

# POLICY *focus*

RECIPES FOR RATIONAL GOVERNMENT

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## Civil Service Reform

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### Introduction

Today, 2.8 million people make up the civilian federal bureaucracy, and most cannot be fired, even for criminal activity, without a process akin to a civil trial with multiple appeals that can last years.

Some say the job security they enjoy is crucial to maintaining a government staff that is efficient, professional, and apolitical. The importance of maintaining these qualities in the federal workforce was the reasoning behind the first protections enacted in the 1880s, and they remain the primary arguments in favor of preserving those protections today. But the reality is that the civil service these protections have produced is neither efficient in carrying out its duties, nor immune to politics. Government efficiency is a joke, and with 95 percent of political donations from federal employees going to Hillary Clinton in the 2016 presidential election, the only places more **politically skewed** than the agency workforce are university faculty lounges and Hollywood awards ceremonies.

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Our government has become dysfunctional and unresponsive to the voters, breeding scandals both of inexcusable incompetence (at the VA) and of political weaponization (at the IRS).

The calcification of civil service protections is an under-reported cause of many of our government's ills. Civil service reform—making working for the government more like working for any other employer—will improve efficiency, reestablish fairness to the American taxpayer, and restore some semblance of Constitutional governance, bringing us closer to a republic actually of the people, for the people, and by the people.

## Why You Should Care

It is incredibly difficult to fire federal employees, even for egregious misconduct. This has created a permanent class of bureaucrats with enormous power over everyday Americans, but no accountability to the people for their performance.

- **Highly Political:** Agency bureaucrats are not neutral or balanced, but have a strong political perspective. Ninety-five percent of federal employee donations overall (and 99 percent in the State Department) went to the Democratic candidate in the 2016 presidential election.
- **Permanent:** Ronald Reagan once quipped that the closest thing on Earth to eternal life was the endurance of a government bureau, and those who staff those bureaus are only slightly less everlasting. Just a small fraction of a percentage of federal employees are dismissed, even fewer if an employee makes it past the first year probationary period.
- **Unaccountable:** Unlike politicians, agency employees who make important policy decisions never have to stand for election. While the tiny number of political appointees at the top are accountable to the president, the vast majority of federal workers are so insulated by job protections that they are free to consistently underperform or even to openly defy direction from their supervisors.

## Background

Our civil service hasn't always been a ticket to a job for life, regardless of performance. When Congressmen in 1883 debated and passed the Pendleton Act, the first of many civil service protections, they did not foresee the existence of the system we now have in place, where federal employees get two civil trial-style appeals, including an equivalent "discovery" process and the calling of friendly coworkers as witnesses, over the course of what often stretches into years.

This situation, where the federal government serves the needs of the American people neither quickly nor impartially, cannot continue. Reform is needed for three reasons: to improve efficiency, to bring job protections and compensation more fairly in line with the average taxpayer's, and to restore the link of accountability between citizens of the United States and the civil servants who supposedly attend to their interests.

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## Efficiency

No one ever accused the federal bureaucracy of efficiency; to the contrary, the slowness with which the government executes even simple tasks can only be called legendary. Civil service laws contribute strongly to the particular incompetencies of our system.

It takes a *minimum* of 170 days, and often well over a calendar year, to fire a federal worker for poor performance. That doesn't count the years of negative evaluations that take time and effort from a manager to document, nor does it take into account the appeals that usually follow a dismissal verdict, which themselves can take another year **or even two**.

There are two separate processes an agency can follow, each with its own onerous pathway to dismissal, documented on a 12-step or more **flowchart**. The process is so ridiculous that a 2013 Government Accountability Office (GAO) **report** admits that many supervisors choose to ignore consistently poor-performing employees rather than go through it.

Only 0.18 percent of federal employees were dismissed the year of the GAO report, most of them during their one-year probationary periods during which many of the legal protections do not apply. That means fewer than two in a thousand employees are dismissed for performance. Most Americans who have had to deal with government agencies likely remain skeptical that 99.82 percent of the bureaucracy is performing up to snuff.

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No one is more irritated at the state of affairs than hardworking government employees, who watch their colleagues free ride for the same pay. Fewer than a third of federal employees say their offices are doing a good job of **disciplining poor performers**.

A CBS **report** estimated that the inability to fire poorly-performing workers costs American taxpayers hundreds of millions of dollars every single week. And that estimate doesn't include the cost, financial or otherwise, when one of those employees does something truly disastrous.

Many candidates for office, including then-candidate Donald Trump, like to say they will run the government more like a business, but no business could possibly stay afloat without the ability to fire incompetent, insubordinate, lazy, or otherwise poorly-performing employees.

## **Fair Compensation**

The traditional “deal” of federal (or other state) employment has been that while salaries were lower than the private sector, the job protection and other benefits were higher. Strong employee protections were justified by their necessity for recruitment; agencies needed job security to offer competent potential employees competitive packages to lure them out of the private sector.

But if this analysis was ever true, it is not today. When all forms of payment are taken into account, government employees are compensated *more* highly than people with comparable credentials and experience **in the private sector**. Average government salaries are now higher than those of the taxpayers paying them, and the byzantine network of job protections are no longer needed in order for agencies to compete for talent.

