

The Federal Merit Framework

Merit is the citizen's guarantee that public office is held by the competent rather than the connected. This paper traces the law that promised it, documents the practice that hollowed it, and proposes the framework that would restore it.

For most of the nineteenth century, a change of administration meant the emptying of the government. Clerks, postmasters, and customs officials were dismissed by the tens of thousands and replaced with the victorious party's creditors, because public office was the currency in which campaigns settled their debts. The largest federal office in the country, the New York Customs House, collected the bulk of the nation's revenue and operated openly as a party machine, its collectorship the richest prize in American patronage. The citizen paid for the arrangement twice, first in the incompetence of officeholders selected for loyalty and again in the corruption of parties that sold what belonged to the public. In January 1883, Congress passed and President Chester Arthur signed the Pendleton Civil Service Reform Act, and the American experiment in merit-based public employment began.¹

Arthur was an unlikely signatory. He had run that same New York Customs House as Collector, had been removed from it amid the patronage battles of the 1870s, and had ascended to the presidency as a product of the machine the new law dismantled. That the reform was signed by such a man is one of the durable ironies of American government, and one of its quiet instructions: institutions can be redeemed by design even when the men inside them arrived by other means. The spoils system fell when a law changed what the machinery rewarded, and for no other reason. Its beneficiaries never repented.

I. What the Founders Asked of Appointments

Merit did not enter American government in 1883. It was present at the founding as an expectation. Writing in Federalist No. 76 on the appointment power, Alexander Hamilton argued that a President would be "ashamed and afraid" to nominate candidates whose only qualification was personal loyalty or state allegiance.² In Federalist No. 68 he supplied the standard against which every personnel system since should be measured: the true test of a good government is "its aptitude and

tendency to produce a good administration."³ The Constitution's architecture assumed fitness for office as the currency of appointment. What it did not supply was the machinery to enforce that assumption once mass party politics arrived, and by the age of Jackson the currency had been debased into spoils.

The Pendleton Act of 1883 supplied the first machinery: competitive examinations, protection from political assessment, and a Civil Service Commission to police the boundary.¹ It covered barely one position in ten at passage, but it established the principle that federal employment is a public trust awarded on demonstrated capacity. Theodore Roosevelt spent six years as a Civil Service Commissioner, from 1889 to 1895, enforcing that principle against both parties with a vigor that made him famous before San Juan Hill did. The reform tradition he embodied was conservative in the oldest sense. It sought to conserve the government's competence against the appetite of factions, and it understood patronage as a double corruption: it degrades the government that practices it and the citizen who learns to seek favor rather than service.

II. The Law of Merit

Nearly a century later, Congress rebuilt the machinery. The Civil Service Reform Act of 1978 abolished the old Commission, created the Office of Personnel Management and the Merit Systems Protection Board, and did something the Pendleton generation never attempted: it wrote the meaning of merit directly into statute.⁴ The nine merit system principles codified at 5 U.S.C. § 2301 remain the constitutional core of federal employment. Recruitment from all segments of society through fair and open competition, on the basis of relative ability, knowledge, and skills. Equal pay for work of equal value. High standards of integrity and concern for the public interest. Efficient and effective use of the workforce. Retention of employees on the basis of the adequacy of their performance, correction of inadequate performance, and separation of those who cannot or will not improve.⁵

Read the ninth word of that last principle again: separation. The statute is candid where modern practice is squeamish. Merit, as Congress defined it, has three moving parts, and each depends on the others. A system that hires on ability but promotes on tenure has abandoned merit at the second step. A system that hires and promotes on ability but cannot remove demonstrated failure has abandoned it at the third, because retention without performance converts a public trust into a private annuity. The 1978 Act paired tenure protections with accountability deliberately. The protections exist to shield employees from political abuse, and never to shield performance from measurement.

Retention without performance converts a public trust into a private annuity.

III. Honored in Statute, Hollowed in Practice

Against that legal standard, current practice can be audited. Three exhibits carry the pattern.

The queue. In fiscal year 2024, the average government-wide time-to-hire was 101 days.⁶ A qualified engineer, nurse, or analyst who applies to the federal government waits more than three months for an answer that a private employer delivers in three weeks. The best candidates do not wait; they accept other offers, and the applicant pool that remains is selected as much by patience as by ability. A hiring process this slow is a merit filter running in reverse. The Office of Personnel Management's 2025 Merit Hiring Plan, issued under Executive Order 14170, set a government-wide target of under 80 days and monthly public accountability for reaching it.⁷ The target is the correct direction. The fact that 80 days can be described as ambitious is the measure of how far practice drifted.

The self-assessment. For years, the front door of federal hiring was an occupational questionnaire on which applicants rated their own expertise. The Merit Systems Protection Board documented what any hiring manager could have predicted: applicants inflate, honest candidates are screened out by their own honesty, and human resources staff pass forward the confident rather than the competent.⁸ Congress responded with the Chance to Compete Act, requiring agencies to use technical, job-related assessments and ending reliance on self-certification.⁹ A merit system that asks the applicant to grade himself has outsourced its one non-delegable duty.

