



May 23, 2025

Noah Peters
Senior Advisor to the Director
Office of Personnel Management
1900 E Street NW
Washington, DC 20415-1000
employeeaccountability@opm.gov

RE: Comments on Proposed Rule OPM-2025-0004, regarding categorizing policy-influencing federal employee jobs as at-will “Schedule Policy/Career” positions.

Dear Mr. Peters:

On behalf of the Goldwater Institute, I am submitting comments regarding the Office of Personnel Management’s (“OPM”) proposed rule in Docket ID: OPM-2025-004, a Notice of which was published in the Federal Register on April 23, 2025.¹ The proposal to categorize the jobs of policy-influencing federal employees as at-will “Schedule Policy/Career” positions marks an important step in the current administration’s efforts to reign in the federal bureaucracy. The Institute supports the proposed rule and recommends its adoption and implementation.

Founded in 1988 in Arizona with Senator Barry Goldwater’s blessing, the Institute is a nonprofit free-market public policy, research, and public interest litigation organization dedicated to advancing the principles of limited government, economic freedom, and individual liberty. We’re committed to empowering all Americans to live freer, happier lives by working in federal and state courts, legislatures, and communities nationwide to advance, defend, and strengthen the freedom guaranteed by the constitutions of the United States and the fifty states.

The Goldwater Institute prioritizes holding unelected bureaucrats accountable at both the state and federal levels.² Importantly here, the Institute has a front-row seat to the application of similar rules for public employees in Arizona.

For more than a decade, the Arizona State Personnel System has had policies and procedures in place that have converted most state employment positions to at-will status.³ Positions that were previously covered by various statutory civil service protections became

¹ 90 Fed. Reg. 17,182 (Apr. 23, 2025).

² Timothy Sandefur and Jon Riches, *Confronting the Administrative State: State-Based Solutions to Inject Accountability into an Unaccountable System*, Goldwater Institute (Apr. 29, 2020), <https://www.goldwaterinstitute.org/policy-report/administrative-state-blueprint/>.

³ The most recent version of those policies and procedures is included as an attachment.

“uncovered political appointment positions” as incumbents left over time. The result today is that most state employees in Arizona now have at-will employment status.

The sky has not fallen in Arizona since the introduction of those civil service reforms. Indeed, oversight and accountability are central features of efficient management practices for government employees.

Arizona is not alone. As the Manhattan Institute points out, a handful of other states likewise consider policy-influencing public employees as at-will, including Georgia, Kansas, Texas, Utah and Florida.⁴

As usual, a growing number of states are setting an example that the federal government should follow. We are encouraged to see this administration responding to these examples and taking meaningful steps to reduce burdens placed on the American people by the administrative state.

More must be done, of course, but Proposed Rule OPM-2025-004 properly classifies thousands of policy-influencing federal employees into at-will status. Most private sector workers are at-will and must meet employers’ expectations to remain employees. Federal bureaucrats—especially those who influence policymaking—should not receive special legal protections that make it difficult to remove them when job performance is subpar or when they actively undermine the interests of the public.

The proposed rule should be adopted.

Thank you for your consideration of these comments. Please contact me if you have any questions or if I can provide you with additional information.

Sincerely,



Parker Jackson
Staff Attorney
Scharf-Norton Center for
Constitutional Litigation at the
Goldwater Institute

⁴ Judge Glock and Renu Mukherjee, *Radical Civil Service Reform is Not Radical: Lessons for the Federal Government from the States*, Manhattan Institute (Mar. 4, 2025), <https://manhattan.institute/article/radical-civil-service-reform-is-not-radical-lessons-for-the-federal-government-from-the-states>.

Arizona State Personnel System Statewide Policies and Procedures

Policy Number: ASPS/HRD-PA2.01	Originally Issued: October 9, 2014
Subject: Political Appointment Positions	Revision Effective: October 12, 2024
Section: Classification	Last Reviewed: October 12, 2024
Owner: ADOA Human Resources Division	Next Scheduled Review: October 12, 2026

This policy does not create a contract for employment between any employee and the State. Nothing in this policy changes the fact that all uncovered employees of the State are at will employees and serve at the pleasure of the appointing authority.

Scope:

This policy applies to all agencies, boards, offices, authorities, commissions, or other governmental budget units of the State that are part of the State Personnel System.

Actions taken under this policy are applicable only to positions in the uncovered service and uncovered employees and in particular uncovered positions/employees listed in A.R.S. § 41-742(F). An uncovered employee in a position listed in A.R.S. § 41-742(F) is referred to as a “political appointment.”

