

President Trump and the Federal Personnel System: Theory and Practice

President Trump's actions to assert control of the executive branch in his second term have been breathtaking in their speed, volume, and diversity. The president's actions raise the more general question of how to make sense of his presidency in historical perspective. Presidency scholars have done landmark work characterizing presidents based upon personal characteristics, historic patterns, common incentives at work in different institutional configurations, or behaviors associated with populist leaders more generally. Are Trump's actions, particularly in his second term, predictable with a proper understanding of his personality, of where he falls in history, how he has grasped the levers of institutional power, or his position as a populist leader? In this paper I provide a distillation of the theory behind Trump's actions and describe the mechanics of how the President has asserted control over federal personnel in his second term. I conclude with the implications of these actions for governance and for our understanding the Trump Presidency in history more generally.

President Trump has had a longstanding antipathy toward the departments and agencies of government and the employees that populate them. At various points, the President has felt tricked, targeted, and squeezed by bureaucrats. During his first term, he described government employees as incompetent and corrupt, labeling them swamp creatures and the deep state (see, e.g., Parshall and Twombly 2020; Skowronek et al. 2021). Key first term figures pledged to “deconstruct the administrative state” but the President left office frustrated with opposition from inside his own government and his own inability to bring it to heel (Lewis 2019).¹ His return would be different. The President’s allies promised shock and awe.²

The second term has been different. The president was much better prepared to reshape the bureaucracy this time. During the four years out of office, the president’s loyalists outlined a strategy to more consistently implement an expansive theory of presidential power. This involved purging lawyers from the executive branch perceived as insufficiently loyal to the president and adopting a more assertive legal approach intent on pushing the bounds of power.³ This legal approach has allowed the president to attack the institutional features of the administrative state and gain unprecedented control of government personnel. His actions to assert control of the executive branch have been breathtaking in their speed, volume, and diversity.⁴

All in all, the president is operating consistent with his statement that “I have Article II, where I have the right to do whatever I want as president.”⁵ The president is operating as if his dramatically

¹ While the president railed against actors in the “deep state”, resistance to his directives just as commonly came from persons the president himself had selected to work in the White House and executive branch (Pfiffner 2022).

² Mike Levine, “‘Shock and awe’: What Trump ‘border czar’ Tom Homan said he plans to do starting on Day 1,” *ABC News*, November 18, 2024; Robert Costa, “Trump ally says first 100 days will be ‘shock and awe,’” *CBS News*, January 19, 2025.

³ Jonathan Swan, Charlie Savage, Maggie Haberman, “If Trump Wins, His Allies Want Lawyers Who Will Bless a More Radical Agenda,” *New York Times*, November 1, 2023; Andy Kroll, “The Shutdown Artist,” *The New Yorker*, October 27, 2025; Perry Stein, “Justice Department struggles as thousands exit – and few are replaced,” *Washington Post*, November 10, 2025.

⁴ Charlie Savage, “Trump’s Maximalist Assertion of Presidential Power Tests the Rule of Law,” *New York Times*, April 30, 2025.

⁵ Michael Brice-Sadler, “While bemoaning Mueller probe, Trump falsely says the Constitution gives him ‘the right to do whatever I want,’” *Washington Post*, July 23, 2019.

expansive interpretation of what the Constitution allows him to do is correct. He has sought to trample over a significant amount of settled law, regulation, and practice that is inconsistent with his expansive view.

The president's actions raise the more general question of how to make sense of his presidency in historical perspective. Was it predictable in some sense? Presidency scholars have done landmark work characterizing presidents based upon personal characteristics (e.g., Barber 2008; George and George 1998; Greenstein 2009), historic patterns (e.g., Skowronek 1993; Tulis 1987; Skowronek et al. 2021), common incentives at work in different institutional configurations (e.g., Canes-Wrone 2005; Edwards 1989; Moe 1985), or behaviors associated with populist leaders more generally (Howell and Moe 2000, 2025). Are Trump's actions, particularly in his second term, predictable with a proper understanding of his personality, of where he falls in history, how he has grasped the levers of institutional power, or his position as a populist leader?

