SCHEDULE POLICY/CAREER

- Formerly “Schedule F”
- Removes civil service protections from “policy-making” government jobs, making them at-will.
- Further politicizes the Civil Service.
- FINAL RULE issued 2/6/2026; effective 3/8/2026.

WHAT CHANGES?

Employees moved to (or hired into) Schedule P/C

- Lose their right to appeal removals for misconduct or poor performance to MSPB: they are at-will employees;
- Lose their right to bring claims of prohibited personnel practices, like whistleblower reprisal or political discrimination, to OSC.

Exploits existing exception to civil service rules

Exception to Civil Service regulations has long been made for those "**whose position is determined to be of a confidential, policy-determining, policy-making or policy advocating character**" by the President or by OPM.

- See 5 USC § 7511(b)(2) (defining "employee" to exclude these excepted employees)

Non-career Political Appointments

Prior to Schedule P/C, "confidential, policy-determining, policy-making, or policy-advocating" applied to "narrow category of noncareer, political appointments that are identified by "a close working relationship with the President, head of an agency, or other key appointed officials who are responsible for furthering the goals and policies of the president." 5 C.F.R. § 210.102(b)(3), (b)(4). NTEU v. Trump, (D.D.C 1:25-cv-00170), Complaint ¶ 17.

Non-career Political Appointees

The legislative history of the Civil Service Reform Act (CSRA) confirms that "confidential, policy-determining, policy-making, or policy-advocating employees" means only noncareer, political appointees. See S. Rep. No. 95-969, at 48 (1978), reprinted in 1978 U.S.C.C.A.N. 2723, 2770 (describing confidential, policy employees as "appointments confirmed by the Senate").*NTEU v. Trump*, (D.D.C 1:25-cv-00170), Complaint ¶ 18.

Non-career Political Appointees

Merit Systems Protection Board precedent and related statutes reinforce this interpretation. *See O'Brien v. Office of Indep Counsel*, 74 M.S.P.R. 192, 206 (1997) (confidential, policy employees is "a shorthand way of describing positions to be filled by 'political appointees'") (citing *Special Counsel v. Peace Corps*, 31 M.S.P.R. 225, 231 (1986)); 5 U.S.C. § 9803 (defining "political appointee" as including individuals in "confidential, policy-determining, policy-making or policy-advocating" positions).). *NTEU v. Trump*, (D.D.C 1:25-cv-00170), Complaint ¶ 19.

Schedule P/C Career Employees

Under Schedule P/C, "confidential, policy-determining, policy-making, or policy-advocating" is enormously expanded to include career civil servants (both competitive and excepted service), who are so designated by the President or OPM and moved to Schedule P/C where they will lose their adverse action due process rights under Chapter 75 and 43 and lose their right to appeal PPPs to OPM. *See* Final Rule, 5 C.F.R. § 210.102(b)(3), (b)(4).

New Regulations

- Create new Schedule P/C (between Schedule E and G). 5 CFR part 213 (excepted service) for career positions in confidential, policy-determining, policy-making, or policy-advocating character (clarifying Schedule C is for non-career (i.e. political) appointments).
- Amend 5 CFR part 210 to remove April 2024 changes that associated "confidential, policy-determining, etc." with non-career positions only. (also amends 5 CFR 213.3301, 02.101, and 451.302)
- Amend 5 CFR part 752 (Adverse Actions) and 5 CFR part 432 (Performance Based actions) to provide that persons whose positions are reclassified as Schedule P/C are not covered by Chapter 75 or 43.

New Regulations (con't)

- Amend 5 CFR Part 212 (Competitive Service and Competitive Status) to provide that competitive service employees with competitive status who are moved to excepted service positions are no longer in the competitive service, although they may retain competitive status.
- Amend 5 CFR part 302 to remove procedural requirements on the movement of positions into Schedule P/C (including the right to appeal movement of position to MSPB). Previously a competitive service employee with competitive status who was involuntarily moved to an excepted service position could appeal the move to the MSPB and would retain their rights under Chapters 75 and 43.

