determined by factors other than seniority.[24] A 2015 Kansas law directed that new hires, rehired employees, and those voluntarily transferred or promoted be put in the unclassified or at-will service. The number of unclassified or at-will positions grew from about a third to a large majority of state positions by 2020.[25] Many state employees voluntarily gave up classified status in exchange for pay raises or promotions.[26]

Texas is somewhat sui generis in that it has a long-standing policy of decentralized manager power and at-will employment going back decades, with even the modestly powerful Texas Merit Council eliminated in the mid-1980s. The state’s compilation of employee laws notes that absent a specific contract or stated policy, “all state employees are employed ‘at-will.’”[27] There is no probationary period or appeal process for state employees, although, like other at-will states, there usually are internal grievance processes inside agencies.

The evidence that at-will employment increased performance is suggestive but convincing. A 2002 study of Texas, Georgia, and Florida found that the length of time for firing “decreases significantly” after reform and that “satisfaction levels with personnel administration generally increase.”[28] A comprehensive 2010 survey of human resource (HR) directors in Colorado, Florida, Georgia, Kansas, Missouri, and South Carolina found that “managers’ attitudes are mixed, but they are more likely to register agreement with positive assessments of at-will employment than negative assessments.”[29] Interviews in the same year by Governing magazine with Florida personnel directors were all positive about the Service First implementation. David Ferguson, the head of personnel for the Florida Department of Transportation for 30 years, said that Service First was the best thing that ever happened to personnel administration in Florida. He did not have complaints about politicization.[30] In Indiana, the state personnel director found that formal complaints by employees were down the year after reform, and that “[a]gency performance [was] up in almost every category, including customer service and teamwork.”[31] A recent survey of 214 public HR professionals found that those in at-will systems tended to rate their states’ management capacities higher than those in traditional civil service systems, including in retention.[32]

Dismissal rates in civil service reform states that more closely approximate the private sector are another indication of reform success. When Utah’s state auditor looked at annual dismissal for cause rates in 2010, it found that typical civil service employees had a rate of 0.3% but that personnel outside of the typical service system had a rate of 1.93%, close to the private-sector involuntary separation rate of around 2% at that time.[33] The auditor partially attributed this to the fact that grievances in the non-civil service systems were limited to inside particular departments and could not be appealed to an outside board.[34]

The higher dismissal rates could be evidence of a politicized system, but there is limited evidence for politicization or even serious downsides to at-will employment. Although Georgia continued to leave open the possibility of litigation for those fired for nonjustifiable reasons, the state personnel office did not report a single lawsuit based on improper firing in the first five years after the system’s creation.[35] A 2006 survey of Georgia employees did find that most felt at-will created a “less-trusting environment” and was less “motivational.” Yet a study by Georgia’s State Personnel Administration found no substantial problems with overall job satisfaction after the state reform.[36] The 2002 study of Texas, Georgia, and Florida found “no convincing evidence presented of widespread, systemic abuse in any of the three states” analyzed.[37]

Federal Options for Discipline and Removal

The inability of federal managers to discipline or remove poor performers has been one of the most consistent complaints about the federal civil service. There have been few substantive reforms to these processes since the CSRA of 1978, and the reforms in that act and subsequent ones have proven ineffectual.

In the federal government, a removal, demotion, suspension, furlough, or reduction in pay grade or pay of an employee for cause is an “adverse action.” Under Title 5 of the U.S. Code, agencies can take adverse actions against employees under Chapter 43 or Chapter 75. Prior to the CSRA, Chapter 75 was the only statutory mechanism by which an agency could discipline or remove a poorly performing employee.[38] To take adverse actions under this statute, agencies were required (and are still required when using this statute) to use “a preponderance of the evidence” to show that the actions would “promote the efficiency of the service.”[39] This proved to be an incredibly difficult bar for agencies to meet. In 1976, Congress found, for example, that only 226 out of 2,833,000 federal employees (0.0079%) were fired under Chapter 75 for poor job performance.[40]

In response to this finding and others, Congress enacted another statutory mechanism for discipline and removal of poorly performing federal employees—Chapter 43. Congress believed that this statute would “provide agencies with a streamlined, merit-based removal process that was designed to exclusively address poor performance.” Unlike Chapter 75, Chapter 43 allows agencies to remove employees if they do not meet necessary performance requirements and requires a lower burden of proof for discipline and removal. Additionally, Chapter 43 created a performance appraisal system that agencies can use to evaluate employees’ performance against specific performance standards.[41]

By and large, Chapter 43 has failed to make discipline and removal of poorly performing employees easier. A report from MSPB found that between 1998 and 2007, agencies removed 62% of poorly performing employees using Chapter 75 and only 38% of such employees using Chapter 43. Managers seem to find Chapter 43, like Chapter 75, to be “too complex, rigid, burdensome, and antiquated to effectively address poor performing employees.”[42] The inability to remove bad employees was brought to public attention when Department of Veterans Affairs (VA) medical facilities were caught using fraudulent wait time records and secret wait lists to misrepresent how long veterans waited for medical appointments. Only eight employees were held accountable, despite the fact that 177,000 veterans had to wait extra months to receive care and more than 40 died.[43]

Perhaps as important as the formal standards around discipline is the fact that federal employees have the right to appeal a suspension, demotion, or removal to an outside body. An employee can first appeal an adverse action to the MSPB. If the employee loses at the MSPB, then the employee can ask the U.S. Court of Appeals for the Federal Circuit to review the decision.[44] The federal removal procedures take agencies, on average, between 6 and 12 months to complete (and that is without counting appeals).[45] The federal government dismisses only about half a percent of its employees a year, about a third of the rate of private-sector employers.[46]

President Trump in his first term made some reforms to the system through executive order. In May 2018, he issued Executive Order (EO) 13839, “Promoting Accountability and Streamlining Removal Procedures Consistent with Merit System Principles.” Among other things, EO 13839 encouraged agencies, when taking action under Chapter 43, to lessen performance improvement plan (PIP) times and not get bogged down in uniform standards of discipline and removal because “disciplinary action should be calibrated to the specific facts and circumstances of each individual employee’s situation.” In October 2020, President Trump signed EO 13957, which aimed to reclassify several high-ranking federal positions as “Schedule F.” Those within these positions could be removed at-will. President Biden rescinded both EOs in 2021. A 2024 regulation formalized the preexisting removal procedures to preempt a return of Schedule F, although Trump released a new EO to reimpose a version of it after his second inauguration.[47]

More expansive reforms to the disciplinary procedures will require congressional action. If Congress is willing, it could amend the CSRA to implement the wholesale at-will model that states such as Georgia have pioneered. But if Congress does not want to go that far, other reforms can be made. First, the probationary or trial period that exists for federal employees in the competitive service can be extended. The federal probationary period typically lasts one year, and during this time, newly hired employees have very limited procedural and appeal rights. Congress should amend Title 5 of the U.S. Code to allow agencies to extend the probationary period so that they have more leeway to dismiss poorly performing employees.

Congress can also amend Chapters 43 and 75 to provide more flexibility for managers in firing. For example, the time that employees are given to respond to an action against them under Chapter 43, currently 30 days, should be severely cut down. Moreover, agencies should not be required to provide poorly performing employees with an opportunity to improve their performance under a PIP before discipline or removal; they should be able to hold their employees accountable immediately in certain circumstances. Finally, the ability of the MSPB to meddle in agency affairs should be sharply limited. The MSPB should not be able to second-guess an adverse action that an agency has taken, nor should the MSPB be able to handle employee appeals over agency heads.

In a similar vein, Congress should allow each agency to conduct reductions in force (RIFs), or layoffs, however that agency sees fit. An RIF occurs when an agency decides to eliminate positions, and RIF regulations determine whether employees in the agency get to keep their positions or are entitled to different positions. These regulations require four factors to be taken into account in an RIF: tenure of employment (e.g., type of appointment), veteran’s preference, length of service, and performance rating. Length of service or seniority is typically considered the most important factor, so a “first in, last out” policy is typical.[48] Allowing agencies to set their own regulations governing RIF proceedings would require statutory and regulatory reform—similar to that conducted in the states—that would allow them to decide their own methods of layoffs.

Beyond the evidence of the states, there are other reasons to believe that broad federal civil service reform would not lead to mass politicization or patronage. For one, Supreme Court jurisprudence from Elrod v. Burns (1976) onward states that the First Amendment forbids governments from making personnel decisions based on patronage or party membership unless personnel are in policymaking positions.[49] There also are separate whistleblower laws that should largely remain in place; they prevent firing for impure or nefarious motives and should still be enforced by some reformed version of the MSPB. Any reform to general discipline would not end federal offices such as the Office of Special Counsel, which enforces rules concerning whistleblower protection and the Hatch Act, among others.[50] Some argue that the federal government would experience more politicization due to the rapid shifts in political control in Washington, D.C., versus the states. Yet several civil service reform states, including Texas and Georgia, have seen complete changes in partisan control without attendant politicization or patronage.[51] Widespread and comprehensive at-will employment in the federal government would most likely work in a similar manner to that of the states by creating more efficiency with minimal politicization.

Reforming and Decentralizing Hiring Practices

The primary goals of the original civil service movement were to limit patronage and to ensure that hires could pass objective tests. The tests would both ensure competency and prevent politicians from controlling who took particular jobs. The core of the Pendleton act of 1883 was the creation of a testing system for federal employees to be administered by a new and independent Civil Service Commission.[52] This model was similar to that put in place in New York State the same year, which was extended by the state the following year to local governments.[53] After the New Deal, the creation of so-called merit hiring with an independent commission or agency supervision became the state model everywhere.[54]

Yet in recent years, civil service reform states have decentralized hiring again and allowed agency managers to hire whomever they think is best, without explicit approval from an outside agency or formal tests. Agencies can now hire based on an applicant’s “knowledge, skills, and abilities” (KSAs) or general “competencies.” Formal job applications and tests that were required to be administered to all comers have been replaced with department and manager discretion. Central civil service commissions in many states have been transformed into independent personnel departments whose job is assisting agencies in hiring rather than administering a mandatory hiring program across all agencies. In some states, an agency manager can hire someone directly off the street if he or she thinks that the individual would fit the position.[55]

Several states have demonstrated the possibilities of decentralized hiring processes. Starting with reforms that allowed agencies to hire internally in 1994, Florida has expanded the realm of discretion of state managers.[56] Today, the state still requires agencies to use the People First online system to advertise vacancies, but they are allowed to limit the search to different possible recruits, including internal ones. As a Florida State Personnel System manual says, “Recruiting efforts and hiring decisions are carried out in the sound discretion of each agency’s head.” The state says its “employment process is decentralized with each state agency being responsible for their recruitment, selection, and hiring decisions.”[57] Georgia substantially decentralized hiring as well as part of its 1996 reforms.

Until 2012, Tennessee had a registry and a point system where managers had to hire from a limited number of approved candidates (three to five) who had acquired the highest number of points. After the passage of the Tennessee Excellence, Accountability and Management (TEAM) Act[58] that year, the state ended formal civil service exams and allowed agencies to rewrite job descriptions for KSAs. The central personnel agency then would provide agencies with a list of all potential employees who met those qualifications and allow them to hire from that list. The state also started hiring outside recruiters to find the best employees.[59] As part of Kansas’s 2015 civil service reform, all future hires went into the “unclassified” service, which was not only at-will but could be filled by direct appointment,“with or without competition,” as the Kansas Legislative Research Department’s 2020 Briefing Book states.[60]

Other states have gone much further in allowing completely decentralized hiring. Texas does not even have a central personnel office, and agency heads can hire however they see fit. As one research report noted, “The state of Texas’ human resource (HR) function is renowned for its decentralization and deregulation.”[61] Yet joint groups such as the State Agency Coordinating Council allow smaller agencies with limited resources to borrow models and resources from larger ones. Texas does, like other states, have a centralized website for hiring, but the job postings are decided by agency managers.[62]

The evidence that more decentralized hiring has helped managers is convincing. As the 2002 study of Texas, Florida, and Georgia stated:

Ask almost any state government manager in almost any of the other 47 states about what it’s like to find and hire good people, and what you’ll invariably hear is a long list of complaints. … Ask personnel officials or hiring authorities in Texas, Georgia, or Florida how they like their style of personnel management, and you’ll hear how relieved they are not to have to suffer the dictates of a highly structured, centralized, rule-driven personnel system.[63]

Due to the extent of decentralization in Texas, it provides a good case study for the effects of reformed hiring practices. According to a survey of independent agency HR leaders in the state, which encompassed the large majority of such leaders when performed in the early 2000s, most HR officials appreciated the decentralized system. Almost 75% said they had the expertise and staff inside their departments to be effective, while only 19% disagreed; 91% said they used discretion under state law to create HR policies tailored to the specific needs and of their agencies; and only 11.6% said they could ever “think of an instance” when someone’s political beliefs or connections influenced hiring, promotion, or other job rewards. Considering the large number of employees such managers come in contact with in their work, this means a vanishingly small percentage of job actions involved favoritism. More than 75% believed that a central HR office would remove the “flexibility that state agencies need to be effective.”[64] A previously discussed survey of 214 state HR professionals found that those in reformed civil service states ranked their system higher on effectiveness in recruitment, hiring, promotion, and retention.[65]

Federal Options for Hiring Decentralization

The federal government, like many states, has decentralized hiring and no longer relies mainly on formal civil service tests. Most hires are through résumé-based requirements for KSAs.[66] Although the central personnel office for the federal government—the Office of Personnel Management (OPM)—technically still has final examining authority for most civil service positions, the 1978 CSRA allowed OPM to give what’s known as Delegated Examining Authority to agencies to make the decisions themselves. In recent years, agencies have also been able to acquire a less constrained Direct-Hire Authority from OPM when there is a shortage of candidates or a critical hiring need.

Yet the federal government still has a stultified hiring process by all reports. The federal government today has an average time-to-hire almost triple that of the private sector.[67] The difficulty of getting qualified hires through the process can be daunting. David Shulkin explained the problems with recruiting when he became Under Secretary for Health at the VA: “Perversely, I wasn’t allowed to see résumés, which were instead filtered by the human resource professionals and then sent to a committee of three Senior Executive Service (SES) employees.” When the hiring group applied the formal criteria and suggested someone who worked at the Federal Aviation Administration, Shulkin noted that the candidate had no healthcare experience. His request to see the résumés of the other candidates was refused. When he rejected the candidate, the position had to be reposted and competed for again. Shulkin noted, “Time and time again, I referred experienced health care executives who had worked with me in previous positions to apply for open VA hospital jobs, but they never made it through the screening process.”[68]

One of the main reasons the current hiring system is strained is that to obtain hiring authority from OPM, a department needs to adhere to OPM regulations, including the 318-page OPM document on hiring practices, which includes requirements such as an eight-point recruitment process plan. OPM also approves minimum employee qualification standards for agency hiring.[69]

Since a 2010 presidential memorandum, the standard hiring procedure for federal positions is known as Category Rating. Departments must perform a “job analysis” of positions with a “clear definition” of evaluations and, generally, create a point system for these evaluations. The candidates are then placed into three categories: Best Qualified, Well-Qualified, and Qualified. Agencies have discretion to hire only within the top tier. They must complete a formal certificate of all eligible hires and document all actions relative to these hires for potential auditing by OPM. Eligible veterans get bonus points to determine their category rating and then must be hired over non-veterans if they make it to the highest category ranking of candidates.[70]

A common complaint among federal managers is that HR generalists, as opposed to hiring managers or subject matter experts, typically review résumés and rate candidates. Although managers set the frameworks and methods of evaluating applicants, HR offices decide if applications meet the minimum qualification requirements, how they achieve the quality ranking factors, and if they have any independent selective placement factors.[71]

In some cases, agencies use software to match keywords in the requirements and to rate résumés. The National Commission on Military, National, and Public Service explained, “These approaches miss applicants with relevant skills and experience that do not lend themselves to an exact keyword match; they also advantage applicants familiar with the process who craft resumes that closely mirror job descriptions.” Worse still, agencies often rely on a candidate’s self-assessment as part of the application process (Figure 1). During the self-assessment, many job seekers indicate that they are an “expert” on every item, regardless of whether they are actually qualified, because they want to advance to the next stage of the hiring process. Meanwhile, highly qualified applicants who rate themselves honestly are rejected.[72] The Chance to Compete Act, passed in December 2024, allows a “subject matter expert” in an agency to develop job assessments “in partnership with human resources employees” and to “administer the assessment,” but doesn’t make clear how this will be implemented. President Trump issued an executive order to support the intentions of the act in January 2025.[73]

Another centralized aspect of federal hiring is OPM’s main website. USAJOBS was created in 1996 and initially lauded as a way for agencies to more easily fill vacancies with qualified candidates. Yet today, agencies and federal job applicants alike consider USAJOBS confusing and difficult to use. A public comment, for example, noted: “A significant barrier to public service (especially Federal public service) is the unwieldy application process. I have used USAJOBS many times, and have found the process extremely complicated, easy to mess up, and to take so long that even if I was offered my dream Federal job, I would have already had to take another position.”[74]

The formalized system of OPM hiring, combined with the centralized job site, leads to an overall ineffective process. The National Commission report said that most USAJOBS announcements are “unintelligible to job seekers who are not familiar with Federal personnel systems.” The report also found that applicants who apply to a federal job using a standard one-page résumé, which is common in the private sector, “are disadvantaged by review systems that emphasize the presence of specific keywords rather than a holistic assessment of an applicant’s qualifications.” According to an employee with the U.S. Digital Service: “We did an analysis of what an application looked like for a software engineer in the private sector at a major company versus USAJOBS. The former was a paragraph long, stated the mission, and had an easy apply button. The USAJOBS [posting] was seven pages long, and the description of what the job was, was three-quarters of the way down the page.”[75]

Congress could take a lesson from the states and completely decentralize hiring authority. Individual agencies would be given the authority to hire in a manner that they saw fit. They should especially be able to have different hiring procedures for different jobs, so that the process for hiring a custodian would not match that for hiring a research scientist. The only formal requirement would be that all jobs be posted on USAJOBS, although the website would not be the only means by which to apply. OPM would transition into an advisory agency whose job would be to assist departments that need hiring assistance or to gather different HR departments together to share ideas and methods.

