

CIVIL SERVICE REFORM

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A DRAFT OF PROPOSED LEGISLATION TO REFORM THE
CIVIL SERVICE LAWS



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To the Congress of the United States:

I am transmitting to the Congress today a comprehensive program to reform the Federal Civil Service system. My proposals are intended to increase the government's efficiency by placing new emphasis on the quality of performance of Federal workers. At the same time, my recommendations will ensure that employees and the public are protected against political abuse of the system.

Nearly a century has passed since enactment of the first Civil Service Act—the Pendleton Act of 1883. That Act established the United States Civil Service Commission and the merit system it administers. These institutions have served our Nation well in fostering development of a Federal workforce which is basically honest, competent, and dedicated to constitutional ideals and the public interest.

But the system has serious defects. It has become a bureaucratic maze which neglects merit, tolerates poor performance, permits abuse of legitimate employee rights, and mires every personnel action in red tape, delay and confusion.

Civil Service reform will be the centerpiece of government reorganization during my term in office.

I have seen at first hand the frustration among those who work within the bureaucracy. No one is more concerned at the inability of government to deliver on its promises than the worker who is trying to do a good job.

Most Civil Service employees perform with spirit and integrity. Nevertheless, there is still widespread criticism of Federal government performance. The public suspects that there are too many government workers, that they are underworked, overpaid, and insulated from the consequences of incompetence.

Such sweeping criticisms are unfair to dedicated Federal workers who are conscientiously trying to do their best, but we have to recognize that the only way to restore public confidence in the vast majority who work well is to deal effectively and firmly with the few who do not.

For the past 7 months, a task force of more than 100 career civil servants has analyzed the Civil Service, explored its weaknesses and strengths and suggested how it can be improved.

The objectives of the Civil Service reform proposals I am transmitting today are:

- To strengthen the protection of legitimate employee rights;
- To provide incentives and opportunities for managers to improve the efficiency and responsiveness of the Federal Government;
- To reduce the red tape and costly delay in the present personnel system;
- To promote equal employment opportunity;
- To improve labor-management relations.

My specific proposals are these:

1. *Replacing the Civil Service Commission with an Office Of Personnel Management and a Merit Protection Board.*—Originally established to conduct Civil Service examinations, the Civil Service Commission has, over the years, assumed additional and inherently conflicting responsibilities. It serves simultaneously both as the protector of employee rights and as the promoter of efficient personnel management policy. It is a manager, rulemaker, prosecutor and judge. Consequently, none of these jobs are being done as effectively as they should be.

Acting under my existing reorganization authority, I propose to correct the inherent conflict of interest within the Civil Service Commission by abolishing the Commission and replacing it with a Merit Protection Board and Office of Personnel Management.

The Office of Personnel Management will be the center for personnel administration (including examination, training, and administration of pay and benefits); it will not have any prosecutorial or adjudicative powers against individuals. Its Director will be appointed by the President and confirmed by the Senate. The Director will be the government's management spokesman on Federal employee labor relations and will coordinate Federal personnel matters, except for Presidential appointments.

The Merit Protection Board will be the adjudicatory arm of the new personnel system. It will be headed by a bipartisan board of three members, appointed for 7 years, serving non-renewable overlapping terms, and removable only for cause. This structure will guarantee independent and impartial protection to employees. I also propose to create a Special Counsel to the Board, appointed by the President and confirmed by the Senate, who will investigate and prosecute political abuses and merit system violations. This will help safeguard the rights of Federal employees who "blow the whistle" on violations of laws or regulations by other employees, including their supervisors.

In addition, these proposals will write into law for the first time the fundamental principles of the merit system and enumerate prohibited personnel practices.

2. *A Senior Executive Service.*—A critical factor in determining whether Federal programs succeed or fail is the ability of the senior managers who run them. Throughout the Executive Branch, these 9200 top administrators carry responsibilities that are often more challenging than comparable work in private industry. But under the Civil Service system, they lack the incentives for first-rate performance that managers in private industry have. The Civil Service system treats top managers just like the 2.1 million employees whose activities they direct. They are equally insulated from the risks of poor performance, and equally deprived of tangible rewards for excellence.

