FEDERAL WORKERS ALLIANCE

COLLECTIVELY REPRESENTING OVER 550,000 FEDERAL AND POSTAL WORKERS

September 17, 2024

The Honorable Gary Peters
Chairman, Homeland Security and
Governmental Affairs Committee
United States Senate
340 Dirksen Senate Office Building
Washington, D.C., 20510

The Honorable Rand Paul
Ranking Member, Homeland Security and
Governmental Affairs Committee
United States Senate
340 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Peters, Ranking Member Paul, and Members of the Senate Committee on Homeland Security and Governmental Affairs:

On behalf of the Federal Workers Alliance, a coalition of labor unions representing over 550,000 federal and postal employees, we respectfully request that this letter be submitted for the record in connection with the September 17, 2024, hearing before the Homeland Security and Governmental Affairs Committee in the U.S. Senate, titled *"Ensuring a Trustworthy Government: Examining the National Security Risks of Replacing Nonpartisan Civil Servants with Political Appointees."*

As more Americans come to understand the true implications of Schedule F—an executive order issued by former President Trump aimed at reclassifying hundreds of thousands of nonpartisan civil servants into roles more susceptible to political influence and control—the link between this policy and the erosion of American democracy through the politicization of the Executive Branch becomes increasingly apparent.

To be clear, Schedule F—or any similar authority that replicates its elements—serves only to undermine and corrupt the Executive Branch of the U.S. Government and must be legally prohibited from ever being implemented. We appreciate that on January 22, 2021, President Biden rescinded former President Trump's Executive Order supporting Schedule F. This was necessary because the most dangerous aspects of Schedule F to American democracy are:

1. The power granted by Schedule F to install unlimited political appointees without term limits within the Executive Branch is a recipe for abuse. It is designed to turn appointees into covert operatives loyal to a specific individual or ideology, undermining the nonpartisan nature of the civil service.
2. The ability to reclassify hundreds of thousands of professional, nonpartisan federal employees into a particular employment category that strips them of essential protections under the Merit Systems Principles (MSP) and shields them from safeguards against Prohibited Personnel Practices (PPP). These protections ensure that the Executive Branch remains honest, transparent, accountable, effective, and fair.

Under Schedule F, professional career federal employees would be left vulnerable to threats or intimidation from political appointees. This would effectively strip them of their ability and obligation to enforce the law or report fraud, waste, abuse, or illegal directives, putting their careers and well-being at risk.

Supporters of Schedule F are misleading the public about its benefits. It is not designed to streamline hiring, quickly remove poor performers, or improve performance management. Any attempt to

present Schedule F, in whole or in part, as a legitimate management reform must be vigorously opposed, and efforts to promote such practices should be met with strong disapproval.

It is essential to recognize that Schedule F is part of a broader scheme to corrupt the Executive Branch for personal and political gain. By undermining oversight and dismantling laws and regulations designed to prevent corruption and political overreach, Schedule F is a critical component of a larger initiative known as Project 2025. This initiative, spearheaded by The Heritage Foundation's Mandate for Leadership, outlines a blueprint for subverting the Executive Branch on a scale that threatens to distort American democracy.

Much like an organized crime or racketeering operation, Project 2025 sets forth a systematic plan for political and ideological operatives to infiltrate the government through a hidden network of presidential appointees. These appointees employ tactics that shield their activities from law enforcement, regulatory agencies, Congress, and the constitutional checks on government power. Marketed as an ultraconservative vision for the future, Project 2025 is, in reality, a playbook for creating an actual “deep state” through corruption and secrecy. It thrives on evading legal oversight and exploiting government authority, costing taxpayers billions of dollars yearly through inflated appointee salaries and the appointee-corrupted programs they oversee.

Without input or oversight from Congress or the public, Project 2025 outlines a plan in which operatives, empowered by Schedule F, would seize government authority to weaponize resources against political opponents, manipulate industries and financial markets, deplete public assets, and exert political control over key "inherently governmental functions." These functions include, as cited, the military, regulatory and law enforcement agencies, trade practices, government contracts, national security, intelligence operations, and infrastructure funding.

Such political control over critical government functions concentrates immense power in the hands of Project 2025 operatives, enabling them to evade legal accountability and hinder law enforcement efforts to hold them responsible. In the context of national security, as highlighted in today’s hearing, these conspirators seek to shift authority over sensitive decisions and intelligence assessments from nonpartisan experts to largely unvetted political appointees. Project 2025 further jeopardizes national security by proposing that security clearance management be transferred to political operatives appointed under Schedule F, allowing them to grant clearances without proper vetting [Project 2025, Executive Office of the President, p. 52]. This opens the door to widespread espionage and extortion by foreign adversaries.

To expand the view on national security and the threats to the American democratic republic system, on July 1, 2024, the conservative majority of the Supreme Court, led by Chief Justice John Roberts, issued a ruling in *Donald J. Trump v. United States* that grants the president "absolute immunity from criminal prosecution" for actions deemed to fall within his "conclusive and preclusive constitutional authority." The ruling establishes that presidents are presumed to have immunity when performing "official acts." Justice Roberts further stated that "Congress may not criminalize the President’s conduct in carrying out the responsibilities of the Executive Branch under the Constitution” effectively granting the president unilateral power to determine whether an action is official and thus immune from legal scrutiny.

With the Supreme Court's decision now casting a shadow over the continuing legitimacy of the American republic—a “republic” as defined is safeguarded by a constitution that protects those not in power—the future of American democratic institutions, such as elections and the rule of law, could

be severely undermined. If a president chooses to wield the absolute authority the Court grants, it risks tipping the balance, allowing unchecked power to override constitutional safeguards.