If the federal government is not going to completely decentralize hiring, there are many paths they could take to loosen the strictures on it. They could expand Direct-Hire Authority beyond when departments had a “critical hiring need” or “severe shortage of candidates.” OPM could allow managers to directly oversee rating and hiring, instead of delegating it out to an independent HR department, thus expanding the reforms of the Chance to Compete Act.[76] Many small reforms—such as ending requirements for formal points scoring—that would more closely bring the federal government in line with civil service reform states would allow federal managers far more flexibility.[77]

Compensation and Classification Reform

In earlier years, Congress appropriated lump sums to agencies, and agency managers had discretion to use those lump sums for what they determined were the right number of employees at the right pay scale.[78] But agency pay discretion angered some union groups and led to demands for standardized job “classification” schedules that would place different jobs into distinct pay grades. According to one history, the main advocates for classification at the federal level were the National Association of Letter Carriers, the National Federation of Federal Employees, and similar unions. The Classification Act of 1923 provided congressionally fixed salaries that could respond to the demands of unions and Congress for generalized pay raises. These classifications could also establish more equality in pay among similar jobs in the system. The unions also successfully demanded that these classification and pay categories focus on seniority rather than efficiency ratings or performance.[79] States in the 20th century likewise began to more systematically classify jobs based on their titles and tried to ensure equity for titles across different agencies. Classifications were typically enforced by a central classification agency or a general civil service commission. Hundreds or thousands of different job classifications and pay bands that were tied tightly to job classifications and seniority made compensation straightforward albeit unresponsive to individual agency demands.

As part of recent civil service reforms, many states have simplified their classification systems in a process known as broadbanding, which reduces the number of job classifications and pay scales. Broadbanding has allowed agency heads more discretion to classify employees into sevent different types of positions and to decide employee pay within those positions. States also began to allow more discretion to managers to provide particular types of incentive pay or create pay-for-performance programs and to move beyond seniority-based pay increases.

Florida has performed some of the most expansive classification reforms. In 1994 Florida agencies were given flexibility to increase the base rate of pay outside of the previous classification system. The following year, 25 of 27 agencies used that flexibility. Florida’s policy analysis office concluded that this effort, combined with the other reforms, “appears to have had a generally positive impact on state government.”[80] After another reform act in 2001, the state collapsed 3,300 separate title classifications into just 38 broad occupational groups, with 25 pay bands stretched across them. There were no automatic steps inside the pay bands based on seniority.[81] The Florida Department of Management Services’ Workforce Operations program still handled general job classification and policy, but Florida managers had the ability to increase pay inside those bands up to 300% above the minimum pay.[82]

Other states have made similar reforms. Wisconsin in the 1990s adopted a broadband pay structure, with many job classifications collapsed into broad groups with wider pay ranges.[83] South Carolina in 1996 reduced job classes from 2,500 to 500 and the number of pay ranges from 50 to 10.[84] After civil service reform in 1996, Georgia kept its State Job Classification System, which gave each pay grade a minimum, market average, and maximum pay rate. But the state allowed starting salaries above the minimum and up to the market rate depending on the background of the applicant.[85] By 2008, 12 states used general broadband systems, while another 4 used it for at least some of their workforce.[86]

Several comprehensive reports have found evidence of efficiency from broadbanding, although the type of implementation mattered. A 2003 report by the National Academy of Public Administration, “Broadband Pay Experience in the Public Sector,” looked at broadbanding in five states as well as some individual federal agencies. The federal agencies’ officials supported the changes and found them generally successful. Of the states, Florida’s reform was “highly successful.” Virginia reported that “[a]necdotal reactions are favorable,” and in Washington 83% of those surveyed supported the system. Two states, Wisconsin and South Carolina, reported no problems with broadbanding, but provided no particular evidence of success, either.[87] A Volcker Commission report from the same year surveyed broadbanding experience and came out in support of it.[88] An academic survey of agency managers in six states found generally positive responses to broadbanding. In South Carolina, managers stated that they appreciated the reform, and the Division of State Human Resources said that pay band reform helped the state improve recruitment, retention, and employee development generally. More than 40% of HR professionals in states generally thought that broadbanding increased flexibility and improved efficiency. Although this was less than a majority, the study did not report those who weren’t sure or found no effect, and it did not find significant negative responses.[89] One reported downside to broadbanding is that overall employee costs typically go up. But that change has to be balanced with the increased productivity and flexibility of the government workforce overall. Concerns about increased costs have been met by capping overall compensation for each department.

States have now had extensive experiences with incentive pay programs as well.[90] The success of these reforms has been more ambiguous and highly dependent on the administration in different states. Part of Georgia’s 1996 civil service reforms was GeorgiaGain, which allowed increased pay-for-performance programs. Two surveys found that employees reported dissatisfaction with the management of the incentive program.[91] Georgia state officials were more positive: They argued that efficiency had improved and noted that the largest raises had been given to “outstanding” employees. The tying of performance pay to ratings and the limitations on general agency budgets have also meant that agency heads reduced the tendency to rank many or most employees as outstanding.[92] One study noted that resignations increased in Georgia agencies after reforms, but those resignations were largely among average-rated staff. Higher-performing staff tended to stay, as one would expect with an incentive pay program.[93]

Texas has the Texas Incentive and Productivity Commission, which administers two separate merit-based reward programs. A survey of Texas HR professionals found that almost two-thirds believed that merit pay reflected actual differences in performance, while 28% said they didn’t know and 10% said that it didn’t.[94] A cross-state survey of civil service reform states, however, found that many HR professionals thought office politics was more important than performance in incentive pay programs. As many as 50% thought that the pay programs increased productivity in Florida and South Carolina, but very few thought so in Kansas and Missouri.[95] On the whole, performance pay seems beneficial but is dependent on the implementing state and agency. Agencies with clear measures of output or productivity seem to benefit more than those with ambiguous goals and outcomes.

Federal Options for Compensation and Classification Reform

OPM and federal agencies have decentralized classification to some extent since the post-Carter period, so agencies generally have delegated authority to classify the jobs under their purview. The era when outside personnel specialists performed detailed individual classification checks after the fact is largely over.[96] Yet OPM still decides the nature of positions and of classifications and oversees the job classification process.[97]

OPM’s Handbook of Occupational Groups and Families contains more than 200 pages with detailed descriptions of 49 major “groups” or “families” of occupations for employees (such as “0300 – General Administrative, Clerical, and Office Services Group”). Inside these groups are often two dozen or more “series” of jobs (such as “Computer Operation Series 0332”). Other documents clarify the specific “classes of positions” or jobs inside these series. The document on the Computer Operation Series is 55 pages and describes that a computer operator is a position “the paramount duties of which involve operating or supervising the operation of the controls of the digital computer system.” After defining terms such as “modem,”“hardware,” and “online,” the document explains how classifiers are supposed to group employees into six different classes of position of Computer Operator. The document explains that there are nine factors that determine the class of positions (such as the “complexity” and “guidelines” of the position’s work), and each factor has several subfactors. These subfactors allow the allocation of up to 2,350 “points,” which then help distribute positions into the seven different salary scales.[98]

A job position’s salary is determined by the classification system, which is now governed by the Classification Act of 1949 and has been codified in Chapter 51 of Title 5 of the U.S. Code.[99] The system has 15 grades (GS-1 to GS-15), with 10 steps in each grade.[100] Above those grades is the SES, where compensation is somewhat more flexible and more closely based on performance.[101]

The process for classifying individual positions for GS work is done by the departments, but as with hiring capability, this is the result of delegation that can be revoked. Chapter 51 permits agencies to classify positions in their respective classes and grades, develop internal guides to help with classification, and organize and assign work for each position. OPM monitors agencies to ensure that they are classifying positions in accordance with these standards. If OPM believes that an agency is not adhering to its published standards, then it can revoke or suspend the agency’s authority to classify positions. Moreover, OPM provides the final decision on any classification appeals filed by agencies or employees.[102]

OPM also sets the overall pay structure and pay administration policies for GS employees; these policies are tightly controlled.[103] Grade increases are considered to be promotions and include a 10%–15% increase in pay, while step increases, also known as within-grade increases (WGIs), are considered to be periodic raises and include a 2%–3% increase in pay.[104] One of the most rigid parts of the federal pay program is that the steps inside classifications are based on longevity instead of performance. In steps 1–3, employees must wait one year for a step increase; in steps 4–6, two years; and in steps 7–9, three years. According to OPM, it normally takes an employee 18 years to advance from step 1 to step 10 within a single grade. The only way in which an employee can advance through his or her grade faster is by receiving a quality step increase (QSI). QSIs are additional step increases that award outstanding performance by employees. However, they are few and far between; employees can only receive, at most, one QSI every year, and these are given out sparingly.[105] An employee can be promoted to a higher GS grade, depending on OPM regulations, qualification standards, and agency-specific policies, only up to the full promotion potential advertised in the original job posting to which the employee applied. Otherwise, to get a grade promotion, the employee has to apply for a different job.[106]

Congress could provide agencies with greater discretion by amending the law to allow broadbanding, as Wisconsin, Florida, South Carolina, and other states have done. There is precedent for this in the federal government. The so-called China Lake experiment at the Naval Weapons Center gave line managers greater authority over assigning, promoting, and rewarding subordinates by lumping the then-18 GS grades into only 6 or fewer. Reports showed better recruiting and lower turnover, but at the cost of increased overall spending.[107] The National Institute of Standards and Technology (NIST) and the Government Accountability Office (GAO) have adopted broadbanding and found the system to be successful. For example, after NIST switched from the GS system to broadbanding, employee and supervisor surveys showed that employees felt that higher performance was better rewarded, more employees were satisfied with their pay, and supervisors felt that they had more control over their employees’ pay and could better reward them.[108]

Two comprehensive federal broadbanding reforms have been the subject of some study. In 1995, Congress established the Acquisition Demo program to give broader discretion to reward defense procurement officials. A decade later, an evaluation of the program found that it led to higher retention levels for “high contributors” and increasing separations for “low contributors.” Employees in the system believed that there was a stronger connection between pay and performance than employees in a control group.[109] Even more dramatically, in the wake of 9/11, the 2004 National Defense Authorization Act allowed the Department of Defense to overhaul its entire personnel system, including changes to hiring, firing, discipline, and especially pay. The new program became known as known as the National Security Personnel System (NSPS). An analysis by the Institute for Defense Analyses argued that the plan had a positive effect on “new talent hiring” and “appears to have outperformed the old General Schedule (GS) when it came to addressing poor performers and motivating top performers.” It recommended that the Defense Department be allowed to override the GS classification system and establish special classifications for special positions, but the NSPS was dismantled after a change in administration in 2009.[110]

As in the states, there is some possibility for direct incentive or pay-for-performance programs in the federal government, and there is precedent as well. In earlier American history, many if not most government jobs had some sort of dependence on fees or gratuities for services granted, from the number of cases decided for judges to the number of public land certificates granted or the number of immigrant naturalizations provided. It was only in the early 20th century that a concern about civil servants balancing competing demands (e.g., granting an excessive number of naturalization documents) led to a universal salary standard.[111] More recently, the 1978 CSRA attempted to create incentive pay systems. Career SES employees could earn up to 20% of their base salary in performance bonuses each year, and presidentially designated “distinguished” executives could earn bonuses of up to $20,000, while middle-level managers could also get substantial bonuses based on a merit pay system.[112] Yet as early as 1982, two surveys of employees showed that bonuses tended to be spread out among large numbers of individuals and that the rewards tended to be small for mid-level managers.[113] By 1984, Congress had replaced the merit pay system with a Performance Management and Recognition System that was even more closely based on the General Schedule, but this more limited program effectively ended in 1993.[114] Although China Lake, Acquisition Demo, and the NSPS all had aspects of pay-for-performance, and although both the GAO and National Academy of Public Administration have recommended more pay-for-performance in the federal system, broad-based bonus systems have not flourished at the federal level.[115]

One reason for failures in pay-for-performance systems is the widespread tendency across government for salary compression.[116] Since politically it is easier to attack “overpaid” high-skilled employees who make more than the salary of the median voter and difficult to attack overpaid manual workers, governments tend to have a much narrower salary range than the private sector. While the lowest-skilled federal employees are significantly overpaid relative to the private sector, the highest-skilled are underpaid, with the underpayment beginning with those with a master’s degree and increasing for those with a professional degree or doctorate.[117] Even pay-for-performance models have not changed this tendency. After the supposed merit-pay reforms of the 1978 CSRA, the GAO noted that pay compression had worsened at the top ranks of the government.[118] This wage compression effect was also demonstrated after the passage of the 1989 Financial Institutions Reform, Recovery, and Enforcement Act, which aimed to provide federal bank regulatory agencies with more discretion to raise salaries in order to compete with well-paying private-sector finance jobs. In reality, the reform led to broad boosts in salary for federal regulators, especially for lower-skilled positions. By 2012, although the average employee in the banking industry earned just under $50,000, the average compensation for employees in the Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, and Consumer Financial Protection Bureau exceeded $190,000, with secretaries, for instance, making almost $80,000.[119] The highest-paid and most skilled individuals still received higher income in finance.

The lesson from past pay-for-performance programs is that they should be used most extensively in select agencies where it is possible to clearly judge output or outcomes and where political demand for wage compression is less pressing. The success of China Lake and some other demonstrations among research facilities proves that, among scientists and highly skilled individuals with divergent productivity, pay-for-performance can work well. States and the federal government have shown that in the right circumstances both general broadbanding and individual pay-for-performance programs can improve efficiency.

Reforms to Public Unionization

Like restraints on discipline and removal, collective bargaining with public-sector unions is a relatively recent addition to the civil service. It was not until the “Little Wagner Act” of 1958 that New York City adopted the earliest comprehensive public-sector collective bargaining law in the country. In 1959 and 1962, Wisconsin passed laws that made it the first state to conduct collective bargaining with its employees. Soon public collective bargaining was adopted in some form in most of the states.[120] In 1962 the federal government issued an executive order encouraging negotiations with unions, but this was not put into statute until the 1978 CSRA.[121]

Since the mid-20th century’s public unionization movement, states have maintained an immense range of different approaches on every aspect of union policy. States have mandated or banned collective bargaining entirely or in part, sometimes limiting bargaining to either just wages and benefits or conditions of employment. They have required or banned automatic union-dues checkoffs by agencies. They have expanded or restricted the ability of unions to involve themselves in employee grievances. They have banned or allowed the use of government pay for “union time” or “official time” activities that support the union. They have expanded or restricted the proportion of bargaining-unit votes needed to certify a union. They have expanded or limited the need for unions to “recertify” in new votes to show that they are still representing their members.

Right now, only three states have complete bans on public-sector employees’ collective bargaining at both the state and local level: Utah, North Carolina and South Carolina.[122] But many other states have sharply limited collective bargaining to specific areas or subjects. Texas, for instance, forbids collective bargaining except for firefighters and police officers.[123] States such as Indiana, Oklahoma, and Kentucky allow bargaining only for firefighters, police, and teachers.[124] Many other states, such as Mississippi, Utah, and Arkansas, have no public-sector union law, meaning that although individual local governments sometimes negotiate with unions and enter into agreements, the state as an employer generally doesn’t.[125]

Changes to public union rules were not as prominent in the civil service reform movement of the 1990s and onward as other reforms, for the simple reason that states with more powerful public unions were less likely to engage in civil service reform.[126] Although Florida did not abandon collective bargaining with its employees, as part of the Service First reform, the governor was allowed to bypass mediation after contract disagreements and ask the legislature for a final resolution of disputes.[127] In 2023 Florida required public labor unions to have at least 60% of members paying dues in order for a union to be recognized by state law and banned government employers from deducting union dues from paychecks (with a typical exemption for police and firefighter unions). Many state unions were decertified when the law went into effect.[128]

In 2017, Iowa made comprehensive reforms to several aspects of public-sector bargaining. The state increased the percentage of employees who had to give written consent for union representation. Bargaining units were required to have a vote on retaining a union before the end of every contract, and the “yes” vote now required a majority of the whole unit, not just a majority of those voting. Many subjects were removed from the realm of collective bargaining, including seniority, transfers, job classifications, and staff reductions. The state prohibited dues checkoffs collected automatically by the public employer.[129] In 2018, Missouri forbade collective bargaining over wages, benefits, conditions of employment, and union time and required recertification votes every three years.[130]

The most prominent public-sector union reform by far was Wisconsin’s Act 10 in 2011. After the passage of the hotly contested act, the state allowed collective bargaining only over wages, and even those wage negotiations were limited to no more than the rate of inflation. The law also allowed state workers to opt out of paying union dues and required unions to face regular recertification votes. The law has been a prominent source of debate in the state for more than a decade. In recent years, both Wisconsin’s and Missouri’s laws have been overturned at least in part by their state supreme courts.[131]

General studies of public-sector unionization and collective bargaining across states and cities have had clear results: Unions increase costs and reduce efficiency. One early research paper found that the existence of union bargaining boosted pay significantly and increased the number of employees in unionized agencies.[132] A 2008 paper found significant wage premiums for public-sector union workers.[133] A 2015 paper found that public-sector unions tended to increase wages and, most especially, benefits.[134]

Wisconsin’s Act 10 provided an important source of evidence for the effects of changing public-sector union laws.[135] Some of the biggest effects of the law were found in the state’s schools. One study found “an increase in the quality of the prospective teacher pool in Wisconsin” as a result of the reform, since school compensation schemes could afterward be based on performance rather than collective bargaining agreements (CBAs) and seniority.[136] Another found that school districts where unions were decertified had better test scores and attendance, especially for low-income and nonwhite students.[137] The new Wisconsin pension and health care standards for employees that replaced previous CBAs under the act saved the government billions of dollars in a few years, according to state estimates.[138] The evidence that reducing union power in the government workforce will improve efficiency is strong.

