



ACE: The Civil Service System: A Foundation of Good Government

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Note: This is a correction to our previous newsletter - the section on the Hatch Act was inadvertently omitted.

Purpose of the Civil Service System: A Foundation of Good Government

The civil service system exists to protect and serve the public. It ensures that individuals in similar situations are treated equally, services are delivered competently, and laws are executed with integrity, free from favoritism. Civil servants are expected to perform their duties with fairness and without fear or political influence.

The civil service helps elected and appointed officials faithfully execute laws consistent with their oaths of office to “preserve, protect and defend the Constitution of the United States” *US Constitution, Article II, Section 1, Clause 8*, Oath of Office for the Presidency.

US Constitution, Article VI, Clause 3, Oath of office of “The Senators and Representatives before mentioned, and the Members of the several State

Legislatures, and all executive and judicial Officers, both of the United States and of the several States...to support this Constitution”.

Wisconsin. Constitution, Article IV, Section 28, Oath of office of “Members of the legislature, and all officers, executive and judicial ... to support the constitution of the United States and the constitution of the state of Wisconsin, and faithfully to discharge the duties of their respective offices to the best of their ability.”

Merit-Based Recruitment, Selection, Retention and Advancement

United States:

Since 1883, the United States has operated under a merit-based civil service system, aimed at hiring and retaining employees based on qualifications, competition and examinations, rather than political connections. However, recent political developments have raised concerns about the future of this system and return to a corrupt spoils system.

Former President Trump failed to maintain a quorum on the Merit Systems Protection Board and expanded the use of political patronage, introducing a controversial broad new category of civil service employment known as Schedule F. Under this plan, many civil service positions could become vulnerable to political influence, eroding the merit-based system. In fact, the Heritage Foundation Project 2025 has now created a private screening system to introduce nepotism, political affiliation and patronage into the merit based classified civil service system.

The 922-page Project 2025, Presidential Transition Project plan https://static.project2025.org/2025_MandateForLeadership_FULL.pdf itself outlines a dramatic expansion of presidential power to replace as many as 50,000 government workers with patronage loyalists. See pages 69 to 83 of the Project 2025 document, especially pages 80 to 83. The plan also calls for the elimination of federal employee unions, and for fully staffing the ranks of political employees, under the guise of

reforming the so-called bureaucracy. Recall that in the last days of the Trump Presidency, on October 21, 2020, then President Trump issued Executive Order 1395724 (85 FR 67631) —Creating Schedule F in the Excepted Service to make career professional positions an exception to the competitive hiring rules. It ordered the Director of the Office of Personnel Management [OPM] and agency heads to prepare lists and procedures to create exceptions from civil service merit selection, advancement and retention rules. This is the Spoils system, that had positions expire with the elected incumbent so the successor could replace them with loyalists, and how that led to incompetence and corruption. We tried it, it didn't work.

Wisconsin:

Wisconsin's merit-based civil service system has been in place since 1905. However, recent changes have weakened its effectiveness. 2011 Act 10 undermined public worker unions, and despite assurances from former Governor Walker, the Legislature has made further moves to erode the civil service system under 2015 Act 150. Political appointments have increased, human resources have been centralized, and protections for established just cause discipline has been abolished. But failure to adhere to civil service merit principles can result in legal action, with Wisconsin law allowing taxpayers to sue to prohibit compensation for improperly appointed civil servants and officials [Wis. Stat. 230.43(5), *Association of Career Employees v. Klauser*, 536 N.W.2d 478, 195 Wis.2d 602 (Ct. Appeals 1995, Final Disposition)]

Restrictions on Political Activity: The Hatch Act: Safeguarding Political Neutrality

United States:

The Hatch Act, enacted in 1939, limits political activities of federal employees and protects them from political coercion in the workplace. The federal Hatch Act also applies to State and Local government employees who work in connection with federally funded programs. 5 USC 1501(4) It also ensures that civil service promotions are based on merit, not political affiliation. Recent developments include a change by the Office of Special Counsel (OSC), which now allows cases involving Hatch Act

violations by White House staff to be brought to the Merit Systems Protection Board for adjudication rather than relying on presidential intervention. See 5 USC 7321 to 7326.

Wisconsin:

Wisconsin's version of the Hatch Act (Wis. Stat. 230.40) prohibits soliciting or receiving political contributions while on state time and engaging in partisan political activity during working hours. Violations can lead to dismissal. These restrictions apply to all state employees, including political appointees. Other applicable statutes include Wis. Stats. 11.1207 and 19.41, 19.42, and 19.45. The prohibitions are also listed in the Wisconsin Employees Handbook and Section 4.7, DPM-0433-MRS.

Civil Service Protection from Retaliation and Intimidation: Shielding Public Integrity

United States:

It is clear that there was a lack of public civil servant protection during the Trump Era 20 JAN 2017 to 21 JAN 2021. Recall the courageous action of well-known career civil servants Lt. Col. Alexander Vindman as Director for European Affairs for the United States National Security Council during the Ukraine investigation, and the testimony of Fiona Hill, senior director for Europe and Russia, who was Lt. Col. Alexander Vindman's supervisor, and remember former Ambassador to Ukraine, Marie Yovanovitch, and don't forget Chris Krebs, Director of the Cybersecurity and Infrastructure Agency [CISA], the most senior cybersecurity official responsible for securing the presidential election. as well as many other lesser-known key civil servants in the Department of Justice who stood firm during critical moments, such as during the January 6th insurrection, or by answering a subpoena and testifying to Congress, or simply doing their jobs. Many of them, including Lt. Col. Vindman and his brother, suffered totally unacceptable retaliatory action by former President Trump for only doing their duties as military officers, government officials and public servants. This treatment cannot be tolerated. Consider those who violated the law and were lawfully convicted but were pardoned by then President Trump. Nepotism was

obvious in the White House. Former President Trump completely emasculated the public civil service protection offered by the Merit Systems Protection Board by failing to appoint a quorum to the Board. Lower-level civil servants, Inspectors General and local election officials were intentionally intimidated. Patriots share universal values to which our nation aspires. Patriots believe in truth. Patriots vote.

Wisconsin:

There are statutory protections from retaliation against Wisconsin civil servants in Wis. Stats. 230.445, 230.83 and 230.90. We are fortunate to have laws in Wisconsin that are enforced. Justice without force is a myth. Laws are infrastructure. They should be well maintained and improved.

Conclusion

The civil service system is designed to ensure a professional, competent, and non-partisan workforce dedicated to serving the public good. There are emerging threats to civil service neutrality including current proposals like Project 2025 and Schedule F, along with political screening efforts, that challenge the principles that have long safeguarded this system. Policymakers and the public must carefully consider these challenges that risk politicizing a system that should operate above partisan divides. It is in the interest of all to preserve a civil service system that remains rooted in merit, neutrality and integrity. This primary purpose of civil service has remained constant throughout the various historical movements that have changed and shaped civil service over the last 200 years. By maintaining these foundational principles, we can ensure that our civil service continues to serve the public interest

Preamble to the Constitution of the United States "We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."

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