The rating. At the far end of the pipeline, performance appraisal has collapsed into ceremony. When the Government Accountability Office examined the distribution of ratings across the federal workforce, it found that 99.5 percent of employees were rated fully successful or above.¹⁰ A measurement instrument that returns the same reading for nearly everyone measures nothing. It cannot direct rewards to excellence, cannot identify the failing performance the statute says must be corrected or separated, and cannot give a capable public servant the one thing a serious institution owes its best people: the knowledge that their excellence was seen, recorded, and consequential. Promotion, meanwhile, runs substantially on time-in-grade rules that make tenure a formal prerequisite of advancement.¹¹ The statute promised advancement on relative ability. Practice delivers advancement on the calendar.

IV. The Strongest Objection

The serious critique of merit reform deserves to be stated at full strength, because it is partly right. It runs as follows. "Merit" is a word, and words are administered by people. Every measurement of ability requires a measurer, every assessment embeds the assumptions of its author, and history supplies abundant examples of merit rhetoric deployed as a mask for subjective gatekeeping, for credentialism that favors pedigree over capacity, or for quiet preference dressed in the vocabulary of standards. The spoilsmen of the 1870s also believed their appointees were the fit ones. On this view,

expanding managerial discretion in the name of merit simply relocates arbitrariness from the questionnaire to the interviewer.

The objection is correct that merit is an administered standard, and correct that discretion can be abused. Where it fails is in its remedy. The alternative to imperfect measurement was never no measurement; the alternative practiced for forty years has been ceremonial measurement, the 99.5 percent rating and the self-scored questionnaire, which retains every opportunity for favoritism while destroying the evidence that would expose it. Objective, validated, job-related assessment is precisely the discipline that constrains subjective gatekeeping. A hiring panel that must defend its choice against a candidate's demonstrated performance on a rigorous instrument has less room for preference, and never more, than a panel choosing among self-certified resumes. The answer to administered merit is better administration under transparent criteria, published results, and appealable process. That is what the 1978 Act's prohibited personnel practices already provide in law.¹² The gatekeeping critique is an argument for enforcing the framework, and it cannot be an argument against having one.

V. The Framework: Measure, Reward, Remove

A genuinely merit-based federal personnel system rests on three disciplines, each already authorized in law and each currently underbuilt in practice.

Measure. Every position filled through a validated, job-related assessment of demonstrated capability, as the Chance to Compete Act now requires; every hiring action tracked against a public time-to-hire standard; every employee appraised on an instrument calibrated to differentiate, with rating distributions published by agency so that ceremonial appraisal is visible as the failure it is. What an institution refuses to measure, it has decided not to value.

Reward. Promotion decoupled from the calendar and tied to demonstrated results, with time-in-grade treated as a floor for eligibility rather than the substance of the case. Meaningful performance differentiation in pay and advancement, so the statute's promise of recognition for excellence becomes an experienced fact of federal careers. The best argument for rewarding excellence is arithmetic: every capable professional who leaves because the system paid excellence and mediocrity identically must be replaced at the taxpayer's expense, at 101 days per replacement.

Remove. The ninth merit principle enforced as written: inadequate performance identified honestly, corrected where correction is possible, and separated where it is under a process fast enough to be usable and fair enough to be trusted. Tenure protections retained for their true purpose, the prevention of political abuse, and refused as a general immunity from consequence.

These three disciplines define the standard that the rest of this institute's work assumes. Merit is the citizen's guarantee that government positions are held by the competent rather than the connected, and it is the public servant's guarantee that excellence will be distinguished from its absence. The guarantee was written into law in 1883 and again in 1978. What remains is the harder work, which is

making the law describe the building. A government that cannot tell excellence from mediocrity will, in time, be staffed by neither.

NOTES

1. Pendleton Civil Service Reform Act, ch. 27, 22 Stat. 403 (1883).
2. The Federalist No. 76 (Alexander Hamilton) (1788).
3. The Federalist No. 68 (Alexander Hamilton) (1788).
4. Civil Service Reform Act of 1978, Pub. L. No. 95-454, 92 Stat. 1111.
5. 5 U.S.C. § 2301(b) (merit system principles).
6. U.S. Office of Personnel Management, Merit Hiring Plan (May 29, 2025), reporting fiscal year 2024 government-wide time-to-hire data.
7. Exec. Order No. 14170, Reforming the Federal Hiring Process and Restoring Merit to Government Service (Jan. 20, 2025); OPM, Merit Hiring Plan (May 29, 2025).
8. U.S. Merit Systems Protection Board, The Impact of Recruitment and Hiring Reform on the Federal Workforce (reporting on occupational questionnaires and applicant self-assessment inflation).
9. Chance to Compete Act of 2024, Pub. L. No. 118-188.
10. U.S. Government Accountability Office, GAO-16-520R, Distribution of Performance Ratings Across the Federal Government, 2013 (May 2016).
11. 5 C.F.R. § 300.604 (time-in-grade restrictions on advancement).
12. 5 U.S.C. § 2302 (prohibited personnel practices).

JCPLI.org

The Jetmir Center for Policy Leadership and Innovation is an independent, nonpartisan public policy institute dedicated to advancing excellence in public service through leadership development, workforce innovation, ethical governance, and evidence-based research. This publication is part of the institute's founding research program. It may be quoted with attribution to the Jetmir Center for Policy Leadership and Innovation.

JCPLI.ORG