Note: An incumbent covered employee who is in a position listed in A.R.S. § 41-742(F) (for example, reports to an agency head, deputy director or assistant director), is not considered a political appointment. If the incumbent covered employee elects to become an at will uncovered employee or vacates the position, the position will become an uncovered political appointment position and will be subject to this policy.

Authority:

- A.R.S. § 41-742, State Personnel System; covered and uncovered employees; application; exemptions
- A.A.C. R2-5A-201, Classification System
- A.A.C. R2-5A-307, Appointment
- A.A.C. R2-5A-B602, Annual Leave
- A.A.C. R2-5A-701, Performance Management; General
- A.A.C. R2-5A-801, Disciplinary Actions; General

Definitions:

“ADOA” means the Arizona Department of Administration.

“Agency” means a department, board, office, authority, commission, or other governmental

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budget unit of the State Personnel System.

“Agency head” means the chief executive officer of a state agency, or designee.

“Director” means the Director of the Arizona Department of Administration or the Director’s designee, who is responsible for administering the State Personnel System pursuant to applicable state and federal laws.

“HRIS” means the Human Resources Information Solution, the State’s personnel and payroll system administered by the Arizona Department of Administration or any successor systems.

“Political appointment” refers to an employee in a position listed in A.R.S. § 41-742(F), and includes:

1. Employees of the Governor's Office.
2. Employees of offices of elected officials who either:
 - a. Report directly to the elected official.
 - b. Head a primary component or report directly to the head of a primary component of the office of the elected official.
 - c. As a primary duty, determine or publicly advocate substantive program policy for the office of the elected official.
3. The state agency head and each deputy director, or equivalent, of each state agency and employees of the state agency who report directly to either the state agency head or deputy director.
4. Each assistant director, or equivalent, of each state agency and employees in the state agency who report directly to an assistant director.
5. Attorneys in the Office of the Attorney General.
6. Employees in investment related positions in the state retirement system or plans established by Title 38, Chapter 5, Article 2, 3, 4 or 6.

“SPS Rules” means the rules in A.A.C. Title 2, Chapter 5.

Policy:

Arizona Revised Statutes, Title 41, Chapter 4, Article 4, and the SPS Rules identify certain provisions that do not apply to uncovered political appointments. An uncovered political appointment is not subject to:

- Open competition;
- Annual leave accrual based on credited service; or,

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- Retention based on performance.

Recruitment

An uncovered political appointment is not subject to open competition or the job posting requirements outlined in A.A.C. R2-5A-302(A). An agency head may appoint an individual to a political appointment position solely on the basis of the individual's ability, knowledge and skills.

Annual Leave Accrual

In accordance with A.A.C. R2-5A-B602(B)(1)(c), an uncovered political appointment accrues annual leave at the rate of 6.47 hours bi-weekly. Once an employee no longer occupies a political appointment position, whether due to a change in position or a change in reporting relationship such that the employee's position no longer meets the political appointment criteria outlined in A.R.S. § 41-742(F), the employee's leave accrual will be determined by the employee's hire date, as outlined in A.A.C. R2-5A-B602(B)(1).

Director Review of Disciplinary Actions

A.A.C. R2-5A-801 provides that any action that involves a suspension greater than 80 working hours, an involuntary demotion, or a dismissal requires review by the Director prior to an agency administering such action, unless the employee is in a position listed in A.R.S. § 41-742(F). The Director has expanded the requirement for review to political appointment employees in a position listed in A.R.S. § 41-742(F) in accordance with A.A.C. R2-5A-103(B)(1).

Performance Evaluations

Certain positions listed in A.R.S. § 41-742(F) may not be subject to the performance management system. A.A.C. R2-5A-701(C) provides that the performance management system may be used for positions listed in A.R.S. § 41-742(F), as follows:

- As determined by the appointing authority for the agency head, to evaluate the job performance of the agency head.
- As determined by the agency head, to evaluate the job performance of each subordinate uncovered employee in a position listed in A.R.S. § 41-742(F).

Compensation Guidelines

Most employees in positions listed in A.R.S. § 41-742(F) are subject to the Compensation Guidelines; however, there are some employees that are not eligible for some or all of the strategies. Please refer to the Compensation Guidelines for specific information regarding eligibility, applicability and exemptions.

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HRIS Data Maintenance

In HRIS, political appointment positions are identified in the “At-Will Status” field (see Exhibit A for the list of codes and category descriptions). Please note that the code is tied to the position, not the employee.