Between the years of 2011 and 2015, federal employees received an average of **17 percent** more in total compensation than their comparable private-sector counterparts. Furthermore, the millions of federal employees, concentrated (although not exclusively) in Washington, D.C., have become their own interest class. They've created a consistent lobbying effort on behalf their own interests: increased compensation and continued agency growth. They're such a powerful force that ads appealing specifically to federal employees often appear on the D.C.

metro. When government employees can effectively lobby the government itself for ever-increasing benefits, it's hard to think of them as civil "servants" who carry out the people's will, rather than an important and powerful political constituency of their own.

## Democratic Accountability

It's become *de rigeur* during changes of administration to speak of "landing teams," as though the incoming president is at the head of an invasion. The truth that Washington insiders know, but of which most of the country is unaware, is that switching the occupant of the Oval Office is more akin to swapping out a dinghy-sized rudder on the Titanic-sized ship of state, with most permanent bureaucrats continuing course much as they did before the election.

In the case of Republican administrations, particularly an unorthodox outsider like Donald Trump, it's more like landing in hostile territory. After the 2016 election, federal employees openly declared their intention to "resist from within," by stymieing and slow-walking his administration's attempts at a policy agenda.

Workers whose salaries are footed by the American voters who elected Donald Trump have consulted with their former Obama administration bosses, leaked agency information, and even openly gathered at workshops to swap tales and tips for disobedience. Secretly-recorded videos reveal a federal workforce that has no qualms about admitting that they can undermine the new administration without fear of losing their jobs. One State Department employee **said openly**, "I have nothing to lose. It's impossible to fire federal employees."

President Trump is sometimes cheered, and sometimes mocked for talking about a "deep state," but swampy government insiders don't have to trade dossiers or engage in James Bond-esque espionage to undercut an elected administration. Instead, an overwhelmingly left-leaning civil service that stays in office regardless of ballot returns simply waits out the clock on a president's four- or eight-year term.

Regardless of whether the president in office is Donald Trump or Barack Obama, the expectation in a Constitutional republic is that the people's choice will guide the policy agenda of the federal government for the next four years. Civil service reform won't just make the government function more efficiently; it's critical to preserving the voice of the American people in Washington, regardless of what message they want to send.

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## Solutions

The professional civil service was built over the course of more than a century, and it will likely take more than a single reform attempt to reverse course. However, there are intermediary steps between the current system and a fully at-will workforce that would improve accountability.

Congress could shorten the amount of time for the dismissal procedure from more than a year to something more reasonable, like a calendar month, and cap appeals similarly. These are among the steps urged by the MERIT Act, which was introduced in 2017.

Similarly, in the wake of the terrible Veterans' Affairs scandals that kept veterans waiting an average of 115 days for doctors' appointments in some regions, and even left some infected with serious diseases due to **inadequate medical hygiene**, Congress finally passed some moderate reforms to the VA hiring and firing process. The **VA Accountability Act**, which passed with bipartisan support in 2014, made it somewhat easier to dismiss or demote employees who act negligently in their duties or falsify records. Similar reforms could be extended to the entire federal workforce, agency by agency.

Finally, while serious reforms require Congressional action, the Trump administration has acted within the power of the executive, doing what they can to expedite the dismissal process. Last summer, President Trump signed a **trio of executive orders** that somewhat streamlined the dismissal process for poor performers, as well as cut back on the practice of paying employees for time spent working for the union. The fate of those executive orders however, like so many other Trump administration actions, is currently facing a challenge in federal court.

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## Conclusion

Reforming the civil service will be a difficult task. No matter how terrible the outcomes, the inertia of the status quo, which has been built upon since the 1880s, will make common-sense solutions, like having federal employees work under contracts closer to what the average American in the private sector does, seem radical.

In his 2017 State of the Union address, President Trump called on Congress to change the law so that supervisors would have “the authority to reward good workings and to remove federal employees who undermine the public trust or fail the American people.” Under our current civil service laws, this basic promise is completely unachievable.

But if we succeed in reforming the civil service, the reward will be deeper than merely improving the efficiency of the federal government. When agency employees are treated like every other worker in America, we will be restoring the Constitutional order, under which government employees work for the American people, rather than the other way around.

## What You Can Do

### Get Informed

Learn more about civil service policy reform at:

- [American Legislative Exchange Council](#)
- [Governing Magazine](#)
- [Independent Women's Forum](#)

### Talk to Your Friends

Help your friends and family understand these important issues. Tell them about what's going on and encourage them to join you in getting involved.

### Become a Leader in the Community

Get a group together each month to talk about a political/policy issue (it will be fun!). Write a letter to the editor. Show up at local government meetings and make your opinions known. Go to rallies. Better yet, organize rallies! A few motivated people can change the world.

### Remain Engaged Politically

Too many good citizens see election time as the only time they need to pay attention to politics. We need everyone to pay attention and hold elected officials accountable. Let your Representatives know your opinions. After all, they are supposed to work for you!

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Independent Women's Forum (IWF) is dedicated to building support for free markets, limited government, and individual responsibility.

IWF, a non-partisan, 501(c)(3) research and educational institution, seeks to combat the too-common presumption that women want and benefit from big government, and build awareness of the ways that women are better served by greater economic freedom. By aggressively seeking earned media, providing easy-to-read, timely publications and commentary, and reaching out to the public, we seek to cultivate support for these important principles and encourage women to join us in working to return the country to limited, Constitutional government.

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