

June 6, 2025

Improving Performance, Accountability and Responsiveness in the Civil Service

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Comment submitted by: Judge Glock

Thank you for the opportunity to comment on the rule proposing a new Schedule Policy/Career and making other changes to the federal civil service. Based on my research on state civil service reforms, the proposed rule offers the opportunity to modernize and improve the federal civil service without the dangers of politicization or patronage that opponents fear.¹

Although discussions of this and other federal proposals have focused on lessons to be learned from past federal efforts, as regards to the civil service the states have performed their traditional function as laboratories of democracy and have engaged in many reforms that are relevant to the proposed rule. Most importantly, many states have limited or ended legal restrictions on the discipline or removal of state employees, ended the ability of state employees to appeal to an outside tribunal for discipline or removal, or moved to complete at-will employment. The evidence of these state-level reforms has generally been positive and there have been few if any examples of politicization that opponents of reform feared.

Starting in the 1990s, several states ended or sharply limited statutory protections for civil service employees. In 1996 Georgia's Democratic Governor Zell Miller noted the existing civil service law did not reward merit and "only provides cover for bad workers." The Georgia legislature soon passed an act that made every state employee hired after July 1, 1996 at-will.² Florida's legislature in 2001 passed the Service First reform, which put a large number of higher-ranking state workers

¹ See Judge Glock and Renu Mukherjee, "Radical Civil Service Reform is Not Radical: Lessons for the Federal Government from the States" Manhattan Institute Research Report, March 2025.

² John Walters, "Life After Civil Service Reform: The Texas, Georgia, and Florida Experiences," IBM Endowment for the Business of Government, October 2002.

into the at-will Selected Exempt Service, and followed that law up with further reforms in later years.³ Utah in the early 2000s increased the number of at-will employees and they became more than a third of the total workforce.⁴

More states began removing traditional civil service protections in the 2010s. In 2011 Indiana increased the number of their employees in the unclassified or at-will employment and now the state says that at-will is the general doctrine of state employment.⁵ In 2012 and 2015 Arizona and Kansas, respectively, ended civil service protections for new hires. At-will employees quickly became the majority of both states' workforces.⁶ Other states, such as Tennessee, have made more modest reforms in the same direction towards loosening restrictions on discipline and removals. Texas is exceptional in that it has never had a formal civil service system and has long operated with at-will employment.⁷

The increased state adoption of the at-will employment doctrine shows that more and more states believe that what were once experiments in the early reform states have proven successful. Although it is difficult to get precise measures of public sector productivity, the available academic and other evidence suggests these states are right to suppose that the reforms have had positive outcomes. A comprehensive 2013 survey of human resources directors in six states found that after reforms "managers' attitudes are mixed, but they are more likely to register agreement with positive assessments of at-will employment than negative assessments."⁸ A recent survey of 214 public human resource professionals found those in at-will states rated their management

³ Sarah Harney, "Civil Service Tsunami," *Governing*, Oct. 27, 2010.

⁴ Office of the Legislative Auditor General, "A Limited Review of the State's Career Service System," Report to the Utah Legislature No. 2010-08, July 2010.

⁵ Caroline Cournoyer, "Civil Service Reform: Lessons from Georgia and Indiana," *Governing*, June 8, 2012; Indiana State Personnel Department, *State of Indiana Employee Handbook*, July 2018.

⁶ Caroline Cournoyer, "Civil Service Reform Passes in 3 States," *Governing*, June 12, 2012; Debra K. Davenport, "Arizona Department of Administration: Department Should Complete Personnel Reform Implementation and Strengthen Workforce Planning Statewide," *Performance Audit Report No. 15-108*, September 2015; Steven Wu, "Kansas Legislator 2020 Briefing Book: State and Local Government, J-7 State Employee Issues," 2020.

⁷ See Glock and Mukherjee, "Radical Civil Service Reform is Not Radical"

⁸ Jungin Kim and J. Edward Kellough, "At-Will Employment in the States: Examining the Perceptions of Agency Personnel Directors," *Review of Public Personnel Administration* 34, no. 3 (April 11, 2013): 218–36

capacities higher than those in traditional civil service states in all major areas affecting the quality of the service, namely, recruitment, hiring, promotion, and retention.⁹

Direct reports from managers in reformed states have been generally positive. Indiana's state personnel director found that formal complaints by employees went down in the year after the state's reform while "[a]gency performance [was] up in almost every category, including customer service and teamwork."¹⁰ Florida's head of personnel for the Department of Transportation, who had been in his position for decades before the reform, said that the reform was the best thing that ever happened to personnel administration in Florida.¹¹

Many opponents of state-level reforms were concerned with the possibilities of a more politicized workforce. Yet a 2002 study of Texas, Georgia, and Florida found "no convincing evidence presented of widespread, systemic abuse in any of the three states' analyzed." Georgia continued to allow employee litigation for removal for non-justifiable reasons such as politics, but they did not report a single lawsuit for improper firing in the five years after 1996.¹² A survey of state-level human resource professionals in Texas noted that 88 percent could not even "think of an instance" in which politics or connections influenced personnel decisions in any way, which means the overwhelming majority had never encountered such influence themselves or even had heard of such influence in other departments.¹³

The general absence of complaints about politicized removal in these reform states is itself telling. One would expect that with hundreds of thousands of state civil servants now operating in at-will positions, the press would report widespread examples of politicized, patronage, and turnover after elections. Yet there have been no systematic reports of abuse that I am aware of in the reformed states.

Some may argue that the frequent political turnover at the federal level would make politicized removal at the federal level more likely. Yet at-will states such as Georgia and Texas have seen

⁹ Angela Lauria-Gunnink, "Civil Service Merit and Employment at Will Personnel Systems: The Role of Transformational Change Leadership in Public Sector Recruitment, Hiring, Promotion, Retention, and Succession Planning," Dissertations 587 (April 2024)

¹⁰ Caroline Cournoyer, "Civil Service Reform: Lessons from Georgia and Indiana," *Governing*, June 8, 2012.

¹¹ Sarah Harney, "Civil Service Tsunami," *Governing*, Oct. 27, 2010.

¹² John Walters, "Life After Civil Service Reform:

¹³ Jerrell D. Cogburn, "The Benefits of Human Resource Centralization: Insights from a Survey of Human Resource Directors in a Decentralized State," *Public Administration Review* 65, no. 4 (July 2005): 424–35.

complete partisan turnovers in government with no substantial complaints of abuse. Furthermore, the Policy/Career reform is far more modest than those created in many states, many of which have ended not just formal protections against removal but formal hiring procedures and given managers almost complete discretion to hire as they see fit.

The evidence from the states is clear. Reducing or removing traditional civil service protections from employees tends to improve performance and does not give rise to widespread politicization or patronage. The federal government can learn from the lessons of the states and move in the direction that most of the country is moving, which is to treat public sector workers more like private-sector workers and to make sure those in policy-influencing positions in particular can answer the highest requirements of efficiency and service.

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