

Memorandum for: The Chair and Ranking Member of the Senate Armed Services Committee
The Chair and Ranking Member of the House Armed Services Committee
The Chair and Ranking Member of the Senate Select Committee on Intelligence
The Chair and Ranking Member of the House Permanent Select Committee on Intelligence

Copies to: The Senate Majority Leader and Minority Leader
The Speaker of the House and the Minority Leader of the House
The Chair and Ranking Member of the Senate Homeland Security and Governmental Affairs Committee
The Chair and Ranking Member of the House Government Reform and Oversight Committee

Subject: Ensuring the Accountability of the Federal Civil Service—An Urgent Call to Action

Several of us have written to you in the past in our official capacity, and while we are now ‘formers’ in that regard, we once again feel compelled to bring a matter of urgent national security to your attention. In the interest of time, we are doing so via email to and through your committee and personal staffs and on behalf of a larger, bipartisan group of concerned national security officials, all with previous public service, in hopes that you will agree that this issue warrants your immediate attention.

Here is the issue: We believe that our career federal civil servants must be accountable to the American people and those that are elected to represent them, but while that core principle is essential to the effective functioning of our democratic system of government, it is in desperate need of reform and modernization, as it may no longer be as true as it once was. It is simply too hard to hold our civil servants accountable for meeting reasonable standards of performance or conduct.

However, some would establish the political loyalty of those career civil servants as the best way of reassuring that accountability. We strongly disagree. Practical considerations aside, in our view, that is dangerous. Using potentially politics, no matter how well intentioned, as a litmus test for the appointment or retention of civil servants, senior and otherwise, presents too great a risk to our national and homeland security.

Public service, whether in uniform or otherwise, ought to be based exclusively on qualifications and merit. Nothing else matters, and in our view, political fealty—however it may be operationalized—does not equate to accountability.

Nevertheless, in our view, today’s antiquated civil service system still needs to be modernized, especially when it comes to accountability. However, the blueprints proffered by both sides of the political aisle are problematic. One side is firmly rooted in a *status quo* that inadvertently impedes accountability, while the other, if implemented, may end up politicizing the very civil servants we all want to be politically neutral. As national security leaders, we are held to the same standard of neutrality, and we contend that civil servants can become more accountable—as accountable as military members, intelligence and law enforcement officers, and even government contractors—*without* politicizing them.

We note that in this regard that the Office of Personnel Management (OPM) has recently issued a final rule that makes merit principles more permanent, and in so doing, it is intended to make it harder to politicize the federal civil service. That is OPM’s theory, and we applaud their effort, but we must add

that while its ‘merit principles’ rule will serve as a way of delaying potential politicization, it will not prohibit a President (*any* President, of *either* party) from undoing it and substituting some other non-merit standard in its stead. It may take some time, but it can be undone. Thus, in our view, this battle is far from over, and we believe that it will take a bipartisan Act of Congress to effectively strike the right balance between accountability and protections as a matter of law.

In that regard, we contend that the Congress (perhaps starting with your committees) must forever preclude anything that has the potential to make partisan political loyalty the litmus test, whether express or implied, for any personnel action affecting a federal career civil servant, including senior career executives. However, at the same time, we believe that the Congress must also dramatically simplify the well-intentioned but too-cumbersome, too-attenuated, and too-complicated processes that we are currently forced use to hold those same civil servants accountable. Here is what we propose:

1. Simplify ‘operational’ accountability by modernizing chapters 43 and 75 of title 5 of the US Code, at least for the agencies within your jurisdictions, to make it easier and faster to hold federal employees accountable, while preserving their merit-based due process protections. They should be hired and fired on that basis, and that alone.
2. Insulate career civil servants in national security, intelligence, and law enforcement positions from partisan influence by enacting laws to prevent their potential politicization; for example, you may want to consider a statutory ban on any measure that potentially threatens to undermine those merit-based principles.
3. Periodically review the mix of political appointees and career civil servants in in DOD and other national security, intelligence, and law enforcement agencies, by a nonpartisan body perhaps patterned after the military’s Quadrennial Review Commissions, to ensure the right balance between democratic control and apolitical administration by subordinate career civil servants.

Given the jurisdictions of your respective committees, we recommend the National Defense Authorization Act (NDAA) for Fiscal Year 2025 as a vehicle, and we would be happy to collaborate with you and your professional staff to craft appropriate language. We can help and are at your disposal.

However, let us be clear. We believe that our career civil servants, our civilian employees, are a national resource, and they must be protected by due process. In our decades of experience overseeing large, complex national security organizations under both Democratic and Republican Presidents, these individuals have always brought unrivalled technical expertise, institutional memory, and the ability to navigate complex bureaucracies that are truly priceless. Proposals that allow political loyalty to be substituted for merit in their ranks—even in the name of greater accountability—pose a significant risk.

/Signed in alphabetical order/

Former Director of the Central Intelligence Agency GEN Mike Hayden
Former Deputy Secretary of Homeland Security ADM James Loy
Former Director of National Intelligence VADM Mike McConnell
Former Deputy Secretary of State AMB John Negroponte
Former Secretary of the Navy HON Sean O’Keefe