Federal Options for Union Reform

Although collective bargaining was not made official in the federal workforce until recently, federal unions have been among the premier agents in shaping the nature of the civil service system. From securing limited protections against removal in 1912 to creating one of the earliest pension systems in the country in 1920 to standardizing pay classification in 1923 and to extending all of these changes afterward, research shows unions to be one of the most important forces in shaping the nature of the civil service system, typically in ways that counteract productivity.[139]

It was Title VII of the 1978 CSRA, also known as the Federal Service Labor-Management Relations Statute (FSLMRS), that enshrined organizing and collective bargaining rights of federal workers into law. The statute allows federal workers to organize, bargain collectively, and participate in labor organizations related to their line of work.[140] Although federal unions under the act cannot negotiate directly over most pay and benefits, they can negotiate over conditions of employment. The FSLMRS also created the Federal Labor Relations Authority, an independent agency in the executive branch that protects federal employees’ collective bargaining rights, resolves disputes, provides guidance to agencies on union rights, conducts union elections, and investigates unfair labor practices within the federal government.

A core tenet of the FSLMRS is the belief that public unionization “safeguards the public interest, contributes to the effective conduct of public business, and facilitates and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment.”[141] The statute thereby requires agencies and collective bargaining representatives to secure CBAs that promote an efficient and effective government.[142] In practice, there has been no attempt to ensure CBAs are promoting more efficient government.

One complaint about existing CBAs is that if an agency changes a “condition of employment,” the FSLMRS requires the agency to engage in negotiations and bargaining with its union. According to the federal government, “conditions of employment” in practical terms refers to the “physical, environmental and operational features affecting employees’ daily work lives. Conditions of employment encompass ‘working conditions’ which can range from the size of an employee’s work cubicle to the system for calculating employee incentive awards.” The government notes that even a long-standing “past practice,” such as the provision of free bottled water or the prices in cafeterias, can become a condition of employment and therefore subject to bargaining if changed.[143] Current CBAs also include provisions for taxpayer-funded “union time”: time that federal employees use to represent labor organizations and participate in other non-agency matters during work hours.

The FSLMRS does not require regular union recertification elections. Once a public union has been certified through a secret ballot election as an employee representative, the union does not have to hold another vote.[144] A 2024 report from the Foundation for Government Accountability found that only 6% of unionized employees voted to certify the unions that represent them.[145]

There have been some attempts at reforms to federal collective bargaining. In 2018, President Trump signed EOs that limited the extent of CBAs. EO 13836 called on agencies to secure CBAs that allow for greater flexibility in handling operational needs, in addition to rewarding high performers and holding low performers accountable. Meanwhile, EO 13837 encouraged greater transparency, accountability, and efficiency in taxpayer-funded union time. President Biden rescinded both EOs in 2021.

Ideally, the federal government could institute a complete ban on collective bargaining in the federal government. But if lawmakers were not willing to go that far, there are several reforms that can be made. The president should issue EOs to limit, to the maximum extent possible, union time and CBAs that give unions expansive say over conditions of employment. Congress can pass the Paycheck Protection Program, which would ban public unions from automatically deducting dues from federal employees’ paychecks. It could pass the No Union Time on the Taxpayer’s Dime Act, which would ban taxpayer-funded union time, such as barring unions from using such time to represent employees in grievance procedures within agencies. Finally, Congress could amend the FSLMRS to limit what constitutes “conditions of employment” and require unions to be recertified annually.

Conclusion

Since one of the most prominent goals of past civil service reform efforts has been to give the executive more direct control over the workforce, and since congressional reform of the civil service process has been rare, presidents have taken the lead in trying to reform the workforce at the federal level. In many cases, these presidential efforts have proven futile. As Richard Nathan, a former Nixon Office of Management and Budget official, described in The Plot That Failed: Nixon and the Administrative Presidency, Nixon’s work to form a “counter-bureaucracy” in the White House to monitor the civil service ended up causing departments to push decision-making down to a lower level, outside of the purview of White House officials. The “Malek Manual” to insert more loyalists into the lower levels of the departments ended up with many former loyalists losing direct contact with the White House.[146]

There have been concrete examples of presidents successfully exerting more influence over the bureaucracy. The best example of comprehensive reform was President Dwight Eisenhower’s creation of Schedule C in 1953, which allowed for hiring outside of the typical civil service for policymaking positions. Eisenhower also created a “two-hat” arrangement for the chair of the then–Civil Service Commission to serve as a staff adviser to the president on personnel matters, an arrangement that had been recommended by the Hoover Commission on government reform in 1949. Although later abandoned, this combined role did give the executive more say over personnel issues.[147]

Presidents in the past have also worked to establish new agencies with more freedom from traditional civil service rules. As David Lewis shows in Presidents and the Politics of Agency Design, from 1946 until 1997, the executive branch created 248 new agencies under its own initiative using repurposed funds. One of the main reasons was to allow executive control of new appointments. Although the so-called Russell Amendment technically prevents funds from going to new agencies for more than a year without congressional authorization, it has been read in a very limited fashion.[148]

The transformation of the Civil Service Commission to OPM as part of the 1978 CSRA was one salutary effect of that act since it gave the president more control over workforce policies. Before the act, the only presidential appointees in the Civil Service Commission were the three commissioners. By the end of President Carter’s administration, and despite the reduction of the three commissioners to one presidentially appointed director, there were 12 presidential appointees at OPM, including 9 Schedule Cs. Donald Devine, Reagan’s first OPM head, increased the number of appointees to 37 by 1984. Devine’s reorganization led to OPM giving individual departments increased control over their personnel, and it helped decrease federal personnel costs—by $6.4 billion, according to one estimate—even while decreasing the number of personnel at OPM itself by almost 30% in the first six years.[149]

There are more possibilities for executive reform of the civil service system under the CSRA that have seen little use. Under Title VI, OPM is allowed to create a “demonstration project” to see “whether a specified change in personnel management policies or procedures would result in improved Federal personnel management.” This authority would allow OPM to work with agencies to change “the methods of classifying positions and compensating employees,” “the methods of disciplining employees,” and “the methods of involving employees, labor organizations, and employee organizations in personnel decisions,” among other reforms. By this method, OPM could create substantial changes in up to 10 demonstration projects with up to 5,000 employees in each project.[150]

Although it is too early to know if President Trump’s executive civil service reforms will bring results, Congress can still act on the lessons of the radical civil reform states to bring more extensive reforms to the federal system. States have attempted several variations of removal processes, hiring systems, payment schedules, and union bargaining. For more radical civil service reform efforts, states have provided Congress with many models that they can adopt in part or in full. States have attempted several variations of removal, hiring, payment schedules, and union relations systems and have shown which have worked. The states demonstrate that increased discretion to managers has created more effective working environments without politicizing the system, as many anti-reform groups had feared.[151]

### S---AT: Unions Key---Regulatory Stability

#### 1. They link. The plan's seen as just another example of whiplash, with CBRs being axed then restored then axed again---that can't create long-term certainty since it signals that protections lack broad support---that's Neal.

<<FOR REFERENCE>>

A partisan bill would not contribute to restoring confidence in government and trust in the civil service. It would be likely to be replaced with equally partisan changes the next time Republicans are in power. It is also unlikely that a one-sided civil service bill could be passed in the Senate due to the filibuster.

We need some mechanism for allowing a policy discussion to occur outside the walls of the Capitol. There is a model that might work, and that is the one created by the Base Realignment and Closure (BRAC) process. BRAC was designed because the Defense Department needed a means of shedding excess infrastructure, but it was apparent that no sane member of Congress wanted to go on record voting to close bases where their constituents work. There was also a recognition that DoD’s infrastructure was too big and too costly. In order to reduce the political problems, Congress passed the Base Closure and Realignment Act of 1990. This act, amended in 2005, created a presidentially-appointed BRAC Commission to review and make recommendations for closures and realignments. The Congressional Research Service described the BRAC process this way:

“Congress has defined BRAC selection criteria in statute, thus requiring the Secretary to prioritize military value over cost savings. Additionally, Congress has required the Secretary to align the Department’s recommendations with a comprehensive 20-year force structure plan. The commission may modify, reject, or add recommendations during its review before forwarding a final list to the President.

“After receiving the Commission’s list of recommendations, the President may either accept the report in its entirety or seek to modify it by indicating disapproval and returning it to the commission for further evaluation. If the President accepts the commission’s recommendations, they are forwarded to Congress. BRAC implementation begins by default unless Congress rejects the recommendations in their entirety within 45 days by enacting a joint resolution. During the implementation phase, DOD is required to initiate closures and realignments within two years and complete all actions within six years.

“The BRAC process represents a legislative compromise between the executive and legislative branches wherein each shares power in managing the closure and realignment of military bases. The imposition of an independent, third-party mediator was intended to insulate base closings from political considerations by both branches that had complicated similar actions in the past.”

I believe a process modeled on the BRAC process is the best approach to achieve real bipartisan civil service modernization. It is clear that we cannot have reform if no one is willing to talk about their favorite issues or either political party believes it is the big loser in reform. All the civil service issues have to be on the table and considered by a bipartisan Commission that is charged with developing a comprehensive reform package that addresses the talent needs of the government, not just the parochial interests of the various constituencies. A bipartisan Commission that conducts public hearings, provides the opportunity for all interest groups to present their views, and conducts a transparent review and analysis, can work. The size of government would not be within the purview of the Commission, because it is a completely different issue.

### S---AT: Unions Key---Conflict/Voice

#### x. CP solves dissatisfaction for the workers that matter, while the plan pacifies for the workers that don’t. The workers that aren’t satisfied by lucrative pay tied to performance are probably low-performing and should be fired.

#### x. Informal consultation solves. Formal bargaining is more conflict-prone.

Pasquale M. **Tamburrino Jr. 11**, Deputy Assistant Secretary, "Federal Labor-Management Forums," Testimony before the Senate Homeland Security and Governmental Affairs Committee, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, CQ Congressional Testimony, 10/11/2011

Prior to the Executive Order, the Department engaged with our 10 unions with national consultation rights with DoD to reestablish relationships. Under Dr. Stanley's guidance, we started very informal meetings with union representatives to discuss how to change the tenor of the relationship. The initial meetings focused primarily on relationship-building. As the relationship matured, the group began to focus on human resources issues and programs, with pre-decisional discussions on issues such as the Department's Training Instruction, suicide prevention training for supervisors, and expanded implementation of the electronic leave and earnings statement. These meetings 15 also set the stage for the establishment of Component-level labor-management meetings with the national unions and pre-decisional discussions.

As the Department-level group evolved into what we now call the "DoD Roundtable," it provided us the vehicle for discussions regarding the Department's Executive Order Implementation Plan and union pre-decisional involvement in the NDAA design effort. Because of the conflict surrounding the processes used in the past, we found that it was in our mutual best interest to collaborate on how we would engage in the pre-decisional process.

In addition to our work establishing forums and pre-decisional involvement efforts, the Department volunteered to be part of the Executive Order's permissive bargaining pilot initiative. Initially the Department submitted two permissive bargaining pilot sites: (1) Marine Corps Maintenance Center, Albany, Georgia covering, 1,200 AFGE bargaining unit employees; and (2) Camp Pendleton, California, with over 900 National Federation of Federal Employee (NFFE) bargaining unit employees. Within the last few months, the Marine Corps reached agreement with AFGE to expand the pilot project to include an additional 1,200 AFGE bargaining unit employees at the Marine Corps Logistics Command in Barstow, California. The Department's permissive bargaining pilots cover 3,300 employees.

We are already starting to see results from the pilots. Earlier this year, agreement was reached on a reorganization effort that consolidated two Logistics Command Maintenance Centers into a single Maintenance Command. While the reorganization is in its infancy, the consolidation is expected to create cost efficiencies and enhance organizational effectiveness. This effort was completed through pre-decisional discussions with the unions, without the need for the time and resource intensive formal collective bargaining process. As new collective bargaining relationships mature, we hope to see more mission- focused results that we can share with the rest of the Federal government.

There is ample evidence that the quality and value of the dialog between the Department and our labor unions have improved markedly. The evolution of these relationships, however, is ongoing and will be for some time. As I stated earlier, the unique quality of the relationship between management and labor at the level of exclusive recognition puts ownership of success of forums and pre-decisional involvement in the hands of those who do the hard work at the installation level. DoD is committed to putting the necessary resources and tools in the hands of our leaders, our employees, and their exclusive representatives to achieve the goals and objectives of the Executive Order. Experience and practice show that where forums exist, employees feel engaged and provide meaningful input affecting the delivery of products and services.

The enduring legacy of those labor-management relationships at the installation level serves as the true foundation for success under the Executive Order. While our baseline assessment revealed that much hard work on the relationship dimension remains in front of us, that assessment also confirms that where employees are engaged in those decisions that affect them, the support of those decisions is greater when compared to those relationships where engagement does not occur.

#### Competitive markets provide a natural experiment that proves firing enhances organizational efficiency.

Ronald A. Cass 25, Dean Emeritus, Boston University School of Law, and President, Cass & Associates, PC, "Reflections on Civil-service Reform," National Affairs, Summer 2025, https://www.nationalaffairs.com/publications/detail/reflections-civil-service-reform

EFFICIENCY AND ORGANIZATION

The Constitution's text and Supreme Court precedents appear to be at odds with substantial constraints on presidential authority over the executive branch. However, neither the Constitution nor judicial precedent subjects executive officers wholly and exclusively to the president's control. What considerations should inform decisions respecting government personnel rules?

One obvious consideration is the cost and efficacy of tools for aligning personnel's interests with broader organizational interests. Every participant in a collaborative venture has an incentive to shirk responsibility in some fashion. Yet teamwork is ubiquitous because we have mechanisms that improve individual incentives, thereby reducing shirking and making team production more efficient. Mechanisms that solve problems like shirking (often referred to generically as "monitoring") are most successful where the enterprise has both an overarching goal and a setting that promotes efficiency.

The most obvious examples come from the business world. Businesses in free-market economies seek to maximize profits, which are returned to the residual owners of the enterprise and, where successful, also tend to correlate with increased rewards to others involved in the enterprise. The monies that the enterprise earns are easily divisible in ways that allow it to reward managers for adopting systems of compensation and production that reduce the combined costs of shirking and monitoring — that is, features that enhance efficiency.

Notably, the norm in competitive business environments is that employees may be terminated at will. Although large enterprises often develop some form of tenure (through contracts that provide greater payouts for termination, restrictions on the basis for termination, and the like), competitive forces also constrain the degree to which this occurs — as shown, for instance, by the movement of facilities from locales with strong legal protections for restrictive union practices to those with weaker protections.

Understanding differences between more and less efficient enterprises requires us to consider differences in both goals and settings. Non-profit enterprises — those without residual owners of the profits the enterprise earns — benefit from efficiency, but different institutional goals and constraints on monitoring their achievement make non-profit enterprises less attentive to some aspects of efficiency that are critical to success in the profit-seeking world.

Consider, for example, competition among higher-education institutions, which turns in substantial measure on perceptions of prestige. Unlike money, prestige isn't easily divisible, and it doesn't correlate well with the excess of income over expenditure. Furthermore, those who donate money to educational institutions often lack ready mechanisms for assessing the effects of their donations. Money generated by educational enterprises — a category that includes some very large and financially successful entities — is often spent on facilities and personnel in greater proportion than in for-profit entities, suggesting a likelihood of greater opportunity for self-dealing.

Government enterprises have two additional characteristics that reduce incentives to function efficiently. The first is that government is less dependent than other enterprises on direct validation of the quality of its performance. After all, governments possess the power to coerce support through taxes and tax-like burdens of various sorts.

The second efficiency-reducing characteristic concerns competition. As Charles Tiebout famously observed, competition of a sort exists among governmental units (particularly at the local level) in that individuals are free to move among localities. This ability to "vote with one's feet," as it were, imposes some competitive constraints on government decision-making. It also allows individuals to communicate their preferences and decisions respecting each government's basket of services and taxes. However, this competition tends to be muted in comparison to the more visible and more immediately effective competition among businesses.

What's more, factors such as the cost of moving from one locale to another impose significant constraints on the magnitude of the "voting with one's feet" effect. And although this effect increases the alignment between residents' preferences and government decisions, that alignment weakens as the size of the government's jurisdiction increases. Thus, although some competition exists even at the national level (especially for large businesses and some high-wealth individuals), it does relatively little to match individuals' preferences with nations' policies, much less increase government efficiency.

Absent strong pressures to conform government's functioning to voters' interests, those who manage and work in government agencies can be expected to pursue goals that are more self-interested. Although there is not a consensus on what these are, three likely candidates have emerged.

First, as William Niskanen postulated, those within the agency have incentives to increase the agency's budget. The theory of the budget-maximizing bureaucracy understands increased funds as expanding options for activities that are consistent with the agency's stated goal, but in ways that also raise the visibility and importance of those overseeing and working at the agency. For example, larger budgets enable greater expenditures on things that make life better for those who work at the agency, including larger offices, improved office locations and amenities, increased support staff, and greater opportunity to travel.

Second, the agency may pursue the ideological interests embraced by those guiding and working at the agency. These interests, again, are likely to be broadly compatible with the stated mission of the agency but push the boundaries of agency authority to (or beyond) its legal limits. Ideologically motivated actions may be observed in any agency, including mainline departments such as the Department of Labor or Commerce or Education as well as stand-alone agencies or bureaus such as the FTC or the Environmental Protection Agency (EPA). However, indulgence of ideological preferences is apt to be most visible and most frequent in agencies with narrower, more focused regulatory mandates, such as the EPA or the FTC.

Although the most obvious examples involve expansion of agency authority, ideologically driven actions can also involve efforts to reduce the scope of agency authority. In addition to serving agency personnel's ideological interests, these actions may also advance agency officials' interests in career advancement by currying favor with specific legislators.

Third, agency personnel may pursue approaches that increase slack. This could include actions that reduce individual officers' workloads, extend time frames for completing tasks, or permit officers to pursue their own initiatives or otherwise advance their personal interests. These actions reduce efficiency and increase the cost of government activity.

