

# Federal Workers Seeking Trump Shield Look to Decades-Old Law

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Courtney Rozen

Reporter

- Trump promised to end worker protections on Inauguration Day
- Unions prepare to argue president doesn't have that authority

Federal workers and their allies are preparing for a legal battle aimed at the heart of President-elect Donald Trump's promise to end their job protections on the grounds it's not "good administration," an attorney working on the challenge told Bloomberg Law.

This fight could undermine one of Trump's key campaign promises: reviving a 2020 [order](#) known as Schedule F that would make it easier to fire select career employees who work across administrations. At the time, Trump pointed to a part of Title 5 of [civil service law](#) that empowers the president to make such a move if "conditions of good administration warrant."

"Political loyalty is an oxymoron with principles of good administration and the president doesn't have that authority," said Tom Devine, legal director at the Government Accountability Project, a national nonprofit that represents whistleblowers.

Devine's group is preparing to dispute any effort to return Schedule F on the grounds it's not good administration of public employees. Employment attorneys, unions, and good government groups expect that to be one of a flurry of legal challenges to Trump's directive converting a portion of the workforce to "at-will" employees who can be discharged for any reason, with few exceptions.

Alan Lescht, whose firm has represented federal workers for decades, said he expects employees affected by the order to challenge it by arguing they're being

punished for “partisan political reasons.” Civil service law prohibits removing career employees because of political affiliation.

“Lawyers like myself have been gearing up to fight this since November,” Lescht said.

## ‘Good Administration’

Trump often calls federal employees “rogue bureaucrats” and says they undermined his authority during his first term. Courts, however, have historically been wary of restricting the president’s personnel decisions based because they don’t promote “good administration,” said Nick Bednar, an administrative law professor at University of Minnesota.

“There are a lot of disagreements over what good administration is and the courts aren’t sure how to evaluate that,” Bednar said.

The National Treasury Employees Union, a group that represents employees at 36 agencies, used a similar argument during the Reagan administration, when it asked the US Court of Appeals for the District of Columbia Circuit to reinstate certain job protections for food program specialists.

The union said that the move didn’t promote “good administration.” The court set aside that argument. It ordered the Office of Personnel Management, the federal government’s HR department, to reinstate the job protections because the Reagan administration didn’t have the facts to remove them.

Trump’s team did not respond to a request for comment from Bloomberg Law.

Trump’s promised order will target the competitive service, a group of 1.5 million workers hired by federal agencies based on their experience and expertise, not the political preferences of the president. Civil service law requires agencies give those employees a 30-day warning that they’re at risk of termination, making it harder for his team to immediately fire workers upon taking office. Trump promised to “aggressively” cut their job protections, though he hasn’t specified how many people it would affect.

## Untested

Federal employees challenged Trump’s first Schedule F attempt on “good administration” grounds, but the case was made moot when President Joe Biden took office.

The NTEU tested the strategy again when it [sued](#) the Trump administration to unwind Schedule F. In a complaint filed in the US District Court for the District of Columbia, the union argued that a judge should nix the effort because it wasn’t “necessary for good administration.”

“The order is supported by only the broadest generalities about the need to hire employees more readily and fire them more quickly,” NTEU said in the complaint.

Biden took office and signed an executive order ending Trump’s order before a judge could evaluate the NTEU’s argument against it. In his order, Biden said Schedule F “was unnecessary to the conditions of good administration.”

NTEU declined to share its legal strategy for the coming weeks.

The Biden administration in April put up a temporary barrier to Trump’s plans. OPM [added](#) new requirements for cabinet secretaries who want to remove job protections for civil servants. It also gives staff the option to appeal changes to their employment protections to the Merit Systems Protection Board.

The law requires the next administration follow specific steps to undo that rule, or face judicial review. That includes giving outside groups the opportunity to weigh in on changes, a process that often takes months. It took the Biden administration eight months to complete the steps.

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