In this new American reality, it is critical not to lend any credibility to schemes like Schedule F, which would only accelerate the mass corruption of one of democracy's most vital pillars: a nonpartisan civil service dedicated to upholding the Constitution and serving the American people. Instead, now is the time to act and enact additional safeguards through Congress, starting with the **Saving the Civil Service Act (S. 399)**, currently pending in the Senate. The Senate has repeatedly failed to act on this legislation, even after the House passed equivalent measures five times over the last two congresses, only to see them stripped from bills in the Senate. This inaction is indefensible.

There are additional legislative measures that can mitigate the damage if a president attempts to govern as a dictator or allows their administration to operate as an authoritarian regime, as outlined in Project 2025. These additional measures include reforming the Insurrection Act, amending the Vacancies Act, strengthening anti-corruption laws—particularly about non-FACA advisory groups—banning private nondisclosure agreements that undermine transparency and accountability, empowering inspectors general to investigate political overreach and corruption, and capping the total number of political appointees across the Executive Branch at 3,000.

To dispel the baseless claim that Schedule F is a legitimate management tool or necessary for terminating poor performers, consider the following points:

- **Federal Workforce Size:** The size of the federal workforce has remained consistent since 1952, with approximately 2 million non-postal federal civilian employees. Per capita, the federal workforce is now the smallest it has ever been, representing just 0.597% of the population, down from a post-WWII high of 1.85%. In contrast, the contractor workforce has ballooned to over 4 million. Nearly 40% of all discretionary tax dollars—over $700 billion annually—are directed to private contractors. According to the Congressional Budget Office (CBO), the federal workforce, including benefits, costs less than one-third of the contractor workforce.
- **Terminations for Cause:** Contrary to the myth that federal employees are "impossible" to fire, around 10,000 federal employees are terminated each year for cause (due to misconduct or poor performance).[i] This translates to about 40 involuntary terminations per workday, or 0.5% of the workforce annually.
- **Federal Employee Termination Rate:** The termination rate for federal employees is higher than in the private sector. In the private sector, the annual involuntary separation rate is 1%,[ii] with approximately one-third of those being terminations for cause and two-thirds being layoffs, resulting in a termination rate for cause of about 0.33%. In contrast, the federal government's termination rate for cause stands at 0.5%. Critics argue that Merit System Principles and federal unions obstruct employee terminations, but this is incorrect. The Merit System Principles are designed to ensure accountability by preventing political interference, corruption, and unfair practices without negatively impacting termination rates.
- **The Truth About the MSPB and FLRA and the Misguided Effort to Eliminate Them:** Contrary to claims that the Merit Systems Protection Board (MSPB) and the Federal Labor Relations Authority (FLRA) unfairly favor federal employees, the reality is quite different. Federal employees win only 18% of cases at the MSPB and a mere 3% of appeals to the entire board. Conversely, management prevails 60% of the time in cases against unions at the FLRA. Despite this, some in Congress argue that these agencies are biased in favor of employees. This assertion is unfounded. Yet, efforts are underway by some lawmakers to block funding and qualified nominees for these agencies, aiming to weaken their ability to

uphold federal case law that safeguards the Executive Branch against political abuse and corruption, including issues like personal bias, favoritism, improper contracting, Schedule F "loyalty" employment, and the Spoils system.

Our nation's career civil servants—federal employees who serve the public impartially, regardless of political affiliation—are crucial to American democracy. They perform diverse tasks based on their roles and the agencies they represent. Career federal employees uphold regulations and laws, deliver essential public services, ensure national security, support education and research, maintain infrastructure, provide financial services, handle mail delivery, promote public health, and much more, impacting every facet of American life.

These civil servants must remain nonpartisan experts, accountable not only to the President but also to the Constitution, the law, the American people, and Congress. For one hundred fifty years, Congress has diligently worked to establish, protect, and enhance a stable, professional, and nonpartisan civil service.

We, the undersigned federal employee unions, urge Congress to urgently pass the Saving the Civil Service Act to protect the apolitical federal workforce, a cornerstone of modern democracy, from being undermined by unchecked and malicious political forces. Additionally, Congress must fulfill its constitutional duty to investigate the validity of the Supreme Court's ruling that grants the president absolute immunity from legal accountability. Defending the government against any attempts to diminish or evade equal protection under the law is crucial and a fundamental responsibility of Congress.

If you have any questions, contact FWA legislative co-chairs Faraz Kahn at fkhan@ifpte.org or Steve Lenkart at slenkart@nffe.org.

Respectfully submitted,

Antilles Consolidated Education Association (ACEA)
Federal Education Association (FEA)
International Association of Fire Fighters (IAFF)
International Association of Machinists and Aerospace Workers (IAMAW)
International Federation of Professional and Technical Engineers (IFPTE)
International Plate Printers, Die Stampers, Plate Makers and Engravers of North America (PPDSPM&E of N.A)
National Association of Agriculture Employees (NAAE)
National Association of Government Employees (NAGE)
National Education Association (NEA)
National Federation of Federal Employees (NFFE)
National Weather Service Employees Organization (NWSEO)
Professional Aviation Safety Specialists (PASS)
Patent Office Professional Association (POPA)

[i] Fedscope.opm.gov; Termination or Removal for Discipline or Performance, FY 2005 to FY 2023.

[ii] U.S. Bureau of Labor Statistics. (2023, May 31). *Table 5. layoffs and discharges levels and rates by industry and region, seasonally adjusted - 2023 M04 results*. U.S. Bureau of Labor Statistics. https://www.bls.gov/news.release/jolts.t05.htm