Having clear goals and being subject to competition imposes constraints on business enterprises that allow them to give managers substantial freedom over personnel decisions and work assignments. The benefits of such freedom for non-profits, and especially governments, are less clear, at least when viewed in terms of efficiency. As explained above, the absence of efficiency-enhancing incentives in government enterprises means that implementing managerial goals might make the enterprise's operation more or less efficient. How much that matters depends on the political value of efficiency and other goals.

### S---AT: Unions Key---Trust

### S – Impeach – 2NC

**Impeachment is key to legitimacy!**

Tuhin Das **Mahapatra 25**, "What is 'Operation Anti-King'? Inside Democrats' new plan to impeach Trump," Hindustan Times, 4/15/25, https://www.hindustantimes.com/world-news/us-news/what-is-operation-anti-king-inside-democrats-new-plan-to-impeach-donald-trump-101744683269848.html

Since Donald Trump returned to power on January 20, some have warned that the former president is acting more like a monarch than a democratically elected leader. Yet, despite the increasingly serious rhetoric, most elected Democrats have stopped short of saying the one word that now feels impossible to avoid: impeachment.

Lawmakers and grassroots volunteers push for action amidst declining approval ratings and nationwide protests against Trump's leadership.(AFP)

Lawmakers and grassroots volunteers push for action amidst declining approval ratings and nationwide protests against Trump's leadership.(AFP)

Now, a grassroots campaign called ‘Operation Anti-King’ backed by US lawmakers and a growing number of volunteers, accuses POTUS of acting in ways that threaten democracy, violate the Constitution, and undermine the rule of law.

Lawmakers call for Trump's impeachment amid allegations of authoritarianism

US Rep. Al Green of Texas and Rep. Ilhan Omar of Minnesota have repeatedly called for Trump’s removal. Both have lamented Trump’s behaviour as dangerously authoritarian.

“Donald Trump’s cruel, chaotic, and unlawful actions have put our democracy at risk,” Rep. Maxine Dexter of Oregon said, per MSNBC. “I refuse to watch as our democracy is undermined. Since nobody is above the law, I am in favor of impeachment.”

Her colleague, Rep. Suzanne Bonamici, echoed the sentiment, saying, “He is violating the constitutional rights of people in this country and ignoring the rule of law.”

Reps. Sam Liccardo, Maxine Waters, Shri Thanedar, and Hank Johnson are among those who have already signalled support.

Trump’s approval ratings have also started to take a hit, particularly following a tariff scandal that experts warn could damage the economy.

“We cannot afford an opposition that is doing nothing more than the kinds of things you'd be doing if Mitt Romney were president... Removing a lawless man from power is the only way to restore power under the rule of law,” MSNBC’s Chris Hayes recently said to Sen. Chuck Schumer.

ALSO READ| US announces probes on microchips, pharma that could lead to tariffs

How can one impeach POTUS?

House Rule IX outlines the legal path for impeachment. It calls for a vote on matters related to the House's privileges within two legislative days. Historically, as Alexander Hamilton wrote, impeachment concerns “offences that can be classified as political”—those that pose immediate harm to society.

Seizing financial control without the consent of Congress, violating the First Amendment, intimidating political opponents, undermining judicial independence, bribery, threats against allies, and even enabling torture abroad are the charges being discussed are grave accusations.

“Delaying impeachment increases resistance and resignation,” says a report by MSNBC. “It feeds the breakdown of the Constitution.”

### AT: Impeach Trump Links – 2NC

**Federalism DA**

**UQ – Hiring – Extra**

**State recruitment efforts have been successful in California, Maryland, and North Carolina**

Andrew **Oxford 12/23**, reporter for Bloomberg Government, “California Tries to Lure Federal Workers in Year of DOGE Cuts,” 12/23/25, https://news.bgov.com/bloomberg-government-news/california-tries-to-lure-federal-workers-in-year-of-doge-cuts

The state of California has received more than 2,000 job applications from federal workers since January as it actively recruits them to bolster its workforce.

Gov. Gavin Newsom (D) launched a campaign in early 2025 to lure civil servants to state agencies as President Donald Trump began to slash US government agencies. The state employs about 247,000 people, excluding those in California’s university system.

The push has netted some high-profile recruits, with Newsom announcing Dec. 15 the state would hire Susan Monarez, who led the Centers for Disease Control and Prevention until she was fired in August in a dispute with the Trump administration about vaccine policy. Monarez will lead a new public health initiative.

“We saw that she was moving on and we immediately reached out,” Newsom said during a press conference.

The state is also looking for federal workers to fill existing roles. California’s Franchise Tax Board, the agency overseeing personal and corporate taxes, hired 15 IRS agents since January for its audit division.

The recruitment push, coming amid a relentlessly rocky year for federal workers, has given state officials a chance to bring federal expertise into their agencies. The campaign has challenges given California’s estimated $18 billion budget deficit, and a fragmented state bureaucracy that makes such hiring outcomes difficult to track.

Newsom, a leading critic of the White House and potential candidate for president in 2028, also sees an opportunity to create a backstop against the Trump administration by supporting civil servants, who he argues are necessary to help maintain democratic institutions and provide crucial services.

“The state of California wants former federal employees to know there is a place for them in the Golden State,” Monica Erickson, director of the California Department of Human Resources, said. Newsom appointed Erickson to the position in October.

Hiring Push

California is home to about 150,000 federal workers, excluding the US Postal Service, judicial branch, and some federal law enforcement, like the FBI.

The state is one of several that launched campaigns to try poaching federal employees as the Trump administration’s Department of Government Efficiency undertook sweeping cuts earlier this year.

“We’ve seen a handful really take that pledge seriously. California is one of those,” Caitlin Lewis, executive director of the nonprofit group Work for America, said. The group helps governments attract and hire workers.

The California Department of Human Resources rolled out recruiting materials tailored to federal workers in March. An April webinar the agency hosted for US government employees attracted more than 400 people, more than twice as many attendees as its previous virtual event.

California also embraced Work for America’s program Civicmatch, a free website for job seekers looking to work in state or local government.

Thirty-two state governments are on the platform, which also has 12,000 job seekers, Lewis said. Fourteen California agencies and offices are recruiting on the platform.

Tracking how many federal workers are hired is more difficult. The state included an option on job applications beginning in March that allowed candidates to identify themselves as having been affected by federal cuts.

The state has received more than 2,000 applications from candidates who selected that option, but it doesn’t have data on how many of those applicants were later hired by state government departments, according to the California Department of Human Resources.

The lack of data is one of several issues facing state and local governments looking to attract workers from the federal government.

Local governments often lack the staff with the expertise needed to recruit job candidates, and state agencies don’t market as widely as private sector competitors, Lewis said.

Government hiring policies can give recruiters less flexibility in negotiating with candidates and can slow down the hiring process, she added.

“Just the time involved in actually moving someone through the hire process can lead governments to lose people,” Lewis said.

Some states, such as North Carolina, have overhauled hiring processes, simplifying eligibility requirements and increasing the ability for candidates to substitute experience for education. Maryland also launched several waves of rapid hiring and reported recruiting nearly 500 federal workers since February.

California’s government has taken steps to simplify hiring, such as eliminating longstanding college credit requirements and reducing the number of different job classifications in state agencies.

## Capacity

### Capacity UQ – 2NC

#### Trump has not actually deregulated anything. It’s an illusion that masks an expansion of the admin state.

Clyde Wayne Crews 12/22, Fred L. Smith Fellow in Regulatory Studies at the Competitive Enterprise Institute, Master of Business Administration from William and Mary, Bachelor of Science from Lander College, Sir Antony Fisher International Memorial Award 2015, "Deregulation's Year-End Illusion," Blog, 12/22/2025, https://cei.org/blog/deregulations-year-end-illusion/

In describing the Trump-era unrules phenomenon, I noted that a significant share of finalized actions consisted of rule delays, withdrawals, rescissions, and allowances for enforcement discretion. These, along with repeals of guidance documents, are likely what make up most of the 600 claimed cuts. What many reformers hope to see instead are more substantive repeals of binding regulations than what has been documented so far. Keeping our shoes on will not satisfy those expecting a genuine deconstruction of the administrative state.

So yes: the White House and agency heads deserve credit for the effective freeze in conventional rulemaking we currently enjoy, along with the documented rollbacks. Ultimately, though, the right question is not whether Washington counted fewer rules, but whether it governed less. On that score, the ground is shakier.

Counting notice-and-comment rules captures only a fraction of the federal government’s regulatory footprint. Today’s administrative state increasingly governs through mechanisms that may never appear in the Federal Register at all.

Agencies rely heavily on guidance documents, procurement conditions, grant requirements, subsidies, and public-private partnerships to steer behavior—often tied to the deployment of hundreds of billions of federal dollars. Trump is as adept at using these instruments as any progressive, and they can offset deregulatory progress. His moves on price controls, tariffs, and industrial steering—up to and including partial nationalization efforts involving firms like Intel—are the showcase examples.

These instruments function as rule equivalents—binding in practice, yet insulated from the transparency, cost analysis, and procedural discipline that formal rulemaking is supposed to entail. They also go uncounted in one-in, ten-out tallies.

That dynamic creates a year-end illusion. Rule counts can fall even as regulatory pressure rises.

The Trump administration has reduced rule output in unprecedented fashion while expanding industrial policy and federal steering more generally. These swamp things—also present during Trump 1.0—do not always show up in rule tallies, but they entrench government control just as effectively, and sometimes more so. They will also be harder to unwind, because they amount to gifts to future progressive administrations whose long-standing ambition has been to control corporate America from Washington.

We can celebrate what we’re seeing in terms of cuts and freezes in conventional regulation. But in today’s America, that narrow focus risks encouraging precisely the behavior reformers should oppose: the laundering of regulation through other channels.

Policymakers in 2026 need to ask not just how many rules were issued or repealed, but how much effective regulation was imposed across all federal instruments. Deregulation must be about more than optics—optics that grow increasingly superficial as the federal government expands.

#### That’s because of his workforce crackdown. Trump is checked by lack of administrative capacity.

J.D. Tuccille 1/7, Contributing Editor at Reason, "Federal Red Tape Plunges Under Trump," Reason, 01/07/2026, https://reason.com/2026/01/07/federal-red-tape-plunges-under-trump/

Among the high points of President Donald Trump's first administration was his push to rein in the administrative state and reduce the regulatory burden on businesses and individuals. The president seems to have carried his deregulatory instincts over to his second term, which is an encouraging sign. Unfortunately, he's also continued his taste for unilateral action, often carried out through executive orders. If that continues, it will be all too easy for future administrations to undo any gains.

The High Cost of Red Tape

Regulation isn't just an annoyance—it's a prosperity killer. At the end of 2024, the MetLife & U.S. Chamber of Commerce Small Business Index found that "51% of small businesses say navigating regulatory compliance requirements is negatively impacting their growth" and that "almost as many (47%) say their business spends too much time fulfilling regulatory compliance requirements."

With the affordability of housing a major concern, the National Association of Home Builders warns that "regulations account for nearly 25% of the cost of a single-family home."

It's encouraging to see a president attempt to reduce red tape.

Recovering From a Period of Record Rulemaking

"While Biden's 2024 Federal Register totaled 106,109 pages—the highest in history—the 2025 volume closed the year with 'only' 61,461 pages (adjusted for blanks and skips), the lowest seen since Trump's first-term tally of 61,067," reports the Competitive Enterprise Institute's Clyde Wayne Crews in an end-of-year analysis of the Trump administration's regulatory policies. "Both are levels otherwise not seen since 1993. Notably, 7,648 of those pages are attributable to Biden-era activity before Trump's inauguration."

True, the Federal Register is only a rough count of regulatory activity; there are other ways the government imposes red tape on the population. Also, the Administrative Procedure Act requires that a rule be issued to repeal a preexisting rule. Theoretically, you could fatten up the Federal Register with nothing but rule rescissions. But the page count is a good starting point for judging the general direction of regulatory activity.

On that point, Trump offers a real contrast to both his predecessor and his successor in the White House. Prior to the Biden administration, BallotPedia reports, "the Federal Register hit an all-time high of 95,894 pages in 2016" under the presidency of Barack Obama (the Law Librarians Society of Washington D.C. puts it at 97,110 pages). That was the first time it exceeded 90,000 pages. The Biden administration broke a new barrier when it exceeded 100,000 pages in 2024. Of course, the rules those pages represent, offset by whatever "unrules" (delays and rescission) are mixed in, accumulate year after year.

Crews comments that not only is the Federal Register page count down, but "final rule counts cratered to 2,441 in 2025. That is not only substantially down from Biden's 3,248 in 2024, it is the lowest total since recordkeeping began in the mid-1970s." Of the rules issued under Trump, 243 actually began life under Biden and many of the rules issued were unrules delaying or rescinding existing red tape.

Crews doesn't address the details of rules and rule rescissions issued during Trump's first year back in office. To wade further into the weeds, see the Brookings Institution, which notes: "As the Trump administration returns to office for a second term with renewed deregulatory ambitions, the executive branch and its agencies are implementing significant policy changes." Brookings maintains a regulatory tracker which "provides background information and status updates on a curated selection of significant regulatory and deregulatory changes made by the Trump administration."

So, it looks like the second Trump administration is off to a decent start in keeping its January 2025 promise "to promote prudent financial management and alleviate unnecessary regulatory burdens" by ensuring that "for each new regulation issued, at least 10 prior regulations be identified for elimination."

Missed Opportunities During Trump's First Term

Trump's first term made similar commitments as reviewed in 2020 for the Cato Institute by Keith B. Belton and John D. Graham. They concluded the flow of new regulations was much smaller compared to previous administrations and that the administration was somewhat effective in working with Congress to enact deregulation through legislation. But "Trump's effectiveness as a deregulator has been hampered by a lack of political appointees in key regulatory agencies and a skeptical judicial branch dominated by judges appointed under Democratic administrations."

Among the challenges the first Trump administration faced, Belton and Graham noted, was that by leaving many executive branch offices unfilled, the management of agencies and the enactment of the administration's policies was left in the hands of career staff who didn't necessarily agree with the deregulatory program: "Without the assistance of agency career staff, it is unlikely that deregulatory rulemakings will be completed in a judicially defensible manner."

**AT: Control Turn – 2NC**

**Formal independence and firing protections don’t check Trump:**

**1. BARGAINING SCOPE. “Employees” granted bargaining rights are low-level frontline workers, not the political appointees who actually formulate policies.**

<<HANDLER FOR REFERENCE>>

As a matter of constitutional law, federal labor law does not undermine presidential authority in the way its opponents contend. First, labor protections are narrow in scope. Under the CSRA, only federal “employees” can organize and bargain collectively. “Employee,” as that term is defined, excludes the President’s political appointees, as well as members of the Senior Executive Service, who make up most of the federal government’s managerial core. In fact, anyone who exercises “supervisory” authority over other workers is excluded from bargaining protections. The protections thus don’t reach the categories of workers that participate regularly in the formulation of high-level agency policies. Instead, they cover primarily front-line workers—everyone from scientists, economists, and litigation attorneys to prison guards and park rangers. These positions are key to ensuring that the laws Congress has written are faithfully executed by competent staffs, but don’t formulate the types of policies that we usually think of as presidential prerogatives.

**2. PRESIDENTIAL OVERRIDE. Bargaining agreements are legally subordinate to the President’s right to determine agencies’ mission, budget, organization, and security practices, that’s Handler.**

<<HANDLER>>

Second, to the extent that specific contractual provisions do impact policy, federal law has built in robust protections for presidential discretion. The CSRA contains provisions that prohibit collective bargaining agreements from infringing on the President’s “management rights,” including the right to determine the agency’s “mission, budget, organization, number of employees, and internal security practices.” When the workplace rights of civil servants conflict with the policy initiatives of the President, the CSRA provides a comprehensive adjudicatory structure for hashing out the dispute—ensuring that the rights of labor and the need to preserve state capacity are balanced against the political prerogatives of the Chief Executive. Moreover, the CSRA gives the President additional discretion to exempt otherwise protected workers from collective bargaining when doing so is necessary to protecting vital interests like “national security.”

**3. OBEDIENCE. Employees rarely resist policy.**

Jaime **Kucinskas** & Yvonne Zylan **23**. Associate Professor of the Department of Sociology at Hamilton College. Ph.D., Indiana University, Bloomington. Associate Professor of Sociology at Hamilton College. J.D., University of San Diego. Ph.D., New York University. “Walking the Moral Tightrope: Federal Civil Servants’ Loyalties, Caution, and Resistance under the Trump Administration,” American Journal of Sociology, Vol. 128, No. 6, May 2023.

Our analysis of mid- and high-ranking politically centrist and Democratic career civil servants working during the first three years of the Trump administration tells a more nuanced story than either of the standard accounts. We find they evinced cautiously calibrated responses to a dynamic and increasingly threatening environment, largely seeking to do their jobs even as they recognized that doing so might be viewed by others as either resistance or complicity. During the first year of the Trump administration, most career civil servants engaged in strategies best described as “wait and see,” “focus on the work,” and/or “stay under the radar,” to adhere to professional and institutional norms of loyalty, avoid damaging relations with Trump appointees, or exposing themselves to vindictive retaliation. In keeping with Weberian theories of an enduring, resilient bureaucracy (Weber [1921] 1978, pp. 956–63), some reported that, despite their expectations, not much changed in their day-to-day work as a result of the change in administration. However, most of our informants expressed alarm at the potential for harm to the federal government and the public posed by the new administration. Over time, these concerns led many career civil servants to engage in a diverse set of practices, some of which may reasonably be characterized as forms of resistance, though few of our respondents described them as such. Instead, the career civil servants we spoke with tended to frame their actions neither as resistance nor acquiescence, but as variations of acceptable bureaucratic adaptation to changes in political leadership, staying largely within the lines set by the new administration and satisfying norms of institutional and agency loyalty. Shadowed by an atmosphere of mistrust between politicals and career bureaucrats, some civil servants working in contested agencies intermittently tried to push back against politically troubling demands in ways they saw as effective yet still fitting within the terms of their positions or agencies. Those who felt support from supervisors or colleagues were more likely to express dissent or subtly undermine or delay initiatives. Yet supervisors (especially in contentious agencies) were generally reticent to support dissent, even as they expressed frustration and fear about the direction of their agencies. Trying to balance their responsibilities to serve elected and appointed officials, their competing loyalties, their own perceived (in)efficacy, and their desire to protect those around and under them, they expressed the view that dissent would be ineffective. Finally, we also observed a slow but steady march toward the exits; by the conclusion of our study, one-fifth of our respondents had left or expressed an intention to leave their agencies.

