

July 11, 2022

Sent via e-mail

House Committee on Rules
H-312, The Capitol
Washington, DC 20515

Dear Chairman McGovern, Ranking Member Cole, and members of the House Committee on Rules:

On behalf of the National Active and Retired Federal Employees Association (NARFE), which is dedicated to advancing the interests of the more than 5 million federal employees and retirees, as well as their spouses and survivors, I write in favor of the bipartisan Amendment 220 to Rules Committee Print 117-54. I urge the committee to make it in order for potential inclusion in the National Defense Authorization Act for Fiscal Year 2023.

Amendment 220 would provide a bipartisan, congressional check on abuse of executive powers from any administration. It would do so by limiting the ability of the executive branch to bypass the entire framework of the merit-based civil service through the creation of broad new exceptions to the application of merit-based rules. Specifically, the amendment would prohibit the reclassification of any position in the competitive service to an excepted service schedule that was created after September 30, 2020, and limit federal employee reclassifications to the five excepted service schedules in use prior to fiscal year 2021.

Given the attempt in late 2020 to create a broad, new excepted service category (Schedule F) with rules more akin to those covering political appointments, and recent legislative efforts to revive the idea, it is critical to pass this amendment now. It would provide a real, bipartisan check preventing our nation from returning to the spoils system on the late 1800s and ensuring we remain a nation governed by laws.

A competitive, merit-based civil service provides continuity through changing administrations, preserves institutional knowledge and expertise within the federal government, and safeguards the rule of law. Civil service rules ensure federal employees are hired and fired based on their competence, or lack thereof, and not what political connections they have or lack. The rules also protect employees from being removed for choosing adherence to the Constitution, laws and professional standards over politically motivated actions or perceived allegiance to a president or political party. In so doing, the rules protect against abuse of power by the executive branch, providing greater assurance that laws passed by Congress will be faithfully executed. This system must be protected for the sake of all Americans.

Current rules already allow every administration to hire political appointees who are exempt from civil service rules through Schedule C. But the short-lived Schedule F would have greatly expanded upon that exemption by including positions “of a confidential, policy-determining, policymaking or policy advocating character.” This broad definition, applied liberally, could cover a significant portion of the federal workforce. Unlike Schedule C employees who conclude their tenure at the end of an administration, those hired under Schedule F could remain beyond the administration that appoints them. But if a new administration decided it wanted a new set of Schedule F employees, civil service rules would no longer stand in its way.

While every administration holds substantial executive power, that power is limited by the Constitution and laws of the United States. By prioritizing allegiance to that rule of law over personal allegiance, our civil service system stands as a bulwark for limited government. Our country deserves a competent civil workforce that holds the trust of the American people, and Amendment 220 represents an opportunity for Congress to do just that, by ensuring the civil service remains the professional and nonpartisan system that Americans have come to rely on.

Furthermore, it is clearly germane to the National Defense Authorization Act (NDAA), due to its application to Department of Defense (DOD) civilian employees, 700,000 of whom make up more than a third of the federal workforce. Past NDAAAs have routinely included government-wide federal workforce provisions due to their impact on the DOD civilian workforce.

For these reasons, I ask that the committee make Amendment 220 in order. Thank you for your consideration of NARFE’s views. If you have any questions or concerns, please contact NARFE Staff Vice President for Policy and Programs John Hatton at jhatton@narfe.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ken Thomas', with a stylized flourish at the end.

Ken Thomas
NARFE National President