In this paper I provide a distillation and accounting of how the Trump Administration has approached governance of the executive in his second term. I begin with a description of the operating philosophy and legal approach developed by the administration while out of office. Key to understanding the president's actions is the legal philosophy known as the unitary executive theory, the administration's commitment to ignoring laws the president believes are unconstitutional, and the political advantage the president gains even when the other branches succeed in checking his actions. I then turn to how this legal theory and approach have been deployed to expand presidential influence over government personnel at all levels. I conclude with the implications of these actions for governance and for our understanding the Trump Presidency in history more generally.

The Legal Theory Undergirding the President's Actions

The Trump Administration has adopted an expansive view of presidential power based in the unitary executive theory. This controversial theory was developed most explicitly by conservative legal

theorists in the 1980s (Dearborn 2025a; Howell and Moe 2025; Skowronek et al. 2021).⁶ It served as a justification for increased presidential control over a bureaucracy that had expanded to implement New Deal and Great Society programs. The theory uses as its basis the different constructions of Article I and Article II in the Constitution.⁷ Article I, the article describing the powers of Congress, provides the legislature with the powers “herein granted” and goes on to list a set of powers. By contrast, Article II, the article describing the executive, states “The executive power shall be vested in a President of the United States of America.” Unitary theorists highlight two aspects of Article II’s vesting clause. First, the clause vests power in an individual (i.e., the president) rather than a collection of individuals, say the executive branch as a whole or the president and the other branches. Second, the document arguably vests (all) the executive power in the president, not just what is “herein granted” as it does with the powers given to Congress in Article I.

The Trump Administration has interpreted Article II to mean that the president has all executive power, with the exception of a few limitations included in the document such as that the Senate must approve presidential nominations or that Congress can determine how to fill lower offices. As Skowronek, et al. (2021) highlight, unitary theorists accentuate the separation of powers and the lodging of exclusive executive power in a president and downplay checks and balances, dismissing Neustadt’s (1960) idea of the idea of separate institutions sharing powers as “mushy thinking.”⁸

⁶ The theory is controversial because of its recency, its contested historical grounding (see, e.g., Chabot 2022, Mortenson 2020; Shugerman 2023), and its transformative effects on the historic understanding of the powers of Congress to “make all Laws which shall be necessary and proper” and to set laws that the president is obligated to take care are implemented (see, e.g., Shane 2025).

⁷ Dearborn (2025b) demonstrates persuasively that parts of the unitary executive theory were emerging earlier in the 1970s even though the theory itself did not crystallize until the Reagan Administration.

⁸ William P. Barr, “Attorney General William P. Barr Delivers the 19th Annual Barbara K. Olson Memorial Lecture at the Federalist Society’s 2019 National Lawyers Convention,” November 15, 2019, Office of Public Affairs, Department of Justice (<https://www.justice.gov/archives/opa/speech/attorney-general-william-p-barr-delivers-19th-annual-barbara-k-olson-memorial-lecture>). I am grateful to Skowronek et al (2021) for this reference.

Practically, the Trump Administration operates under a legal theory which suggests that the president is sovereign in the direction and management of the executive. The president gets to interpret what the law means and determine priorities (E.O. 14215).⁹ What government employees owe is responsiveness to the president. When presidents encounter resistance to their directions, presidents are within their rights to overrun obstructions. This is the case even when employees believe the administration is flouting the law since the president gets to determine what the law means.

Under such a theory, the president's powers are expansive and many existing laws purporting to cabin presidential activity are unconstitutional. Strong unitary executive theorists assert that congressional efforts to insulate government agencies or programs from executive control are unconstitutional (Sunstein 2020). This includes efforts such as the Civil Service Reform Act of 1978 that purport to limit the president's ability to fire civil service employees.¹⁰ Rather than see that such laws are faithfully executed as the Constitution requires, the president believes he is not compelled, and may be positively obligated, to ignore what he believes are unconstitutional laws (Prakash 2008).