Career civil servants’ efforts to stay within the bounds of institutional and professional norms tell a story that defies the oppositional categorization of compliance and resistance. Our research suggests that the very nature of resistance and compliance must be reconceived in this context. For civil servants steeped in cultures and structures of responsiveness to elected leadership, even small departures from standard operating procedures may feel like acts of disloyalty to agency, institution, or professional mandate. Our respondents endorsed this view again and again, consistently striving to characterize their actions as in keeping with their professional and institutional roles.

However, as the new administration adopted increasingly repressive political tactics over time, it fundamentally altered the normative field structuring civil servants’ pragmatic, moral, and ethical assessments. This gave rise to some striking cracks in the narrative coherence expressed by even the most seasoned civil servants working in the most affected locations. In our interviews, they described failing to understand what was taking place, experiencing cognitive dissonance, and feeling deeply unsure of themselves and their environments. They tried to make sense of their experiences in impromptu and sometimes surprisingly inchoate (given their professional acumen) ways. During the course of our interviews, we came to understand that we were witnessing moments in which previously coherent narratives and repertoires were being disrupted; career civil servants’ cognitive, normative and/or moral standards failed to equip them for the changing institutional contexts within which they found themselves. As a result, we were able to identify the local factors which came to have consequential influence on civil servants’ interpretations, experiences, and behaviors.

**4. All aff ev is about influencing policy which is different from reversing bad policy. At best, employees have wiggle room to determine how policies get implemented and ensure they’re done effectively, but not what that policy is. For a frontline worker to overthrow an agency mission is totally unheard of.**

**5. COMPARATIVE EV. Control is inevitable, irrespective of structure. Capacity makes control effective.**

Patrick J. **Sobkowski 25**, Adjunct Assistant Professor of Political Science, Marquette University, "The Unitary Executive and Politics," Ohio Northern University Law Review, May 2025, SSRN

Institutional capacity is the ability of an institution to do its work.194 Administrative capacity, then, is simply the ability of an agency to accomplish its statutory mission.195 Put differently, administrative capacity affects “prospective ability” to complete its tasks. Bednar distinguishes capacity from policy outcomes, which are the “consequence of agency implementation” of statutory authority.196 A prominent example of the importance of capacity—or lack thereof—is the failed launch of HealthCare.Gov.197 Another salient example is the backlog of disability cases at the Social Security Administration. Acting Commissioner Kilolo Kijakazi acknowledged shared frustration with disability claimants who waited an average of seven months for an initial determination.198 Kijakazi attributed the backlog to “historically high” employment turnover.199 The problem might also be attributed to Kijakazi’s status as “acting” commissioner.200 In short, the backlog could be attributed—at least partially— to a lack of administrative capacity.

Bednar conceptualizes administrative capacity for rulemaking as (1) the size of an agency’s workforce; (2) the substantive and procedural expertise that the workforce brings to bear; and (3) the organization of the workforce for teamwork.201 The relevance of workforce size is self-evident. The larger an agency’s workforce, the more it will be able to accomplish during the incumbent president’s term.202 Knowledge of procedures and corresponding expertise allows the agency to make reasoned judgments on the substance of a given policy.203 Not only do agencies rely on substantive expertise, but they also need to draft the regulation in question. All this falls under the concept of administrative capacity.

Capacity has profound implications for presidential control. In short, administrative capacity matters significantly more than presidential “control.”204 Empirical evidence presented by Bednar shows that despite an agency’s “independence,” presidents can influence policymaking much to the same degree as pro-UET scholars say is constitutionally required. The biggest obstacle to this influence is capacity. If an agency lacks a sizable workforce and/or procedural and substantive knowledge, it constrains what the president can accomplish.205

The big picture takeaway here is that, whether the president can remove an agency head or employee or not is essentially irrelevant. Regardless of whether an agency is independent or not, the president is often able to control policymaking by agencies. This suggests that the import of the underlying normative debate between pro- and anti-UET scholars is missing a layer of complication. Whether the original meaning of Article II encompasses the removal power is doubtless important given the composition of the Supreme Court. But the scholarship often relied upon by scholars and by the Court must be as informed and well-rounded as possible.

**Top – AT: Diplomacy Advantage – 1NC**

**Neg on presumption. Relevant officers can’t unionize.**

Gary **L. 25**. Author and Advocate for the EWOC. “What Are My Union Rights as a Federal Worker?” EWOC. 02/07/2025. https://workerorganizing.org/union-rights-federal-worker-nlra-flra-9963/

Federal law says most federal workers have the right to organize or join a union under this statute. Specifically excluded are members of the uniformed services, management or supervisors, officers of the foreign service, and employees of a variety of agencies, particularly those relevant to national security, as well as employees engaged in personnel work or other similar things. Sections 7103 and 7112 of the statute gives a fuller enumeration.

**Civil service diplomats are sent to increasingly marginal posts compared to political appointees.**

Thomas **Scherer &** Dan **Spokojny 15\***, Scherer is an academic practitioner working on international crisis and intervention, research director for fp21, previously deputy director of the Center for Peace and Security Studies at University of California, San Diego, and worked at the U.S. Institute of Peace, PhD in politics from Princeton University; Spokojny is a member of the Editorial Board of The Foreign Service Journal, served in government for more than a decade as a U.S. Foreign Service officer and legislative staffer in Congress, and on the AFSA Governing Board, finishing his PhD in political science with the University of California, Berkeley, focusing on the role of expertise in foreign policy, "The Marginalization of Career Diplomats," https://afsa.org/marginalization-career-diplomats \*No date cited in article, but cites data up to 2015.

A new analysis suggests the extent of political-appointee control over U.S. foreign policy—and conversely, the decline of career-diplomat authority—is deeper than previously understood.

The ambassadors who lead our embassies overseas play a vital role in shaping and implementing U.S. foreign policy. While it has been common practice for decades for presidents to fill roughly 30 percent of chief-of-mission positions with political appointees, notably including donors, this ratio obscures a worrying decline of influence for career members of the U.S. Foreign Service.

According to a different measure—namely, the total gross domestic product (GDP) of host nations that have U.S. ambassadors who are members of the Foreign Service—the sway of career diplomats is vastly smaller.

This trend and its implications are important to keep in mind as we transition to a new administration in the coming months.

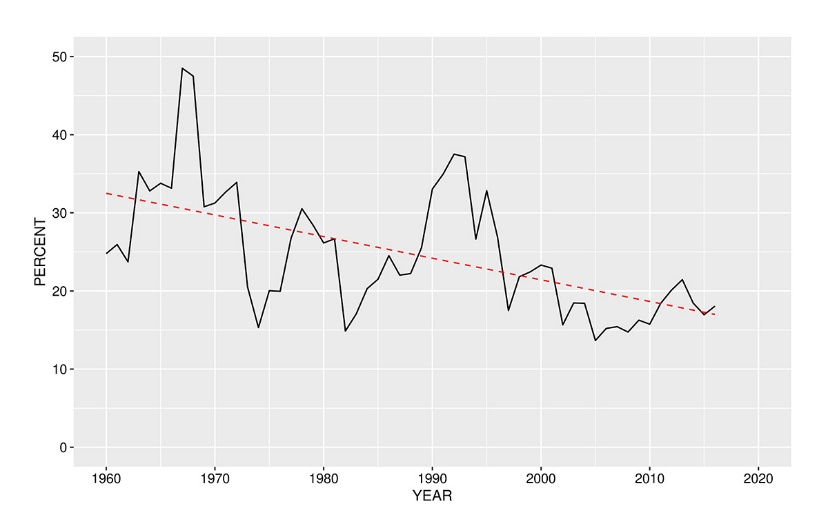


Figure 1: Aggregate GDP of Countries with Career FS U.S. Ambassadors.

Created by Thomas Scherer; data from Matt Malis

A Shrinking Sphere of Influence

A new analysis by fp21 shows that career FSOs have chief-of-mission authority in countries that, combined, are responsible for less than 20 percent of the world’s GDP, a portion that has steadily decreased in recent decades. In other words, if you add up the GDP of all nations in which politically appointed ambassadors lead U.S. embassies, it equals more than four-fifths of the world’s GDP (excluding the United States). This percentage does not account for influential multilateral ambassadorships also typically filled by political appointees, such as NATO, the United Nations, the European Union, and the Organization for Security and Cooperation in Europe.

Data collected by scholar Matt Malis for the period from 1960 to 2015 shows no evidence that the trend of empowering political appointees over career members of the Foreign Service has significantly abated in recent years (see figure above). If anything, it may be on the rise. Data from the American Foreign Service Association suggests the Trump and Biden administrations have had the highest ratios of political appointees since Reagan (see figure below).

Host-country GDP is, of course, an imperfect measure of the influence of career diplomats. The collective influence of ambassadors depends on the complicated interaction between the power of the host government, the flow of current events, the strength of the individual ambassador, and more. Nevertheless, the trend identified here is noteworthy.

This trend and its implications are important to keep in mind as we transition to a new administration in the coming months.

Why It Matters

The choice of who leads our embassies has a measurable impact on the quality and capacity of our foreign policy institutions. Research has demonstrated that career officials, according to some metrics, are on average more effective leaders who oversee higher performance compared with their political-appointee counterparts. Career ambassadors, on average, have more of the desired qualifications, as defined by Congress, according to a study published in the Duke Law Journal in 2019.

The career diplomatic service was created to ensure presidents had access to nonpartisan experts who were insulated from political pressures so that they could speak truth to power. The State Department’s Bureau of Intelligence and Research, for instance, famously dissented against the incorrect claim that Saddam Hussein’s Iraq possessed weapons of mass destruction.

Some fear that the reliance on political appointees at the helm of U.S. embassies risks returning our country to the pre-Pendleton Act, pre-Rogers Act spoils system. The law governing diplomacy, the Foreign Service Act of 1980, directs that “positions as chief of mission should normally be accorded to career members of the Service, though circumstances will warrant appointments from time to time of qualfied individuals who are not career members of the Service.”

Worryingly, many talented young foreign policy aspirants no longer believe that joining the career Foreign Service is the most viable pathway to influence in U.S. foreign policy. The sacrifices of public service loom larger when one’s influence wanes. Morale inside the institution suffers.

## Expertise

**Circumvention – T/L – 2NC**

#### 3. Management wins 90% of the time.

Erich **Wagner 19**, senior correspondent for Government Executive, “Federal Union Accuses FLRA of 'Unprecedented' Bias Against Labor,” 2/19/19, https://www.govexec.com/management/2019/02/federal-union-accuses-flra-unprecedented-bias-against-labor/154975/

The union accused the current Trump-appointed majority of the FLRA board of routinely exceeding its authority in overturning arbitration cases at a rate that is unprecedented in modern memory. The lawsuit compared the current board’s decisions with those over the same period during the George W. Bush and Obama administrations.

In the first 94 cases before the current board, the agency won 83 times, compared to only 10 awards for a union. (The other decision was "an expedited review where the circumstances could not be ascertained.")

“Each [union win] was on insurmountable procedural grounds,” FEA attorneys wrote. “Six times, the agency had missed filing deadlines. One time, the agency had considered an expired letter of reprimand ... One time, the authority had no jurisdiction.”

Looking more closely, in those first 94 cases, the original decision-maker was overruled 59 times, all of which were in favor of the agency involved. Arbitrators were overruled 51 times, and administrative law judges and FLRA regional directors were overruled four times each.

The Federal Education Association accused the current FLRA of vastly overstepping its authority in overturning lower rulings, noting that the agency’s guide to arbitration requires “substantial deference” to arbitrators and administrative law judges.

“Although Congress specifically provided for authority review of arbitration awards, Congress also made clear that the scope of that review is very limited,” the guide states. “Thus, the authority gives arbitrators substantial deference and will set aside or modify their awards only when excepting parties establish that the awards are deficient on one of the specific grounds set forth in [the law].”

By comparison, in the first 94 cases of the FLRA board appointed by President George W. Bush, arbitrators were overruled 11 times—five times in favor of an agency, three times in favor of a union, and with three split decisions. An administrative law judge was overruled once.

And for the same period under the board as constructed by President Obama, arbitrators were overruled 16 times, of which 12 went to the agency and four to the union. Administrative law judges were overruled six times, with two decisions for the agency, two for the union, and two cases were remanded back to the judge.

The Federal Education Association argued that such decisions render the arbitration process meaningless, and could have a chilling effect on the process designed to hear labor-management disputes. Federal unions have already warned that they could act to skip the FLRA and go straight to court with their disputes, citing the Trump administration’s decision not to appoint a general counsel to the agency, effectively blocking unfair labor practice complaints from reaching the full board.

**5. Unions won’t pursue cases in the first place.**

Dave **Jamieson** **8/18**, HuffPost's labor reporter since 2011, "Federal Agency Throws Workers Under The Bus Just To Please Trump," HuffPost, 8/18/2025, https://www.huffpost.com/entry/federal-labor-relations-authority-judges-trump\_n\_68a3461ae4b03709c085be9c

The FLRA is still functioning with just two members, but not at full capacity. Trump has not nominated a general counsel to be confirmed by the Senate, so the agency isn’t able to pursue complaints against agencies or unions that may have violated employees’ rights. So even though there are enough members for a quorum, the agency isn’t operating the way Congress intended.

Smalley said if the agency loses its administrative law judges, unions may become less likely to pursue cases when they think their members’ contracts have been violated. Depending on who the political appointees were, they might consider it a waste of time.

**Circumvention – T/L – AT: Fiat – 2NC**

**1. Fiat can’t solve. The plan only requires strengthening thru [contextualize]. No part of the plan guarantees that the FLRA is enforced or that penalties are increased. You know this because if we read a PIC out of appointing the General Counsel they would go for PDCP.**

**2. Can’t solve deterrence.**

**3. Fiating away FLRA bias is totally mindset fiat, which is a voter because it skirts out of neg offense.**

## Overreach

**Polycrisis Defense – 2NC**

**No polycrisis.**

**1. Problems are self-correcting – for example, when supply falls, elastic demand cushions it. 2008 triggered needed Obamacare and industrial policy. The Ukraine war has increased renewable energey deployment. China recession reduced the risk of US-China war, that’s Smith.**

**2. No negative feedback loops. Empirics.**

Daniel **Drezner 23**, professor of international politics at the Fletcher School of Law and Diplomacy at Tufts University and a nonresident senior fellow at the Chicago Council on Global Affairs, “Are we headed toward a “polycrisis”? The buzzword of the moment, explained.,” Vox, 1/28/23, https://www.vox.com/23572710/polycrisis-davos-history-climate-russia-ukraine-inflation

There is nothing that Davos loves more than a good buzzword, and in 2023 that buzzword was “polycrisis.”

The folks at this year’s World Economic Forum adopted the term after historian Adam Tooze popularized it in his inaugural Financial Times column last year. At its annual meeting last week, the WEF released its “Global Risks Report 2023,” warning that “eroding geopolitical cooperation will have ripple effects across the global risks landscape over the medium term, including contributing to a potential polycrisis of interrelated environmental, geopolitical and socioeconomic risks relating to the supply of and demand for natural resources.”

This warning generated a lot of hand-wringing on the narrow streets of Davos. Little wonder — a “polycrisis” sounds pretty bad! But it also sounds to some like a confusing and redundant neologism. In the opening Davos panel, historian Niall Ferguson rejected the term, explaining it as “just history happening.” In a bit of hot FT-on-FT action, columnist Gideon Rachman characterized polycrisis as one of his least favorite terms, asking, “Does it actually mean anything?”

As someone who has written a book about zombie apocalypses and taught a course about the end of the world, I have a smidgen more sympathy for the polycrisis concept. I think its proponents are trying to get at something more than just history happening. They are putting a name to the belief that a more interconnected, complex world is vulnerable to an interconnected, complex global catastrophe.

That is a legitimate concern. Just because the concept of a polycrisis is real, however, does not mean that the logic behind a polycrisis is ironclad. Some of it echoes 1970s concerns about resource depletion combined with an increasing population — in other words, neo-Malthusianism gussied up to sound fancy. A lot more of it can be reduced to concerns about climate change, which are real but not poly-anything. Those warnings about a polycrisis might be well-intentioned, but they also assume the existence of powerful negative feedback effects that may not actually exist.

The future will not be crisis-free by any stretch of the imagination — but the notion of a polycrisis might do more harm than good in attempting to get a grip on the systemic risks that threaten humanity.

The history of the idea of the polycrisis

As with many buzzwords foretelling despair, the origins of polycrisis can be blamed on the French.

In their 1999 book Homeland Earth: A Manifesto for the New Millennium, French complexity theorist Edgar Morin and his co-author Anne Brigitte Kern warned of the “complex intersolidarity of problems, antagonisms, crises, uncontrollable processes, and the general crisis of the planet.” Other academics began using the term in a similar way. European Commission President Jean-Claude Juncker adopted the term to characterize the cluster of negative shocks triggered by the 2008 financial crisis.

So far, so redundant — none of these initial references really seem to mean much beyond “A Big, Bad Catastrophe.” Tooze’s initial column and Substack post, however, referenced the work of political scientists Michael Lawrence, Scott Janzwood, and Thomas Homer-Dixon. They work at the Cascade Institute, a Canadian research center focusing on emergent and systemic risks. In a 2022 working paper, they provide the fullest etymology of “polycrisis” and what they mean by it.

