



Erica Frantz's Public Comment on OPM's Proposed Rule: "Improving Performance, Accountability and Responsiveness in the Civil Service"

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I am writing to express my concerns with the Office of Personnel Management's (OPM) proposed rule change to the terms of civil service employment (RIN 3206-A080). I am a professor of political science and an expert on authoritarianism and democratic backsliding. In my assessment, this change – if approved – will have a number of negative consequences, namely weakening the quality of the bureaucracy and undermining the checks and balances that are the hallmark of America's healthy democracy.

The proposed rule will enable policy-influencing positions to be moved to Schedule Policy/Career. This means that these positions will be at-will, so that civil service employees can be quickly removed from their posts and without the right to appeal. The justification for the rule change is that it will increase career employee accountability, by making it far easier for agencies to remove employees for poor performance or misconduct. The rule change also states that it will prevent civil service employees from undermining "the democratic process by intentionally subverting Presidential directives."

Though the proposed rule change purports to improve the quality of the bureaucracy – by enabling agencies to dismiss employees with greater ease – its drawbacks are very serious and would in fact work to undermine democratic accountability.

A well-functioning bureaucracy is an organization of highly qualified civil servants committed to following established rules, ensuring they are adhered to, and preventing abuses of power. Bureaucracies, in this way, are an important executive constraint. Though we may traditionally think of key checks to the power of the executive lying in the legislative and judicial branches, the bureaucracy – through its oversight and policy implementation roles – in practice also serves a similar function.

Constraints on executive powers are the backbone of any healthy democracy. They are what separate democracies from authoritarian systems, where leaders can implement the policies of their choosing absent institutional restraint.

To maintain the intricate system of checks and balances that has sustained American democracy for so long, preserving the ability of the bureaucracy to function in this fashion is therefore essential. It is for this reason that a key trend observed in democracies around the globe that have eroded and ultimately slid to authoritarianism is rule changes that politicize the bureaucracy and give the leadership group greater control of it. In backsliding democracies worldwide, we see the leadership shuffle the personnel of agencies, create new ones, or limit their capacity for oversight.

Greater executive control over the bureaucracy is used in these contexts as a tool for governments to reward their supporters, in worst-case scenarios by opening up vast opportunities for corruption due to the absence of government oversight. Consistent with these assertions, empirical research on democratic backsliding has illustrated using cross-national data from all the world's democracies since 1990 that interventions that politicize the bureaucracy are one step of a larger process in which incumbents consolidate power and dismantle democracy from within.

Regardless of the motivation for the proposed rule change, its practical consequence would be harmful to democracy – given the patterns we have witnessed in other countries around the world. For example, similar changes were implemented in Benin under Patrice Talon and Hungary under Viktor Orbán, ultimately setting the stage for them to expand executive powers and dismantle democratic institutions of accountability. The proposed rule change would give the leadership substantial control over the personnel that fills the bureaucratic ranks, therefore setting the stage for these broader downstream consequences that would threaten the health of American democracy and its intricate system of checks and balances.

Moreover, these changes would deteriorate the quality of the bureaucracy. They would open the door for civil servants to be hired and fired based on political loyalty rather than relevant experience. In comparative politics research, there is good evidence that where loyalty to the executive is prioritized and purges can happen at a moment's notice, we ultimately see a bureaucracy where individuals grow fearful to stand up to abuses of power, limiting the ability of the bureaucracy to fulfill its intended role.

For these reasons, I strongly recommend that this rule change not be implemented. Should it be approved, it would work to deteriorate the quality of the bureaucracy while also weakening checks and balances that are the backbone of and have helped sustain America's healthy democracy.