Excluded from 5 USC § 2302

- (B)"covered position" means, with respect to any personnel action, any position in the competitive service, a career appointee position in the Senior Executive Service, or a position in the excepted service, but does not include any position which is, prior to the personnel action—
  - (i)**excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character**; or
  - (ii)excluded from the coverage of this section by the President based on a determination by the President that it is necessary and warranted by conditions of good administration;

Agencies must establish rules prohibiting same PPPs prohibited by 5 USC 2302(b)

- E.O. 13957 Section 6(a).
- But Schedule P/C employees have no access to OSC.

PROCESS FOR CLASSIFYING POSITIONS FOR SCHEDULE P/C

- Agencies identify positions;
- OPM approves (and retains full discretion for process of defining and identifying positions for inclusion);
- Presidential EO expected (after March 6) to transfer the positions to the new schedule.

OPM GUIDANCE FOR CLASSIFYING P/C POSITIONS

- Positions of a "confidential, policy-determining, policy-making, or policy-advocating character."
- Substantive Participation in: policy; drafting of regulations or guidance; directing organizational unit or held accountable for success unit or program; conducting union negotiations; representation of agency before governmental bodies (e.g. legislative affairs)
- Authority to bind agency; discretion in grantmaking; budget; publicly advocating for policies; addressing media.

OPM GUIDANCE FOR CLASSIFYING P/C POSITIONS

Also includes potentially non-policy, non management positions:

- "monitoring progress toward organizational goals and periodically evaluating and making appropriate adjustments to such goals"
- "drafting of funding opportunity announcements, evaluation of grant applications, or recommending or selecting grant recipients"
- "performing functions typically undertaken by an agency office of legislative affairs or intergovernmental affairs"
- "presenting program resource requirements to examiners from OMB in preparation of the annual President's Budget Request"

OPM GUIDANCE FOR CLASSIFYING P/C POSITIONS

Most problematic: (from Trump's 2020 EO13957):

- "**viewing, circulating, or otherwise working with** proposed regulations, guidance, executive orders, or other non-public policy proposals or deliberations generally covered by deliberative process privilege and either:
  - **directly reporting to or regularly working with** an individual appointed by either the President or an agency head who is paid at a rate not less than that earned by employees at Grade 13 of the General Schedule;
  - or working in the agency or agency component executive secretariat (or equivalent**)**"

SCHEDULES C, G AND P/C

OPM explains that P/C is for career employees.

Schedule C and (new) G are for non-career employees.

"Schedule Policy/Career positions are career positions in the excepted service filled using merit hiring procedures and with no involvement from the White House Office of Presidential Personnel. Unlike with political appointments, there is no expectation that Schedule Policy/Career employees personally support the President or leave office at the conclusion of his term." (OPM FAQ on Policy/Career).

BUT NOTE OTHER CHANGES TO HIRING RULES:

Hiring is now closely controlled by political appointees:

- Chief Human Capital Officers (CHCO), long restricted to career SES only can now be political appointees.
- Agency Strategic Hiring Committees, chaired, and often filled, by political appointees, are now required to approve the creation or filling of each vacancy within the agency.

SCHEDULE P/C REGULATIONS NOW

- Final Rule published 2/6; effective 3/8.
- Reportedly Agencies have already submitted lists of positions identified for Schedule P/C to OPM.
- (expected) EO will issue, placing designated positions in Schedule P/C.
- Employees will be notified of "changes to conditions of employment."

Challenging Schedule P/C

- National Treasury Employees Union v. Donald J. Trump et al. (D.D.C.) 1:25-cv-00170.
- Public Employees for Environmental Responsibility v. Donald Trump et al. (D. Md.) 8:25-cv-00260.
- American Federation of Government Employees, AFL-CIO and American Federation of State, County and Municipal Employees, AFL-CIO v. Donald Trump et al (D.D.C) 1:25-cv-000264.
- Government Accountability Project v. Office of Personnel Management (D.D.C.) 1:25-cv-00347.

Challenging Movement to Schedule P/C

- *New Regulations deny employees who are moved any right to challenge the move to Schedule P/C at the MSPB or through OSC.*

- However, MSPB has the authority to review OPM regulations. **5 USC 1204(f).**
- It may declare a regulation facially invalid or invalid as implemented by any agency in any policy or personnel action,
- **If it would require any employee to violate section 2302(b).**