So what the hell is a polycrisis? The quick-and-dirty answer is that it’s the concatenation of shocks that generate crises that trigger crises in other systems that, in turn, worsen the initial crises, making the combined effect far, far worse than the sum of its parts.

The longer answer requires some familiarity with how complex systems work. Complex systems can range from a nuclear power plant to Earth’s ecosystem. In tightly wound and complex systems, not even experts can be entirely sure how the inner workings of the system will respond to stresses and shocks. Those who study systemic and catastrophic risks have long been aware that crises in these systems are often endogenous — i.e., they often bubble up from within the system’s inscrutable internal workings.

For example, when Lehman Brothers declared Chapter 11 in September 2008, few observers understood that Lehman’s bankruptcy would cause panic in money market funds. That was a relatively risk-free asset class seemingly far removed from the subprime mortgage debt that felled Lehman.

Except the Reserve Primary Fund, the oldest money market fund in the country, had invested some of its assets at Lehman, which had enabled it to offer a slightly higher rate of return. With those investments frozen by Lehman’s bankruptcy, the Reserve Primary Fund had to “break the buck” and price its fund below a dollar — hitherto unthinkable for a fund that was seen as pretty secure. That caused credit markets everywhere to seize up, and the Great Recession unfolded. The crisis cascaded so quickly that it was impossible for regulators and central banks to get out in front of the disaster wave.

The folks who warn about a polycrisis argue that it is not just components within a single system that are tightly interconnected. It is the systems themselves — health, geopolitics, the environment — that are increasingly interacting and tightly coupled. Therefore, if one system malfunctions, the crisis might trigger other systems to fail, leading to catastrophic negative feedback effects across multiple systems and affecting the entire world. Or, as Lawrence, Janzwood, and Homer-Dixon put it in their paper:

The core concern of the concept is that a crisis in one global system has knock-on effects that cascade (or spill over) into other global systems, creating or worsening crises there. Global crises happen less and less in isolation; they interact with one another so that one crisis makes a second more likely and deepens their overall harms. The polycrisis concept thus highlights the causal interaction of crises across global systems.

Think of rising commodity prices triggering the Arab Spring in 2010. Or think of the vicissitudes of the Covid-19 pandemic helping to trigger both the stresses in global supply chains and social dysfunction. These are examples of one systemic crisis generating another systemic crisis. Imagine all the myriad crises that climate change can trigger — from food scarcity to new pandemics to a surge in migration. The Cascade Institute paper defines a polycrisis as when three or more systems wind up being in crisis at the same time.

Given all the interconnections in the current moment, a polycrisis is not hard to conceive. To contemplate it is to be overwhelmed by catastrophic possibilities. Here, look at Tooze’s chart:

Or look at the World Economic Forum’s similar chart:

Or, if you prefer sci-fi narratives as a means to better comprehension, watch this clip from Amazon Prime’s The Peripheral, which talks about a cluster of events called “The Jackpot” in a way that sounds awfully similar to a polycrisis.

How real is the polycrisis?

Take a second now and consider all the shocks that have buffeted you, dear reader, in the past few years alone.

There is the largest land war in Europe in recent memory, a devastating pandemic, the surge in refugee flows, high inflation, fragile global governance, and the leading democracies turning inward as they face populist challenges at home. It seems easy — and enervating — to believe that the polycrisis is upon us.

The thing about the previous paragraph is that it does not just describe the current moment; it also captures the global situation almost exactly a century ago. The First World War devastated Europe. The war also helped to facilitate the spread of the influenza pandemic through troop movements and information censorship. The costs of both the war and the pandemic badly weakened the postwar order, leading to spikes in hyperinflation, illiberal ideologies, and democracies that turned inward. All of that transpired during the start of the Roaring ’20s; the world turned much darker a decade later.

So maybe Niall Ferguson has a point; what some are calling a polycrisis could just be history rhyming with itself.

Those warning about a polycrisis vigorously dispute this. They argue that the growing synchronization and interconnectivity of systemic risks increases the chance of a polycrisis. As one recent New York Times op-ed co-authored by Homer-Dixon explained, “complex and largely unrecognized causal links among the world’s economic, social and ecological systems may be causing many risks to go critical at nearly the same time.”

These concerns are borderline Malthusian. Thomas Malthus famously warned that the human population would exponentially outstrip mankind’s capacity to grow food. This proved to be spectacularly wrong, but the power of Malthusian logic remains. Neo-Malthusians are less concerned about food specifically and more about human civilization outstripping other necessary resources.

In the same op-ed, Homer-Dixon and co-author Johan Rockström worry that “the magnitude of humanity’s resource consumption and pollution output is weakening the resilience of natural systems.” The WEF report ranked a “cost-of-living crisis” as the most severe global risk over the next two years.

Concerns about climate change should not be minimized. At the same time, there are ways in which the notion of a polycrisis obfuscates more than it reveals.

Looking at the charts above makes it seem as though little can be done to prevent a polycrisis. Indeed, the Cascade Institute paper is written as though the polycrisis has already happened.

This sort of framing is bound to generate a sense of helplessness in the face of overwhelming complexity and crisis. In The Rhetoric of Reaction, Albert Hirschman warned about the “futility thesis” — the rejection of preventive action due to a fatalistic belief that it is simply too late.

It is far from obvious that there will be a polycrisis (let alone that we’re already in one). As the economist Noah Smith pointed out in his rejoinder to Tooze, its proponents underestimate how much “the global economy and political system are full of mechanisms that push back against shocks.” Indeed, for all the concerns that have been voiced over the past two years about global supply chain stresses and rampant inflation, both of those trends appear to have reversed themselves quite nicely. Complaints about scarce container ships and computer chips that dominated 2021 have turned into stories about gluts in both markets.

On the sociopolitical side of the ledger, it is noteworthy that as societies emerge from the pandemic, indicators of social dysfunction might start to subside. Political populism has actually been trending downward for the past year or so. Even skeptics of democracy have noticed that autocracies have been facing greater challenges as of late than democracies.

Malthusian arguments rest on producers being unable to keep pace with growing demand, and modern history suggests that the Malthusian logic has been proven wrong time and again. Homer-Dixon in particular has been a strong proponent of neo-Malthusian arguments, positing for decades that resource scarcity would lead to greater international violence. So far, the scholarly research testing his claim has found little empirical support for the hypothesis.

Predicting the unpredictable

The deeper flaw in the polycrisis logic is the presumption that one systemic crisis will inexorably lead to negative feedback effects that cause other systems to tip into crisis.

If this assumption does not hold, then the whole logic of a single polycrisis falls apart. To their credit, the Cascade Institute authors acknowledge that this might not happen, but they posit: “it seems more likely that causal interactions between systemic crises will worsen, rather than diminish, the overall emergent impacts.”

At first glance, this seems like a plausible assumption to make. Remember, however, that the proponents of a polycrisis also assert that the systems under stress are highly complex, leading to unpredictable cause-and-effect relationships. If that is true, then presuming that one systemic crisis would automatically exacerbate stresses in other systems seems premature at best and skewed at worst.

Indeed, over the last year there have been at least two examples of one systemic crisis actually lessening stress on another system.

China’s increasingly centralized autocracy generated a socioeconomic disaster in the form of “zero Covid” lockdowns. Xi Jinping kept that policy in place long after it made any sense, accidentally throttling China’s economy. The timing of China’s lockdown was fortuitous, however, as stagnant Chinese demand helped prevent an inflationary spiral from getting any worse. China’s exit from zero-Covid will likely also be countercyclical, jump-starting economic growth at a time when other regions tip into recession.

Another weird, fortuitous interaction has been the one between climate change and Russia’s invasion of Ukraine. As Europe aided Ukraine and resisted Russia’s blatant, illegal actions, Russia retaliated by cutting off energy exports. Many were concerned that Russia’s counter-sanctions would make this winter extremely hard and expensive for Europe.

Climate change may have provided a weird geopolitical assist to Europe, however. The warming climate is likely connected to Europe’s extremely temperate fall and winter. That, in turn, has required less electricity for heating, leaving the continent with plenty of energy reserves to last the winter. Russia’s ability to wreak havoc on the European economy has been circumscribed.

None of this is to say that systemic crises cannot exacerbate each other. Just because a polycrisis has not happened yet does not mean one is not on the horizon. Just as one buys insurance to guard against low-probability, high-impact outcomes, policymakers and elements of civil society need to guard against worst-case scenarios.

As a term of art, however, “polycrisis” distracts more than it adds. It mostly seems like a device to make people care about the Really Bad Things that climate change can do, without turning people off by warning them yet again about the hazards of climate change.

**3. There is nothing new about the polycrisis.**

Dan **Gardner 23**, columnist and senior writer for the Ottawa Citizen, specializing in criminal justice and other investigative issues, worked as a senior policy adviser to the premier and the minister of education, “Beware The "Polycrisis",” PastPresentFuture, 1/22/23, https://dgardner.substack.com/p/beware-the-polycrisis

For those whose invitations were, like mine, lost in the mail, “polycrisis” is the idea that the world is embroiled in multiple crises that are interdependent. This entanglement makes coping with the crises more difficult. Hence, what may look like a set of separate crises is more like a single crisis made of many crises. A “polycrisis,” if you will.

Writing about the polycrisis recently, the economist Nouriel Roubini rattled off the component crises as he saw them: Stagflation. Globalization retreating. Cold War with China. The risk of more hot wars that could go nuclear or full World. Worsening climate change. “Pandemics, too, are likely to become more frequent, virulent, and costly. Advances in artificial intelligence, machine learning, robotics, and automation are threatening to produce more inequality, permanent technological unemployment, and deadlier weapons with which to prosecute unconventional wars. All these problems are fuelling a backlash against democratic capitalism, and empowering populist, authoritarian, and militaristic extremists on the right and the left.”

The man isn’t called Dr. Doom for nothing.

If you haven’t yet stopped reading and run to your bunker, let me assure you that Roubini is a classic one-armed economist — piling up reasons to tremble but seldom acknowledging countervailing facts. (Old Harry Truman joke: “I want to hear from a one-armed economist because I’m sick of hearing ‘on the one hand, but on the other hand…’”) And his reasoning is occasionally eye-rollingly tendentious. Globalization is retreating, is it? A remarkable array of data says otherwise. Or consider the claim that the threat of “permanent technological unemployment” has contributed to the rise of “populist, authoritarian, and militaristic extremists.” Seems entirely speculative to me. But if you are going to mention it, surely you also need to note that unemployment is extremely low in the United States, Canada, and a number of other countries, and has been for years (aside from the brief surge when Covid hit). But, no. The man has only one arm.

There’s a more basic problem with Roubini’s list. Or any list of crises. As historian Niall Ferguson laconically remarked in a panel discussion at Davos: “That’s just history happening.”

Bad things happen. Bad things threaten to happen. Always.

Name the decade and I will show you smart and accomplished people who got a lot of attention by compiling lists like Roubini’s while hyperventilating into a paper bag. My favourite is the economist Robert Heilbroner. His writings in the 1970s make Roubini sound like a teenager huffing laughing gas.

Heilbroner, needless to say, did not identify the turmoil of his time as a “polycrisis” — a logism that hadn’t yet been neo’d — but he could well have because the crises he identified were often highly interdependent. In fact, he emphasized their interdependence. Many of the specific crises he identified (hot war, Cold War, the threat of nuclear war, the decline of democracy, the rise of authoritarianism, environmental degradation, stagflation) even sound familiar today.

So does “polycrisis” mean anything more than “bad stuff linked to other bad stuff, as usual?”

To test this, we need to look to the writing of the economic historian Adam Tooze, who popularized the term. He’s a serious and respected thinker, one reason why “polycrisis” has caught on while Roubini’s preferred neologism – “megathreats” – has languished.

“A problem becomes a crisis when it challenges our ability to cope and thus threatens our identity,” Tooze wrote recently. “In the polycrisis the shocks are disparate, but they interact so that the whole is even more overwhelming than the sum of the parts…. Things that would once have seemed fanciful are now facts.”

That is a true and accurate summary of the state of the world right now. But how is it new? I can’t think of any decade between now and the late 19th century when Tooze’s description wouldn’t apply. And I only stop at the late 19th century because that’s where my knowledge grows thin.

Tooze is too smart to miss this objection. He raises it himself.

But how new is it really? Think back to 2008-2009. Vladimir Putin invaded Georgia. John McCain chose Sarah Palin as his running mate. The banks were toppling. The Doha World Trade Organization round came to grief, as did the climate talks in Copenhagen the following year. And, to top it all, swine flu was on the loose.

“Former European Commission president Jean-Claude Juncker, to whom we owe the currency of the term polycrisis, borrowed it in 2016 from the French theorist of complexity Edgar Morin, who first used it in the 1990s. As Morin himself insisted, it was with the ecological alert of the early 1970s that a new sense of overarching global risk entered public consciousness.

It’s hard to argue with any of that. But this would seem to suggest that polycrisis is, far from some scary new condition, nothing more than a truism for more than half a century.

Tooze himself seems to concede the point.

So have we been living in a polycrisis all along? We should beware complacency.

The scary new buzzword describes a condition the world has been in for at least as long as I have been alive? That makes it a lot less scary. And I don’t think it’s complacent to say so.

But then Tooze argues that things have indeed changed in important ways more recently.

In the 1970s, whether you were a Eurocommunist, an ecologist or an angst-ridden conservative, you could still attribute your worries to a single cause — late capitalism, too much or too little economic growth, or an excess of entitlement. A single cause also meant that one could imagine a sweeping solution, be it social revolution or neoliberalism.

What makes the crises of the past 15 years so disorientating is that it no longer seems plausible to point to a single cause and, by implication, a single fix. Whereas in the 1980s you might still have believed that “the market” would efficiently steer the economy, deliver growth, defuse contentious political issues and win the cold war, who would make the same claim today? It turns out that democracy is fragile. Sustainable development will require contentious industrial policy. And the new cold war between Beijing and Washington is only just getting going.

I hesitate to say this about the words of a globally respected historian, but this feels an awful lot like hindsight bias.

Yes, ideologues in the 1970s and 1980s had handy ways of seeing various crises as manifestations of a single cause. But that was more a reflection of their own mental models than reality.

Complexity theory started to come into its own in the 1980s and it explained something that had only occasionally been intuited before — that complex, interdependent systems exhibit weirdly non-linear behaviour, such that apparently stable systems can suddenly collapse in disorder, or small changes can mushroom into big effects, making longer-term prediction difficult when it’s not impossible. And if complex systems are entangled with other complex systems…. The days of seeing single causes, linear effects, and simple solutions were over. (Which is why the 1970s was the last hurrah for long-term “strategic planning,” as Henry Mintzberg described in The Rise and Fall of Strategic Planning.)

But complexity theory described the world, it didn’t change it. The 1970s were plenty complex, non-linear, and unpredictable. Consider that in 1973 and 1974 it was widely believed that the Japanese economic miracle was fatally wounded. By what? By something seemingly so remote from Japan as to seemingly have no connection: Arab-Israeli politics (which contributed to the OPEC oil embargo that strangled the Japanese economy.) To those living in that moment, that was surely as bewildering as anything we face today. What complexity! What interdependence! In a world like that, the idea that the crises of the decade could reasonably be seen – that is, seen by non-ideologues -- as having a single cause and a single fix is, well, “a stretch” would be a polite description.

Tooze further argues that the present is different from the past in this way:

Meanwhile, the diversity of problems is compounded by the growing anxiety that economic and social development are hurtling us towards catastrophic ecological tipping points.

Again, true. But that sentence could have been written any time in the last half century. It would not even be surprising to find it in the pages of two highly influential books -- William Vogt’s Road To Survival and Fairfield Osborn’s Our Plundered Planet – published in 1948.

Finally, Tooze sums up:

Modern history appears as a tale of progress by way of improvisation, innovation, reform and crisis-management. We have dodged several great depressions, devised vaccines to stop disease and avoided nuclear war. Perhaps innovation will also allow us to master the environmental crises looming ahead. Perhaps. But it is an unrelenting foot race, because what crisis-fighting and technological fixes all too rarely do is address the underlying trends. The more successful we are at coping, the more the tension builds. If you have found the past few years stressful and disorientating, if your life has already been disrupted, it is time to brace. Our tightrope walk with no end is only going to become more precarious and nerve-racking.

When did global affairs not involve “improvisation, innovation, reform and crisis-management”? When were we not trying to dodge catastrophes? When did people not find “the past few years stressful and disorientating?”

In all the talk of “polycrisis,” I have seen precisely no one mention that hindsight bias all but ensures that the present will feel more precarious than the past no matter what the objective reality is: The past is a movie we have seen. We know how it ends. The present is unmistakably uncertain. And uncertainty is unsettling.

**AT: Trump FoPo Impact – 2NC**

**x. Term 1 proves. Aff ev is empirically denied alarmism.**

Alexander **Gray 24**, Chief Executive Officer, American Global Strategies LLC, "The 4 Great Myths of Donald Trump's Foreign Policy," National Interest, 05/28/2024, https://nationalinterest.org/feature/4-great-myths-donald-trump%E2%80%99s-foreign-policy-211197

Such hyperbolic claims have been repeated so often since Mr. Trump’s emergence on the national political scene almost a decade ago, that many Americans have become inured to their inaccuracy.

Yet a clear appraisal of Mr. Trump’s actual foreign policy record as President should make clear that the oft-repeated warnings from the global foreign policy commentariat bear little resemblance to reality and are, in many cases, the opposite of Mr. Trump’s positions and actions while in office.

Trump the Warmonger

From the moment Mr. Trump entered the 2016 presidential race, establishment commentators denounced him as reckless and a potential threat to international peace. Mr. Trump’s unique rhetorical approach to diplomacy was considered not just déclassé, but dangerous, by the global commentariat, with predictions of imminent, Trump-induced conflict common throughout his presidency. Yet, particularly in view of the international destabilization that has occurred since Mr. Trump left office, nothing could be further from the truth. Mr. Trump’s intuitive understanding of how to maintain a secure and prosperous global order was predicated on overwhelming American military and economic strength; the “peace through strength” vision articulated famously by Ronald Reagan.