To help solve these problems I am proposing legislation to create a Senior Executive Service affecting managers in grades GS-16 through non-Presidentially appointed Executive Level IV or its equivalent. It would allow:

- Transfer of executives among senior positions on the basis of government need;
- Authority for agency heads to adjust salaries within a range set by law with the result that top managers would no longer receive automatic pay increases based on longevity;

Annual performance reviews, with inadequate performance resulting in removal from the Senior Executive Service (back to GS-15) without any right of appeal to the Merit Protection Board.

Agency heads would be authorized to distribute bonuses for superior performance to not more than 50 per cent of the senior executives each year. These would be allocated according to criteria prescribed by the Office of Personnel Management, and should average less than five per cent of base salary per year. They would not constitute an increase in salary but rather a one-time payment. The Office of Personnel Management also would be empowered to award an additional stipend directly to a select group of senior executives, approximately five per cent of the total of the Senior Executive Service, who have especially distinguished themselves in their work. The total of base salary, bonus, and honorary stipend should in no case exceed 95 per cent of the salary level for an Executive Level II position.

No one now serving in the "supergrade" managerial positions would be required to join the Senior Executive Service. But all would have the opportunity to join. And the current percentage of non-career supergrade managers—approximately 10 per cent—would be written into law for the first time, so that the Office of Personnel Management would not retain the existing authority of the Civil Service Commission to expand the proportion of political appointees.

This new Senior Executive Service will provide a highly qualified corps of top managers with strong incentives and opportunities to improve the management of the Federal government.

3. *Incentive Pay for Lower Level Federal Managers and Supervisors.*—The current Federal pay system provides virtually automatic "step" pay increases as well as further increases to keep Federal salaries comparable to those in private business. This may be appropriate for most Federal employees, but performance—not merely endurance—should determine the compensation of Federal managers and supervisors. I am proposing legislation to let the Office of Personnel Management establish an incentive pay system for government managers, starting with those in grades GS-13 through GS-15. Approximately 72,000 managers and supervisors would be affected by such a system which could later be extended by Congress to other managers and supervisors.

These managers and supervisors would no longer receive automatic "step" increases in pay and would receive only 50 per cent of their annual comparability pay increase. They would, however, be eligible for "performance" pay increases of up to 12 per cent of their existing salary. Such a change would not increase payroll costs, and it should be insulated against improprieties through the use of strong audit and performance reviews by the Office of Personnel Management.

4. *A Fairer and Speedier Disciplinary System.*—The simple concept of a "merit system" has grown into a tangled web of complicated rules and regulations.

Managers are weakened in their ability to reward the best and most talented people—and to fire those few who are unwilling to work.

The sad fact is that it is easier to promote and transfer incompetent employees than to get rid of them.

It may take as long as three years merely to fire someone for just cause, and at the same time the protection of legitimate rights is a costly and time-consuming process for the employee.

A speedier and fairer disciplinary system will create a climate in which managers may discharge non-performing employees—using due process—with reasonable assurance that their judgment, if valid, will prevail.

At the same time, employees will receive a more rapid hearing for their grievances.

The procedures that exist to protect employee rights are absolutely essential.

But employee appeals must now go through the Civil Service Commission, which has a built-in conflict of interest by serving simultaneously as rule-maker, prosecutor, judge, and employee advocate.

The legislation I am proposing today would give all competitive employees a statutory right of appeal. It would spell out fair and sensible standards for the Merit Protection Board to apply in hearing appeals. Employees would be provided with attorneys' fees if they prevail and the agency's action were found to have been wholly without basis. Both employees and managers would have, for the first time, subpoena power to ensure witness participation and document submission. The subpoena power would expedite the appeals process, as would new provisions for prehearing discovery. One of the three existing appeal levels would be eliminated.

These changes would provide both employees and managers with speedier and fairer judgments on the appeal of disciplinary actions.

5. *Improved Labor-Management Relations.*—In 1962, President John F. Kennedy issued Executive Order 10988, establishing a labor-management relations program in the Executive Branch. The Executive Order has demonstrated its value through five Administrations. However, I believe that the time has come to increase its effectiveness by abolishing the Federal Labor Relations Council created by Executive Order 10988 and transferring its functions, along with related functions of the Assistant Secretary of Labor for Labor Relations, to a newly established Federal Labor Relations Authority. The Authority will be composed of three full-time members appointed by the President with the advice and consent of the Senate.