The Trump Administration has paired an extremely aggressive legal *approach* with the president's embrace of the unitary executive theory. In some cases, this includes the right to ignore court orders the administration believes are in error.¹¹ More commonly, the administration has claimed the right to presumptively not enforce laws they believe are unconstitutional and take actions that are illegal under settled law and precedent (because they believe the courts have wrongly decided). The

⁹ Executive Order 14215, February 18, 2025, states, "The President and the Attorney General, subject to the President's supervision and control, shall provide authoritative interpretations of law for the executive branch. The President and the Attorney General's opinions on questions of law are controlling on all employees in the conduct of their official duties. No employee of the executive branch acting in their official capacity may advance an interpretation of the law as the position of the United States that contravenes the President or the Attorney General's opinion on a matter of law, including but not limited to the issuance of regulations, guidance, and positions advanced in litigation, unless authorized to do so by the President or in writing by the Attorney General."

¹⁰ The Department of Justice argued before the Merit Systems Protection Board that the president may fire employees "at will and without cause." Eric Katz, "Trump admin. tells judge it can fire at least some career feds at any time for any reason," *Government Executive*, July 17, 2025.

¹¹ Katherine Faulders, "Trump Administration ignores judge's order to turn deportation planes around: Sources," *ABC News*, March 16, 2025; Nate Raymond, "Trump Administration violated court order by pausing FEMA grants, judge rules," *Reuters*, April 4, 2025.

administration has also opportunistically interpreted the inherent executive power to set priorities among laws, choosing which ones to enforce and how and against whom to enforce them.¹²

In November 2024, Vivek Ramaswamy and Elon Musk explained in a *Wall Street Journal* editorial that two recent Supreme Court decisions made vast swaths of government policy and activity unconstitutional.¹³ Unprecedented cuts to agency workforces and spending were justified now that this activity was unconstitutional. In *West Virginia v. EPA* (2022), the court ruled that agencies cannot set policy on major economic or policy questions unless Congress specifically authorized the agency to do so. In *Loper Bright v. Raimondo* (2024) the justices overturned *Chevron U.S.A. v. Natural Resources Defense Council, Inc.* (1984) and determined that courts should not defer to agencies in the proper interpretation of statutes. Musk and Ramaswamy explained that these decisions meant that thousands of agency rules were promulgated under an unconstitutional system and past court approval was no refuge. The president would refuse to enforce significant rules promulgated on the basis of vague authority and fire employees hired to implement them. The administration assumed unprecedented authority to decide what was a legitimate agency action under an agency's authorizing statutes and what actions had been taken in excess of that authority under a process now declared unconstitutional. While the Chief Justice took pains to clarify in *Loper Bright* that prior cases validating agency action relying on *Chevron* were good law, the Administration was going to challenge the Chief Justice's pronouncement by choosing not to enforce many rules. Ironically, the choices to unilaterally change agency policies through non-enforcement are arguably themselves the kinds of policy changes *West Virginia v. EPA* suggested would require legislative rather than executive action.

¹² See, for example, Caitlin Yilek, "Trump orders Justice Department to not enforce TikTok ban," *CBS News*, January 20, 2025.

¹³ Musk, Elon, and Vivek Ramaswamy, "Elon Musk and Vivek Ramaswamy: The DOGE Plan to Reform Government," *Wall Street Journal*, November 20, 2024.

What About Faithful Execution of the Laws?

The Constitution obligates the president to take care that the laws are faithfully executed. Does the adoption of the unitary executive theory and an assertive legal approach conflict with this obligation? Previous presidents have been reluctant to take actions that were illegal on their face or had a high likelihood of being overturned by Congress or the courts. Respect for the autonomous authority of law and fear of political repercussions reined in constitutional adventurism. The legal determinations of an independent Office of Legal Counsel and other government lawyers held sway. In this administration, the president has removed lawyers willing to contest the president's interpretation of law with lawyers willing to find arguments to support the president's expansionist views (Goldsmith 2025). Previous presidents have also feared the political downside of making specious legal arguments publicly or having courts hand them losses. They avoided angering members of the House and Senate whose cooperation they might need in the future.

