


ASTRONAUTS FOR AMERICA

FEDERAL WORKFORCE FIRINGS: RULE OF LAW AND THE MERIT SYSTEM

Founding Value: Equal Justice. Constitutional Principles: Rule of Law; Due Process of Law; Separation of Powers. Institutional Norms: Executive Constraint; Administrative Neutrality; Truth, Science and Evidence.

BOTTOM LINE

The executive branch removed tens of thousands of career civil servants without the notice, reasons, or appeal rights its own regulations require, and shut down agencies Congress created. On July 3, 2026 a federal appeals court held that agencies must follow their own binding rules. Congress should put the merit system’s protections into statute and limit the emergency powers used to go around them.

NARRATIVE

In February 2025, the Department of Government Efficiency (DOGE), headed by Elon Musk (a [Special Government Employee](#), capped at 130 days a year, not a Senate-confirmed post), [issued guidance to OPM and other agencies calling for mass terminations of federal employees](#). Agencies treated it as an order, terminating tens of thousands en masse, starting with roughly 25,000 probationary workers. [Courts found the terminations illegal](#) and ordered reinstatement; the Supreme Court [stayed those orders](#) on procedural grounds, and the cases continue while the firings stand. DOGE guidance also dismantled entire agencies, including [USAID](#) and the [Consumer Financial Protection Bureau](#), without congressional authorization. By March 2026, [nearly 238,000 workers](#) had left federal service, through both terminations and a surge in retirements and resignations. [No independent body has confirmed actual savings against the \\$2 trillion](#) Musk initially promised. [Schedule F, reinstated by Executive Order on January 20, 2025](#), reclassifies broad categories of career positions as at-will, stripping protections in place since the [Pendleton Civil Service Reform Act \(1883\)](#) and the merit principles Congress codified in the [Civil Service Reform Act \(1978\)](#). With the [Hatch Act \(1939\)](#), which bars career employees from partisan political activity, these statutes form the architecture of a nonpartisan civil service. Employees assigned to DEI or other out-of-favor programs were dismissed not for poor performance but for their prior job assignment. A new administration may end a training program like DEI. Dismissing the people who staffed it, with no review of individual performance, is a different act, and it is what the administration accuses DEI of doing: substituting group identity for merit. The merit system is not a custom; it is law, written by Congress in 1883 and 1978 and by the agencies in their own regulations. Article VI binds every federal officer to that law, and an executive branch that sets it aside when it becomes inconvenient has placed itself above it. Fired intelligence officers sued under the Administrative Procedure Act and the 1st and 5th Amendments, and the [Fourth Circuit ruled for them](#): officers who kept their clearances and faced no misconduct allegations were owed reassignment consideration and internal review. Whatever tool one president builds to remove career employees over their politics, his successor inherits, pointed the other way.

FINDINGS
PROXIMATE CAUSE(S)

- In February 2025, DOGE issued guidance calling for mass firings of federal employees which OPM treated as direction, disregarding lawful Reduction in Force (RIF) processes required by law.
- Schedule F (reinstated January 2025) reclassified tens of thousands of General Schedule (GS) career civil service positions as at-will, exposing them to dismissal for political reasons, in direct conflict with the merit system in place since 1883.
- DOGE guidance led to the effective dismantlement of entire congressionally authorized agencies, e.g., USAID and the CFPB.

CONTRIBUTING CAUSE(S)

- Merit principles set aside: dismissal by job assignment rather than individual performance is a prohibited personnel practice under the merit system Congress codified at 5 U.S.C. §§ 2301 and 2302.
- Due Process denied: employees were removed without the written notice, stated reasons, and appeal rights the Civil Service Reform Act of 1978 requires, and agencies disregarded their own binding regulations.
- Separation of Powers set aside: OPM had no authority to “dismantle” congressionally mandated agencies, and Congress did nothing to stop it.
- Administrative Neutrality abandoned: Schedule F and the mass

ROOT CAUSE(S)

- Some argue the federal workforce had grown too large and resistant to direction, and that the merit system had become a shield for poor performers. That concern may have merit as a policy matter; it does not justify bypassing legal protections.
- [Unitary Executive Theory](#): the claim that the Constitution vests all executive authority in the president and that therefore career civil servants serve at presidential pleasure regardless of what Congress has legislated. Since 2020, the Supreme Court has moved toward embracing the theory, especially in [Trump v. Slaughter](#) (June 2026), which stripped for-cause removal

- DOGE termination guidance put particular emphasis on career employees who had been assigned DEI-related jobs, part- or full-time, under the previous administration.

firings are the largest attempted restoration of political patronage in the civil service since the Pendleton Act ended the spoils system in 1883.

protections from commissioners at the Merit Systems Protection Board and several other independent agencies.