I have also directed members of my Administration to develop, as part of Civil Service Reform, a Labor-Management Relations legislative proposal by working with the appropriate Congressional Committees, Federal employees and their representatives. The goal of this legislation will be to make Executive Branch labor relations more comparable to those of private business, while recognizing the special requirements of the Federal government and the paramount public interest in the effective conduct of the public's business. This will facilitate Civil Service reform of the managerial and supervisory elements of the Executive Branch, free of union involvement, and, at the same time, improve the collective bargaining process as an integral part of the personnel system for Federal workers.

It will permit the establishment through collective bargaining of grievance and arbitration systems, the cost of which will be borne largely by the parties to the dispute. Such procedures will largely displace the multiple appeals systems which now exist and which are unanimously perceived as too costly, too cumbersome and ineffective.

6. *Decentralized Personnel Decisionmaking.*—Examining candidates for jobs in the career service is now done almost exclusively by the Civil Service Commission, which now may take as long as six or eight months to fill important agency positions.

In addition, many routine personnel management actions must be submitted to the Civil Service Commission for prior approval. Much red tape and delay are generated by these requirements; the public benefits little, if at all. My legislative proposals would authorize the Office of Personnel Management to delegate personnel authority to departments and agencies.

The risk of abuses would be minimized by performance agreements between agencies and the Office of Personnel Management, by requirements for reporting, and by followup evaluations.

7. *Changes in the Veterans Preference Law.*—Granting preference in Federal employment to veterans of military service has long been an important and worthwhile national policy. It will remain our policy because of the debt we owe those who have served our nation. It is especially essential for disabled veterans, and there should be no change in current law which would adversely affect them. But the Veterans Preference Act of 1944 also conferred a *lifetime benefit* upon the non-disabled veteran, far beyond anything provided by other veterans readjustment laws like the GI Bill, the benefits of which are limited to 10 years following discharge from the service. Current law also severely limits agency ability to consider qualified applicants by forbidding consideration of all except the three highest-scoring applicants—the so-called “rule of three.” As a result of the 5-point lifetime preference and the “rule of three”, women, minorities and other qualified non-veteran candidates often face insuperable obstacles in their quest for Federal jobs.

Similarly, where a manager believes a program would benefit from fewer employees, the veterans preference provides an absolute lifetime benefit to veterans. In any Reduction in Force, all veterans may “bump” all non-veterans, even those with far greater seniority. Thus women and minorities who have recently acquired middle management positions are more likely to lose their jobs in any cutback.

Therefore I propose:

- Limiting the 5-point veterans preference to the 10 year period following their discharge from the service, beginning 2 years after legislation is enacted;
- Expanding the number of applicants who may be considered by a hiring agency from three to seven, unless the Office of Personnel Management should determine that another number or category ranking is more appropriate;
- Eliminating the veterans preference for retired military officers of field grade rank or above and limiting its availability for other military personnel who have retired after at least 20 years in service to 3 years following their retirement;
- Restricting the absolute preference now accorded veterans in Reductions in Force to their first 3 years of Federal employment, after which time they would be granted 5 extra years of seniority for purposes of determining their rights when Reduction in Force occurs.

These changes would focus the veterans preference more sharply to help disabled veterans and veterans of the Viet Nam conflict. I have

already proposed a 2-year extension of the Veterans Readjustment Appointment Authority to give these veterans easier entry into the Federal workforce; I support amendments to waive the educational limitation for disabled veterans and to expand Federal job openings for certain veterans in grades GS-5 to GS-7 under this authority. I propose that veterans with 50% or higher disability be eligible for non-competitive appointments.

* * * * *

These changes are intended to let the Federal Government meet the needs of the American people more effectively. At the same time, they would make the Federal work place a better environment for Federal employees. I ask the Congress to act promptly on Civil Service Reform and the Reorganization Plan which I will shortly submit.

JIMMY CARTER.

THE WHITE HOUSE, *March 2, 1978.*

A BILL To reform the civil service laws

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Civil Service Reform Act of 1978".

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