In contrast to his immediate predecessors and successor, Mr. Trump chose not to undertake unnecessary foreign military interventions (e.g. Iraq, Libya) or to allow American deterrence to be lost through hollow rhetoric (e.g. Syria) or the perception of American weakness by our adversaries (e.g. Afghanistan, Ukraine, the South China Sea). The lack of global conflict on his watch was not an accident of history; it was a deliberate reaction to policies formulated by Mr. Trump and implemented by his Administration.

Donald Trump the Isolationist

The most-repeated claim of the establishment is that Mr. Trump is an isolationist with an “America First” credo borrowed from the anti-interventionists of the pre-World War II period. Mr. Trump has long expressed skepticism about prolonged U.S. military entanglements abroad, a position he shares with such foreign policy luminaries as Brent Scowcroft and Colin Powell. But, during his four years in office, rather than withdraw the United States from the world, Mr. Trump simply sought to change the ways in which the U.S. engaged globally, particularly in comparison with Presidents Obama and Biden.

In contrast to the Democratic Party’s vision of a deeply flawed America with unending capacity for overseas intervention, Mr. Trump saw an economically and militarily overstretched America that was foregoing its core interests in favor of ancillary entanglements. Under his leadership, America refocused on a new era of Great Power competition; pursued historic peace negotiations in the Middle East and the Balkans that served U.S. national interests; built and expanded partnerships like the Quad with India, Japan, and Australia; modernized critical alliances like the North Atlantic Treaty Organization (NATO); and sought to rebalance outdated troop dispositions in Germany and the Middle East in favor of frontline deployments to Central and Eastern Europe and the Indo-Pacific.

Mr. Trump’s policies were never those of an isolationist, but rather a pragmatist with a keen sense of American power and capacity.

Trump Lacked a Strategy

Washington think tank denizens often portray Mr. Trump’s first Administration as lacking an overarching strategy. However, from his earliest days in office, Mr. Trump began dramatically altering the U.S. Government’s approach to the fundamental issue of our time: the threat posed by the Chinese Communist Party. Mr. Trump’s National Security Strategy realigned all elements of American national power to address this threat, with supporting documents like the National Defense Strategy close behind. By the time he left office in 2021, every corner of the Federal Government was engaged in hardening the U.S. from the CCP’s malign influence, an extraordinary evolution in just four years and a textbook example of grand strategy conceived and executed in real time.

Furthermore, Mr. Trump fully understood that America’s relative economic decline during the Obama years had limited Washington’s capacity to operate globally. Unlike too many in the U.S. political class, Mr. Trump was aware of the connection between ends and means in foreign policy and sought, successfully, a renewal of U.S. economic growth as a predicate for executing any long-term strategy.

Donald Trump is Pro-Putin

Perhaps no myth about the Trump foreign policy is more pernicious, or more false, than the claim that Mr. Trump is somehow favorably inclined to the Russian leader.

Mr. Trump’s rhetoric toward Mr. Putin was a reflection of his belief that Moscow, as a great yet declining power, remained relevant on the global stage and must be engaged. Yet Mr. Trump and his Administration were persistently clear-eyed toward the dangers posed by Mr. Putin and his regime, hence a record of policy actions that maintained deterrence in Ukraine and elsewhere. Mr. Trump provided Kyiv critical munitions that proved invaluable during the 2022 invasion, sanctioned countless Russian citizens for malign activity, fought aggressively against the NordStream II pipeline, and aided allies like Poland, Romania, and the Baltics in their deterrence efforts. That Mr. Putin did not undertake overt aggression during the Trump presidency is a reflection of these successes.

Don't Fear the Foreign Policy Return of Donald Trump

The establishment panic about Mr. Trump’s potential return has likely yet to reach its peak, with almost six months until the 2024 election. Americans would do well to ignore the fearmongering of the global foreign policy class and instead evaluate the world that was under Mr. Trump’s leadership: an international order defined by American prosperity, an intense focus on core U.S. interests, and a belief in robust deterrence as the surest guarantor of peace.

**x. He won’t escalate, but unpredictability dampens aggression.**

**Ansel ’25** [Frederic; April 12; doctorate from the Center for Geopolitical Analysis and Research of the University of Paris, teaches international relations and political science at the Paris Business School; Fakti.bg, "Rumors of World War III are greatly exaggerated," https://fakti.bg/en/mnenia/963588-rumors-of-world-war-iii-are-greatly-exaggerated]

L"EXPRESS: Donald Trump seems to have his eye on the Nobel Peace Prize in his attempt to impose a ceasefire in Ukraine. But isn't he a risk factor for global stability because of his unpredictability?

FR. ANSEL: One of the directions of his policy in international relations, besides mercantilism, is the refusal to send American troops beyond national borders. This automatically reduces the risk of military clashes between American troops and Chinese or Russian soldiers. Thus, the specter of World War III is receding. But, of course, Trump has constant contradictions. If he does not send troops, he will not be able to annex Greenland, expel the Palestinians from Gaza or politically take over Panama... We must again ask ourselves whether this American withdrawal is positive in the long run, knowing that throughout history there have been just wars. If, for example, a real genocide were to occur and the United States could not be relied on - as happened in Rwanda in 1994 - such American abstention would have morally disastrous consequences. But the specter of global conflict is inevitably receding. Moreover, Trump’s unpredictability can be perceived by America’s opponents as irritating and even dangerous. To orchestrate his unpredictability is to create a kind of diplomatic fog, just as there is a fog of war. From this perspective, it is possible that this could slow down the potential military ambitions of both China and Russia. If China attacks Taiwan, what will Trump do? We do not know anything about that. But if Putin does not respect the likely upcoming ceasefire in Ukraine, there is no guarantee that Trump will not become enraged and decide to radically change his Ukrainian policy, feeling humiliated. What is certain is that in Xi Jinping’s eyes, this unpredictability, especially in the Indo-Pacific region, is not good news. However, Trump is not at all unpredictable with regard to NATO and Europe, since he clearly wants the costly war in Ukraine to end and for European countries to pay for their own defense so that it no longer costs the United States anything. But he has never taken such positions on the Indo-Pacific. Why? Because Japan and South Korea are solvent and buy and invest a lot in the US! That is why China has not been very active for the time being.

**x. Term 2 will be more restrained, not less.**

Timothy J. **Lynch 24**, Professor of American Politics at the University Of Melbourne, Co-chair of the political science department in the Faculty of Arts at University of Melbourne, 11/11/2024, “8 reasons not to be afraid of President Trump 2.0,” Pursuit, https://pursuit.unimelb.edu.au/articles/8-reasons-not-to-be-afraid-of-president-trump-2.0

The world survived Trump 1.0. Australia didn’t do too badly. And there are several reasons to not be afraid of his return.

He has a record of delivering economy prosperity

Trump’s economic record was a good one. He will try and repeat it. The S&P 500 rose nearly 70 per cent across his term. That metric alone would place him fourth on the post-World War II list, just ahead of Ronald Reagan.

The US enjoyed strong job growth. Inflation was under control. Blue collar wages rose. Trump won the support of many American workers for his trade war with China.

Without Covid, Trump’s economic record would likely haven gotten him re-elected in 2020. He will try, imperfectly, to recover that pre-virus mojo. He has the mandate to do this.

His luck abroad might hold

World peace did not breakout in Trump’s first term. But 2017-21 was a period of comparative stability.

Putin did not invade Ukraine until February 2022. Israel seemed secure under a peace accord engineered by the Trump administration. The young women of Afghanistan were still going to school.

President Biden, through a combination of bad luck and poor leadership, watched the crushing of Afghanistan democracy, the full-scale invasion of Ukraine, the Hamas attack on Israel, and Iran firing missiles into the only democracy in the Middle East.

He leaves office with these crises unresolved.

How much worse can things get under the new Trump administration? Trump could abandon Volodymir Zelensky. He could telegraph to China his ambivalence about Taiwan – inviting invasion.

But his return could also mean the European Union takes its own defence more seriously (a good thing) and sow confusion into the minds of the Iranian regime about what he intends for them. It is not clear how Biden made progress on any of these fronts.

He commands democratic legitimacy

Trump’s success on 5 November – winning both the electoral college and the popular vote – has given him the biggest electoral mandate (the authority to carry out his platform) for a Republican president in a generation.

This is good for democracy.

The jarring effect of winning the presidency while losing the popular vote – the result in 2016 for which Trump was not forgiven by Democrats – has been stilled.

Despite having a three to one spending advantage, including the support of Hollywood and elite universities, Harris was roundly beaten – winning fewer votes in almost every state and among nearly every demographic group than Joe Biden, the man she replaced, did in 2020.

Defeat will turn the Democrats from ‘wokers’ back to workers

We are in the Age of Trump. He has dominated American politics since 2016. He looks set to do so until 2029. That is a 12-year ascendancy, Franklin Roosevelt territory.

It will inevitably change the nature of his opposition. Republicans are touting the end of identity politics. This may be unwarranted optimism. But Trump has revealed the limits of progressive cultural power.

The left’s colonisation of race and gender did not turn into national political power. Quite the opposite, in fact. Their candidate in 2024, a woman of colour, received the lowest share of non-white votes of any Democrat since 1960.

On gender, she was unable to escape the woke caricature the GOP constructed: “Kamala is for they/them; President Trump is for you.”

If the Democrats are serious about winning back power, they will have to relearn the vocabulary of class politics. This just might revitalise the progressive movement.

That could be one of Trump’s most enduring legacies: turning the Democrats from a party of ‘wokers’, back to a party of workers.

He has begun a multiracial conservatism

The exciting next phase of American political development was confirmed by Trump’s big win. He has blown apart the idea that the GOP is reliant on angry white men.

The gains he made with voters of colour were significant. Just as Democrats must now take class seriously again, so must Republicans learn how to cement their multiracial support.

In compelling graphics, the New York Times conceded that ‘Trump’s swift victory was driven by red shifts across the country, with gains among seemingly every possible grouping of Americans.

Native Americans, one of the groups progressives have attempted to sacralise, moved back towards the GOP (by 10 points). Trump increased his support in Hispanic-majority counties by 13.3 points (compared to 2020).

More Hispanic women voted for Biden in 2020 than for Harris in 2024. And Trump doubled his support among black men; two in five voted for him.

Trump 2.0 may go down in history as the beginning of a more genuinely representative form of American democracy – one in which both parties compete on ideas rather than on identities.

He has made the Republicans serious about governance

When Trump won narrowly in 2016, it was dismissed by many as a protest vote.

In the interim, Trump has initiated a much deeper transformation of conservatism. By picking JD Vance as his vice president, Trump has anointed a technocratic as his (possible) successor in 2028.

Rather than shouting down the institutions of the deep state, Vance is part of a global intellectual movement determined to march back through the institutions currently occupied by the progressive Left.

The New Right need technocrats and thinkers – not reactionaries – to staff the government departments, schools and campuses of America’s future.

This cultural recalibration is long overdue. Trump 2.0 makes it possible.

He’s an old lame duck

The foregoing may constitute Republican wishful thinking. The anti-Trump left should find solace in his age (he is the oldest man to win the presidency) and how quickly his political capital will disappear (which is what happens to all second termers).

Despite his remarkable electoral victory, Trump will be a lame duck president on day one.

All second-term presidents, because they cannot be re-elected, are lame ducks. Their power dissipates as their presidential clock ticks down.

Trump cannot elide this fate. We will soon be debating his replacement.

Most second terms end in failure and scandal – or exhaustion. Richard Nixon resigned in his. Ronald Reagan’s was nearly ended by the Iran-Contra scandal. George W. Bush faced a global financial crisis. Barack Obama’s second term failure was the election of Donald Trump in 2016.

Trump 2.0 will not be unbounded. He will face the same structural-political pressures as his predecessors.

The Constitution holds

The greatest opponent of Trump’s autocratic tendencies is the Constitution of the United States, now in its 24th decade of operation.

Trump ended his first term as a petulant child: sulking over an election he clearly lost, implicated in an insurrection against Congress and refusing the basic decencies of a peaceful transfer of power.

But the Constitution held. It holds still.

Trump left office reluctantly but left nonetheless, as per its terms. It is a fantasy to fear he will still be in office after January 20, 2029. It is possible he could be impeached and removed in the interim, as the Constitution allows.

In questions of power then," said Thomas Jefferson, "let no more be heard of confidence in man, but bind him down from mischief by the chains of the constitution."

Those chains are worn by Trump as surely as they have been by every US president that has gone before him.

**x. He net-increased global stability.**

Dr. Ionut **Popescu et al. 24**, PhD, Assistant Professor, Texas State University; Senior Director, Freedom & Prosperity Center, Atlantic Council; Essayist & Political Analyst, La Verita, Italy, "Teaching A Man to Fish: Donald Trump's Second-Term Alliance Policy," National Interest, 04/24/2024, https://nationalinterest.org/feature/teaching-man-fish-donald-trump%E2%80%99s-second-term-alliance-policy-210717

American voters trust the GOP more on most of their top priorities and Donald Trump is currently leading in most polls in the battleground states. Many European foreign policy observers find this alarming. Some think that, if he were to become president again, Trump would cede Ukraine to Russia, others that he would take the United States out of NATO, and still others that he would push the world into further chaos in the Middle East and Asia. But are these fears well-founded? After reviewing Trump’s policy track record, the answer is no.

For starters, the Trump administration left Biden a far more stable Middle East than the one he had inherited from Barack Obama. In 2018, Trump withdrew from the ill-conceived nuclear deal with Iran and inaugurated a “maximum pressure” policy on the Tehran regime. He also favored a normalized relationship between Israel and the Sunni countries, which led to the historic Abraham Accords of 2020. Critically, Trump established deterrence against Iran by killing General Qasem Soleimani, the Quds Force commander, to show the high cost of attacks on U.S. troops by Iranian proxies.

Alas, Biden unfortunately dismantled these successful policies. The current president removed the Iran-backed Houthis from the list of terrorist organizations and started indirect talks in order to relaunch the JCPOA. He also waived several sanctions on the Tehran regime, unfreezing billions of dollars that Iran could use to finance terror. This appeasement towards the ayatollahs has strengthened Iran’s regional terror network, thus endangering Israel and pushing the Saudis to seek better relations with Moscow and Beijing. Biden’s approach contributed to the current Middle East chaos, with U.S. ally Israel under attack on multiple fronts and Iranian proxies like the Houthis disrupting international shipping.

Secondly, contrary to the politically motivated and thoroughly debunked conspiracy theories about Putin’s supposed compromising materials on Trump, the previous administration was tougher on Russia than the Obama-Biden one and successfully deterred Moscow’s adventurism in the near abroad during its time in office. In 2019, it approved sanctions on the controversial Nord Stream 2 gas pipeline between Russia and Germany. Moreover, by withdrawing from the JCPOA, Trump angered Moscow, which had supported the deal. Also, in 2018, the then-Republican administration closed the Russian consulate in Seattle, expelling sixty Russian diplomats. In contrast, Biden waived sanctions against Nord Stream 2 in 2021—only to reimpose them one year later after Putin invaded Ukraine again. It is worth noting that Putin attacked Ukraine in 2014, under Obama, and in 2022, under Biden, but not during the Trump administration.

Thirdly, the Trump administration did not abandon NATO. Instead, it pushed European allies to contribute more to the alliance and strengthened it. He also recognized that NATO can play a valuable role. In a November 2019 speech in Leipzig, his Secretary of State, Mike Pompeo, said that “…NATO remains an important, critical, perhaps historically one of the most critical, strategic partnerships in all of recorded history.” While just a month later, French President Emmanuel Macron called NATO “brain dead.”

Fourth, the Trump administration promoted policies to prevent European countries from getting caught in Moscow and Beijing’s orbits. It opposed Nord Stream 2, strongly favored by Germany’s Angela Merkel. It expressed disapproval of the pro-China policies of Italy’s Giuseppe Conte. In 2020, Pompeo opposed the renewal of a Sino-Vatican agreement on the appointment of bishops because it favored China.

The Trump administration imposed tariffs on Beijing. This was in contrast with Brussels’ policy to expand economic relations with China despite Beijing’s many corrupt trade practices, including mercantilism, market manipulation, and intellectual property theft.

The current geopolitical threats to the United States and the Free World come from the new Axis of Evil of China, Russia, Iran, and North Korea. The Trump administration had better policies to counter them than the Obama and Biden administrations.

A new Republican administration could be very good news for Europe and the Middle East. It would push for a speedy negotiated solution to the disastrous war in Ukraine, thus bringing peace once more to the European continent. It would certainly restore “maximum pressure” on Iran, improving Israel’s security, and push for an expansion of the Abraham Accords.

And tough love is sometimes imperative for successful relationships to last: the next Trump administration will undoubtedly demand more defense spending from its European allies, 3 percent rather than 2 percent of GDP, but this will only strengthen NATO, not weaken it. At times, European leaders like Macron wanted more strategic independence and self-reliance for the EU. The problem is that the French president’s dreams of ​​strategic independence have weakened transatlantic cohesion rather than strengthened it. Last year, he promoted closer ties with China and hoped that Europeans ”would not be followers” of the United States.

A second Trump administration would look for common ground with its allies in defending freedom, security, and prosperity against the revisionist, expansionist, and dictatorial powers of China, Russia, Iran, and North Korea. And would do so using a time-tested policy: peace through strength.

**Resistance Fails – 2NC**

**Confrontation fails because unions can’t strike, which means no leverage.**

Conor **Lynch 25**, freelance writer and journalist, "The Answer to Trump's Anti-Worker Shutdown Is Solidarity and Labor Militancy," In These Times, 10/9/2025, https://inthesetimes.com/article/trump-anti-worker-shutdown-labor-militancy-reagan-patco

Ironically, part of labor’s failure today can be traced back to some of the lessons that unions drew from PATCO almost 50 years ago. After Reagan crushed the air traffic controllers, most unions became wary of direct action and steered clear of open confrontation with management. This was especially true for federal unions, which are legally prohibited from striking. ​“Because PATCO’s strike ended up being suicidal,” said McCartin, ​“I think they concluded that no kind of direct action could ever be used effectively to protest unjust treatment.”