Norm Erosion: *Executive Constraint:* the mass firings and Schedule F represent the most direct attempt since the spoils-system era to bring the permanent civil service under presidential political control. *Administrative Neutrality:* a workforce chosen and retained for political loyalty rather than merit cannot serve all Americans impartially, whichever party holds power. A civil service reshuffled every four years also forgets how to do the work: expertise and hard-won judgment do not transfer on an election cycle, and the citizen waiting on a benefit, an inspection or a clearance pays for the gap. *Truth, Science and Evidence:* when the stated rationale is efficiency but no independent body can confirm the savings, and termination notices are later found to lack verifiable justification, the claim of evidence-based reform is undermined.

Political scientists Steven Levitsky and Daniel Ziblatt, in *How Democracies Die* (2018), identify executive constraint and administrative neutrality as the two most critical norms sustaining democratic governance, and warn that courts cannot enforce norms precisely because they are norms, not laws. The pattern they identify is present here: when institutional norms erode, the remedy must come from legislators, states, and ultimately, informed voting citizens.

RECOMMENDATIONS

LEGISLATORS AND JURISTS

- Pass legislation to expressly prohibit reclassification of career civil service positions as at-will, and to codify the Pendleton Act’s merit principles into statute.
- Remind the Executive Branch that only Congress can disestablish congressionally established federal agencies.
- Restore adequate funding and staffing to the [Merit Systems Protection Board](#), currently understaffed and overwhelmed with appeals.
- If federal employee fraud, waste, and abuse is a real problem, pursue civil service reform through a lawful, bipartisan process.
- To limit short and long term damage to government operations, judges should pause suspicious mass firings while legitimate constitutional challenges work through the courts.

GOVERNMENT EXECUTIVES

- Agency heads should reassign or redirect career employees whose prior functions have been eliminated before resorting to termination. A professional civil servant who administered DEI training can administer its successor just as capably.
- Agency heads and career officials should follow established RIF procedures for any workforce reduction: issue accurate notices, provide valid cause, and preserve employees’ statutory rights to appeal, regardless of pressure to move faster.
- Provide the [Government Accountability Office](#) with full access to DOGE-initiated actions and produce an independent accounting of costs and savings.

CITIZENS

- Ask where your representatives stand on Schedule F, on the [Pendleton Civil Service Reform Act](#) merit principles of 1883, and on bills such as the Saving the Civil Service Act.
- Visit AstronautsForAmerica.org for a Sample Candidate Integrity Pledge.
- Consider Stanford sociologist [Robb Willer](#)’s finding that persuasion across partisan lines works best when arguments connect to values the other side already holds. An informed, empathetic citizenry is harder to divide.
- Use social media, and challenge local news outlets, to publicize inspiring examples of good government.
- Challenge your school boards to increase their emphasis on civics at all levels.
- Vote!

Key Sources: *Pendleton Act (1883)*, National Archives; *Civil Service Reform Act (1978)*, Congress.gov; *Hatch Act (1939)*, Office of Special Counsel; *CREW, DOGE’s limits (2025)*; NPR, *Musk’s special-employee status (2025)*; SCOTUSblog, *stay of reinstatement order (2025)*; Federal News Network, *OPM mass-firings ruling (2025)*; PBS News, *USAID dismantling ruling (2025)*; NPR, *CFPB dismantling blocked (2025)*; Pew, *federal workforce shrank 10% (2026)*; CRS, *Schedule F overview (LSB11262)*; CRS, *Trump v. Slaughter analysis (2026)*; Federal News Network, *MSPB workload (2025)*; H.R. 492, *Saving the Civil Service Act*, Congress.gov; Fisk, “*Democracy and a Nonpartisan Civil Service*” (2025); *Doe 1 v. ODNI, Fourth Circuit ruling for fired intelligence officers (July 3, 2026)*; Levitsky and Ziblatt, *How Democracies Die (2018)*; Robb Willer, *Stanford, on moral reframing (2017)*

Appeal to Our Crewmates: This “Failure Is Not an Option” briefing is one of a series by Astronauts For America, distilling our “America, We Have a Problem” series briefings into cause factors and actionable recommendations. We are not constitutional scholars; we defer to experts and use primary sources: court decisions, congressional records, peer-reviewed scholarship and news reporting rather than commentary or opinion. Please use the “Contact Us” feature on our website to tell us what we can do to help our democracy keep faith with our American ideals.