The “At-Will Status” field codes/categories of Governor’s Office employees, public policy positions in an agency headed by an elected official, Attorney General’s Office attorneys, and ASRS and PSPRS investment-related positions have been determined by identifiers associated with the position in HRIS. The codes/categories of these positions shall only be changed upon consultation and concurrence of the ADOA Human Resources Division (HRD).

The “At-Will Status” field codes/categories of agency head, deputy director, and assistant director positions have been determined by certain identifiers associated with the position in HRIS and through input from agencies. The codes/categories of these positions shall only be changed upon consultation and concurrence of the ADOA Human Resources Division (HRD).

The “At-Will Status” field codes/categories of positions that report directly to an agency head, to a deputy director, or to an assistant director are determined by the supervisor code recorded in HRIS. A change in supervisor may necessitate a change to the “At-Will Status” field code/category of these positions. Further, changes in reporting relationships can result in a position becoming a political appointment or ceasing to be a political appointment. (See Exhibit B for examples of changes in reporting relationships.)

For the purposes of this policy, a temporary change in a reporting relationship, defined as less than six months, or a special assignment, does not affect the “At-Will Status” field code/category. For example, if an employee in a political appointment position (e.g. direct report to an assistant director) leaves the agency, but the assistant director intends to fill the position, positions reporting to the vacant position should continue reporting to the vacant position while it is unfilled, up to six months. If the position is not filled within the six-month period, the agency shall designate a new, permanent reporting relationship for those positions that report to the vacant supervisor position, unless an exception is granted by the Director. (See Exhibit B for an example of a temporary change in a reporting relationship.)

An agency’s Human Resources Office is responsible for the proper oversight and maintenance of the agency’s political appointment positions. The agency must ensure that HRIS reflects the correct position information and annual leave plans. Please note: It is critical that the position information and annual leave plans are correct because the annual

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leave accrual, processed bi-weekly, is dependent upon three HRIS fields: the position's "At-Will Status" code, the employee's hire date, and the employee's annual leave plan. If the information in any one of the fields is incorrect, the employee may receive the wrong leave accrual or a newly hired employee may not accrue at the correct annual leave rate.

Procedures:

When a permanent change is made to the reporting relationship of a position, or a permanent supervisor change occurs, the agency's Human Resources Office shall take the following steps:

1. Ensure that the "At-Will Status" code of each affected position matches the current organizational structure of the agency.
 - For direct report positions, the "At-Will Status" code should coordinate with the "At-Will Status" code of the supervisor, as reflected in HRIS (for example, if a supervisor is coded as an AD, the direct report should be coded as an ADD).
 - New hires and changes in assignment into vacant political appointment positions generally will not require adjustments to the position's "At-Will Status" code, assuming the same reporting structure exists and the "At-Will Status" code is up to date.
2. When a change to a position's "At-Will Status" code is required, contact the agency's assigned Classification/Compensation (Class/Comp) analyst to request the change and provide the analyst with an updated organizational chart. The Classification/Compensation analyst will review the request and, if appropriate, make any necessary changes in HRIS.
3. If the change to a position's "At-Will Status" will affect an employee's annual leave accrual rate (for example, if the position is filled with an uncovered employee who was hired after September 29, 2012 and the employee's position is changed to a political appointment position), after receiving confirmation from the Classification/Compensation analyst that the position's "At-Will Status" code has been updated, the agency *must* change the employee's annual leave user field to the appropriate leave plan (See Exhibit C, Personnel System Employee's Annual Leave Plan Flowchart, for detailed instructions.)

Related Documents:

- [Compensation Guidelines](#)
- [Exhibit A: "At-Will Status" Structure – Categories and Corresponding Codes](#)
- [Exhibit B: Examples of Permanent and Temporary Changes to Reporting](#)

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[Relationships](#)

- [Exhibit C: Personnel System Employee's Annual Leave Plan Flowchart](#)

Corresponding Policies:

- [ASPS/HRD-PA3.05 - Special Assignment](#)
- [ASPS/HRD-PA8.01 - Review of Suspensions Greater than 80 Working Hours, Involuntary Demotions, and Dismissals for Covered and Uncovered Employees](#)

Contact:

If you have any questions related to this policy, please contact the ADOA HRD Classification/ Compensation section.

Policy History (supersedes):

- ASPS/HRD-PA2.01 Political Appointment Positions (October 9, 2014)