In the long run, this has severely hampered the ability of the federal unions to respond to the kind of threat they now face. While thousands of federal employees and their unions have resisted the administration’s lawless campaign through lawsuits and protests, these efforts have mostly come up short in the face of a right-leaning judiciary and a Republican-controlled Congress. ​“Part of the problem,” McCartin told me, is that federal unions have ​“never developed effective muscles that could help them push back against an attack of this kind.” Since PATCO, federal unions have mostly exerted power through lobbying, grievance procedures and litigation, while neglecting to develop any contingency plans or programs that train members in direct action.

If PATCO led labor leaders to adopt a more cautious and conciliatory approach toward management, the current assault on civil servants across the government should prompt a thorough reassessment of that strategy.

This overreliance on legal and bureaucratic channels is now coming back to haunt them as the president takes a battering ram to the institutions and discards long-standing civil service procedures and norms. Though federal unions have challenged the administration’s policies in the courts, it is unlikely the judiciary will come sailing to the rescue. Indeed, given the current conservative supermajority on the Supreme Court, McCartin said it was ​“deeply unwise to expect courts to come to the unions’ aid when Trump attacked them.”

If PATCO led labor leaders to adopt a more cautious and conciliatory approach toward management, the current assault on civil servants across the government should prompt a thorough reassessment of that strategy. The war on federal unions should also be a wake-up call not just for those who work for the government, but also for the entire labor movement. As billionaire oligarchs gear up for their own renewed anti-labor crusade, they are no doubt keeping a close tab on the current conflict between the president and the federal workforce.

**USPS proves. They were forced to accept weak pay cuts.**

Sarah **M &** Gary **L 25** - member of NALC and the national communications committee & volunteer organizer with the Emergency Workplace Organizing Committee and the Federal Unionists Network. “We Must Demand Federal Workers’ Right to Strike,” 05/20/2025, Democratic Left, https://democraticleft.dsausa.org/2025/05/20/we-must-demand-federal-workers-right-to-strike/

The Trump administration escalated its war on federal workers on March 27, attempting to remove collective bargaining and union rights from an estimated two-thirds of the workforce — roughly seven hundred thousand workers. Federal workers have been organizing to fight back with militant actions and rank-and-file organizing. The Federal Unionists Network held an emergency response call three days later that drew over 2,500 attendees. As Labor Notes reported, the chat during the call expressed a range of opinions — from calls to strike or engage in sickouts or other militant actions, to those concerned about harsh legal penalties against strikers. Indeed, as the Trump administration rips up laws, defies judges, and threatens to decertify unions, the safety of legality or concerns about risks of strike actions to union certification seem increasingly remote.

Conditions for federal workers have been worsening for years — with federal wage increases falling behind the private sector for over a decade. With federal workers banned from striking, their unions have often been reduced to acting as mediators of conflict, relying on lobbying and pressure campaigns for contracts, while the organizing muscle necessary to win big gains and mobilize members has decayed. This has left them especially vulnerable to right-wing attacks and austerity. Over the past 25 years, the overall share of federal workers has declined precipitously, with the vast majority of those job losses in the U.S. Post Office.

USPS presents a useful test case for the debilitating effects of the strike ban, as workers have been steadily forced into longer hours and lower wages. Recently, despite overwhelmingly rejecting their proposed contract, USPS workers were forced by arbitration to accept a de facto pay cut. This has led to an upsurge of union militancy at USPS. Fights for the right to strike have erupted in the American Postal Workers Union and National Association of Letter Carriers, and internal struggles between moderate and reform factions are impacting each of the four postal unions. The strike bans have left political organizing to atrophy, weakening more militant leadership and strengthening conservative “service union” leadership. But it was not always this way.

**Neg on presumption. Relevant officers can’t unionize.**

Gary **L. 25**. Author and Advocate for the EWOC. “What Are My Union Rights as a Federal Worker?” EWOC. 02/07/2025. https://workerorganizing.org/union-rights-federal-worker-nlra-flra-9963/

Federal law says most federal workers have the right to organize or join a union under this statute. Specifically excluded are members of the uniformed services, management or supervisors, officers of the foreign service, and employees of a variety of agencies, particularly those relevant to national security, as well as employees engaged in personnel work or other similar things. Sections 7103 and 7112 of the statute gives a fuller enumeration.

**Litigation Fails – 2NC**

**Litigation fails. No one will represent unions.**

Michael **Birnbaum 25**, reporter for the Washington Post, "Law firms refuse to represent Trump opponents in the wake of his attacks," MSN, March 25th, 2025, https://www.msn.com/en-us/news/politics/law-firms-refuse-to-represent-trump-opponents-in-the-wake-of-his-attacks/ar-AA1BBCHc

President Donald Trump’s crackdown on lawyers is having a chilling effect on his opponents’ ability to defend themselves or challenge his actions in court, according to people who say they are struggling to find legal representation as a result of his challenges.

Biden-era officials said they’re having trouble finding lawyers willing to defend them. The volunteers and small nonprofits forming the ground troops of the legal resistance to Trump administration actions say that the well-resourced law firms that once would have backed them are now steering clear. The result is an extraordinary threat to the fundamental constitutional rights of due process and legal representation, they said — and a far weaker effort to challenge Trump’s actions in court than during his first term.

Legal scholars say no previous U.S. administration has taken such concerted action against the legal establishment, with Trump’s predecessors in both parties typically respecting the constitutionally enshrined tenet that everyone deserves effective representation in court and that lawyers cannot be targeted simply for the cases and clients they take on.

Trump has used executive orders to target powerful law firms that have challenged him. The latest came Tuesday against Jenner & Block, which employed attorney Andrew Weissmann after he worked as a prosecutor in Robert S. Mueller III’s special counsel investigation of Trump in his first term.

The firm “has participated in the weaponization of the legal system against American principles and values. And we believe that the measures in this executive order will help correct that,” White House staff secretary Will Scharf said as he handed Trump the order to sign, calling out Weissmann by name.

The orders have sought to strip law firms of their business by banning their lawyers from government buildings and barring companies that have federal contracts from employing the firms.

In a statement, Jenner & Block noted the similarity to an order that “has already been declared unconstitutional by a federal court” and that they "will pursue all appropriate remedies.”

Trump on Friday ordered Attorney General Pam Bondi to expand the campaign beyond individual law firms by sanctioning lawyers who “engage in frivolous, unreasonable, and vexatious litigation” against his administration.

Legal scholars say there is little precedent in modern U.S. history for Trump’s actions. But the president is following a playbook from other countries whose leaders have sought to undermine democratic systems and the rule of law, including Russia, Turkey and Hungary. Leaders in those countries have similarly attacked lawyers with the effect of hollowing out a pillar of justice systems to expand their power without violating existing laws. They have successfully used the strategy to blast away their political opposition and any effort to counter their actions through courts.

“The law firms have to behave themselves,” Trump said at a Cabinet meeting Monday. “They behave very badly, very wrongly.”

Trump’s targets say they are feeling the heat.

“It’s scary,” said a former official in the administration of Joe Biden who has been pulled into Trump-era litigation and needed a lawyer as a result. The former official had lined up a pro bono lawyer from a major law firm that, the day after an executive order this month against the heavyweight law firm Perkins Coie, said that it had discovered a conflict of interest and dropped the person as a client.

Five other firms said they had conflicts, the former official said, including one where “the partner called me livid, furious, saying that he’s not sure how much longer he’s going to stay there,” the former official said, “because the leadership didn’t want to take the risk.”

The person spoke on the condition of anonymity to avoid further difficulties obtaining a lawyer.

“I don’t know how many people are going to end up having to pay a significant amount of money out of pocket to defend themselves for faithfully and ethically executing their public service jobs,” the person said. “It’s really a wild situation to be in.”

The sweeping campaign is targeting the livelihoods of the people best qualified to contest the legality of Trump’s agenda. Lawyers must now contend with the possibility they could face lawsuits, fines and other punishment aimed at them and even their other clients should they contest Trump administration efforts in court.

“You need the legitimacy of law on your side at some level,” said Scott Cummings, a law professor at the UCLA School of Law who has studied challenges to the legal establishment. “This is the autocratic legal idea of claiming a democratic mandate to attack the rule of law by using law to really erode institutional pillars that are supposed to check executive power.”

Trump’s actions toward lawyers, Cummings said, have been “about disabling effective representation of anyone that Trump doesn’t like, and that is the beginning of the end of the adversarial system,” in which both sides of a legal case have equal access to present their views in front of a judge.

The first White House action against lawyers came late last month, when Trump stripped the security clearances of lawyers at a prominent firm, Covington & Burling, who represented former special counsel Jack Smith after he investigated the president’s role in the Jan. 6, 2021, attack on the U.S. Capitol.

The following week, he took far harsher action against Perkins Coie, a law firm that had ties to a dossier of opposition research against Trump that circulated during the 2016 campaign. The executive order barred the firm’s lawyers from federal buildings and directed the federal government to halt any financial relationship with the firm and its clients. That effectively forced Perkins Coie’s clients to pick between their lawyers or any federal government business they might have.

The move could cost Perkins 25 percent of its revenue, the firm said in a court filing contesting the executive order. It said that several clients have already departed the firm, others have said they are thinking about it, and federal agencies were excluding it from key meetings with its clients.

“It sends little chills down my spine,” U.S. District Judge Beryl A. Howell said in court as she granted Perkins Coie a temporary restraining order this month and suggested the executive order might have been unconstitutional. Another major law firm, Williams & Connolly, one of the most skillful and aggressive federal litigators, agreed to take the Perkins Coie case.

Howell said she had “enormous respect for them taking this case when not every law firm would.”

In a filing last week, the Justice Department sought to remove Howell from the case, accusing her and her court of being “insufficiently impartial.”

And even after Howell’s ruling, Trump’s campaign against lawyers broadened when he issued a nearly identical executive order targeting Paul Weiss, a law firm that employed lawyer Mark Pomerantz for two decades before he joined the Manhattan district attorney’s office to help prosecute Trump for hush money payments to a porn star.

Rather than fighting, Paul Weiss cut a deal with the president, even though it had a long track record of aggressive legal action against Trump’s agenda during his first term. Paul Weiss Chairman Brad Karp met for three hours with Trump at the White House, then agreed to devote $40 million worth of pro bono work “to support the administration’s initiatives,” Trump said in a post on Truth Social, including work for veterans and combating antisemitism.

The president rescinded the order against the firm Thursday.

Paul Weiss has faced significant blowback for its decision to back down, including from some lawyers who said that its settlement emboldened Trump to proceed Friday with the directive for Bondi to pursue the far vaster campaign against all lawyers who might challenge him in federal court.

“Paul Weiss’s deal emboldened him to ratchet up his attack on one of the strongest checks on his power: lawyers and the rule of law,” Perkins Coie partner David Perez wrote on LinkedIn.

The chilling effect has been quick. Some nonprofits say that major law firms that in Trump’s first term would have been quick to assist them with pro bono work now say that they can’t risk the cost if Trump goes after them as a result. Many of those same groups are worried that the administration will soon go after their nonprofit tax status — and that they won’t be able to find high-powered lawyers to contest it.

Although not every lawyer is likely to be cowed by Trump’s actions, the major corporate law firms that the president has targeted have a core role in the U.S. legal system. Complex litigation can require vast resources: experienced lawyers versed in the arcana of case law, platoons of paralegals doing research across thousands of pages of evidence, and the stamina to go toe-to-toe with the unparalleled legal resources of the federal government.

Big law firms, best known for deep-pocketed corporate clients, often lend their assistance free to small nonprofits shepherding public interest cases through the courts. They have also been willing, historically, to take on clients who are facing prosecution that they charge is politically motivated. Much of the litigation against Trump’s actions in the first term was driven by the big law firms that he is now targeting.

“If somebody’s been deported to Guantánamo, it used to be law firms would support us and work on it,” said the director of one nonprofit organization that works on different legal challenges to Trump’s agenda. “And now it’s a slower process of getting those approvals, versus just doing what would be done before, which is, ‘This is wrong, and we’re going to represent it.’”

That person and others spoke on the condition of anonymity for fear of retaliation from the administration.

Trump’s campaign against the law firms could deprive his opponents of top legal talent, weakening their ability to push back on him, analysts say. And individuals and groups that are taking risks by working against the administration’s agenda may also be deeply vulnerable, forcing them to make difficult choices about when to take a stand against him and when to stay silent.

“We’re telling [small nongovernmental organizations] with three people on the border to stand strong, and they are standing strong, and then these law firms are folding,” said one lawyer at a nonprofit who works on immigration cases.

Trump on Friday said in a memorandum that lawyers aren’t supposed to file lawsuits or engage in court action unless there is “a basis in law” that is not “frivolous,” suggesting that he and Bondi, not courts, would be in charge of determining what that is.

**Trump can limitlessly suppress unions while litigation is pending.**

Andrea **Hsu 9/1**, Andrea Hsu: Labor and Workplace Consultant, NPR, “How Trump Is Decimating Federal Employee Unions One Step at a Time,” NPR, 09/01/2025, NPR, https://www.npr.org/2025/09/01/nx-s1-5515633/trump-federal-workers-labor-unions-va //EP

The Department of Veterans Affairs was ending nearly all of its collective bargaining agreements. The agency gave labor unions just days to get out of federal buildings.

"We went in on the weekend, and we emptied our office space," says Fornnarino, an outpatient surgery nurse at the Rocky Mountain Regional VA Medical Center outside Denver, where she's also local director for National Nurses United.

Federal employees have had the right to join unions and collectively bargain over working conditions since the 1960s. Unlike private sector workers, government employees cannot negotiate wages or strike. But through collective bargaining, they do help shape disciplinary procedures, parental leave policies, how overtime is managed and much more.

Giving workers a say in workplace policies, the thinking goes, leads to less friction in the workplace and more effective government.

But President Trump has abandoned that idea. Instead, he's argued that federal employee unions pose a danger to the country. In March, he issued an executive order ending collective bargaining rights for more than 1 million federal workers at about 20 federal agencies. Almost immediately, many agencies halted automatic deductions of union dues from employee paychecks, cutting off a critical source of cash flow to the unions. Just ahead of Labor Day, Trump issued a new executive order, adding about a half dozen agencies to the list.

Unions have filed lawsuits, alleging Trump is retaliating against them for opposing parts of his agenda. Lower courts temporarily halted the March order; the government appealed.

Two appeals courts then said the Trump administration could move forward while litigation continues, citing the president's unique responsibility for protecting national security. In their rulings, the judges noted that the Trump administration had told agencies not to terminate collective bargaining agreements while litigation was pending.

But last month, the administration sent agencies updated guidance, telling them they could go ahead with terminating most union contracts — just not those with the National Treasury Employees Union, due to ongoing litigation. To date, nine agencies have canceled contracts, according to the American Federation of Government Employees.

**Circumvention takes this out. They have to go through the FLRA or MSPB first.**

**FEDWeek 8/19**, Don Mace: Founder, FedWeek; Former Beat Reporter on Capitol Hill; Elaine Lumsden: Contributing Editor, FedWeek; Former Federal Service Worker, Office of Workers' Compensation Programs; Founder, Federal Benefits Services, “Ruling on CFPB Job Cuts Could Affect Challenges to Other RIFs and Reorgs,” FEDweek, 08/19/2025, https://www.fedweek.com/fedweek/ruling-on-cfpb-job-cuts-could-affect-challenges-to-other-rifs-and-reorgs/. //EP

In a decision that could have wide implications for challenges to federal agencies RIFs and reorganizations, an appeals court has said that such a dispute—in this case involving the Consumer Financial Protection Bureau—must first go through the MSPB or FLRA channels rather than being brought directly into federal court.

“We hold that the district court lacked jurisdiction to consider the claims predicated on loss of employment, which must proceed through the specialized-review scheme established in the Civil Service Reform Act,” said the majority of a divided three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit.

The court lifted an injunction from a lower judge against personnel and other decisions announced early in the year, including a planned layoff of about eight-tenths of the agency’s workforce.

The lower judge had agreed with the NTEU union, the CFPB Employee Association and other organizations that the Trump administration was “engaged in a concerted, expedited effort to shut the agency down” contrary to the will of Congress, which had given it a mission and had appropriated money to carry it out.

The appeals court said the organizations were seeking “to redress injuries from agency decisions to fire employees. But a specialized-review scheme governs such claims and ousts the district courts of their arising-under jurisdiction . . . The CSRA permits federal employees to seek review of adverse personnel actions in the Merit Systems Protection Board (MSPB), which may grant relief including reinstatement, backpay, and attorney’s fees.”

Similarly, the FLRA has jurisdiction over labor disputes and “also may order reinstatement with backpay”—with decisions of both reviewable later in the federal courts, it said. It cited a U.S. Supreme Court decision holding that held that “the CSRA review scheme is exclusive even where the harmed employee contends that a governing ‘federal statute is unconstitutional.’ The same rationale controls here, where the claim is that an agency has violated the Constitution by disregarding federal statutes.”

The dissenting judge said it was unnecessary to consider that issue at all, saying that it was undisputed that at least one of the other organizations had standing to take the dispute to court. She added: “It will be cold comfort to Plaintiffs if they ultimately succeed on the merits in their challenge to the CFPB’s shutdown only to discover that Defendants have put the agency in a hole from which it can never fully recover.”

The NTEU union said the court “inexplicably paved the way for a widescale reduction in force and dismantling of operations at the Consumer Financial Protection Bureau . . . This decision could lead to widescale firings, which would result in the cessation of the Bureau’s important work protecting consumers.”

Federal unions generally have preferred bringing their challenges to Trump administration decisions in federal court, with many of those cases being brought in the federal district court for the District of Columbia—whose decisions are reviewed by the same appeals court. They view the MSPB or FLRA channels as serving to draw out a process that would result in them going to federal court in any event if they lost at that level.

In addition, the MSPB board currently lacks a quorum to hear appeals of decisions by its hearing officers. The FLRA has two members, split by party.