For President Trump, however, his aggressive legal approach is a win-win. If the president can get rulings from sympathetic judges to validate his actions, that is a win. If the cases drag on through many twists and turns and eventually become moot because Congress ratifies his actions or the fiscal year ends, this is also a win. If the president ultimately loses a court challenge, he can portray himself as a fighter, animating his base by his willingness to challenge the corrupt system. This also a win. The president has little or no incentive to restrain his actions unless his actions drain support from key supporters.

What Has He Done?

President Trump has used the unitary executive theory and an opportunistic interpretation of numerous statutes to assert greater control over the departments and agencies of government and their activities. The president is pursuing greater control of government employees at all levels in order to root out personnel-related resistance to his directions. Sometimes the administration connects the

personnel actions to broader reorganization efforts such as eliminating the U.S. Agency for International Development or transforming the Department and Health and Human Services so that it aligns with the Secretary Robert F. Kennedy’s “Make America Healthy Again” agenda.¹⁴ In other cases, Trump appointees justify them as part of larger efforts to shrink government, improve responsiveness, or simply because the president has the power to remove employees under the unitary executive theory.¹⁵

The president’s efforts to assert control start at the top (see, e.g., Mackenzie 1981; Weko 1995).¹⁶ During the spring of 2025, President Trump fired numerous officials serving statutorily specified fixed terms and whose involuntary removal was to happen only “for cause.”¹⁷ The view of proponents of the unitary executive theory is that such removal protections are unconstitutional despite the Supreme Court’s *Humphreys Executor v. United States* decision in 1935 that ratified such protections for agencies exercising quasi-legislative or quasi-judicial functions. The president removed Democrat appointed commissioners, including Gwynne Wilcox on the National Labor Relations Board and Cathy Harris of the Merit Systems Protection Board. These actions led both agencies to lose quorums, making them unable to fulfill key statutory responsibilities. The Equal Employment Opportunity Commission, Federal Election Commission, and the Tennessee Valley Authority also lost quorums during the first 6 months of the Trump presidency, in part because of President Trump’s choices to fire commissioners with removal protections (Bednar and Phillips 2025). The president has

¹⁴ Emily Davies, Abigail Hauslohner, John Hudson, and Antonio Olivo, “Trump administration moves to formally abolish USAID,” *Washington Post*, March 28, 2025; Lauren Weber, Dan Diamond, Joel Achenbach, Rachel Roubein, and Lena H. Sun, “RFK Jr. announces big cuts to Department of Health and Human Services,” *Washington Post*, March 27, 2025.

¹⁵ See Jeffrey Toobin, “Trump v. James and Maurene Comey,” *New York Times*, November 13, 2025 describing the legal justification given for the removal of Maurene Comey from her position as a Department of Justice prosecutor in the Southern District of New York.

¹⁶ I focus here on civilians in key agency leadership positions. However, the president has also removed an unusually large number of military leaders and inspectors general. The latter actions require that the president notify Congress 30 days prior to removal. Charlie Savage, “Defying Legal Limits, Trump Firings Set Up Tests That Could Expand His Power,” *New York Times*, January 29, 2025.

¹⁷ Charlie Savage, “Trump Issues Order to Expand His Power Over Agencies Congress Made Independent,” *New York Times*, February 18, 2025; Hassan Ali Kanu, “Trump tried to fire them. But these Democratic appointees are still on the job,” *Politico*, June 30, 2025.

also removed Democrat appointed commissioners on the Consumer Product Safety Commission and Federal Trade Commission, to clear a path for the president to more quickly secure a Republican majority.¹⁸ Several cases related to these removals sit before the Supreme Court.

Below the level of Senate confirmed appointees, the president has taken steps to expand his control over key personnel. He has created two new categories of employees that lack removal protections, namely positions that make policy, advocate for policy, or are deemed to be involved in policy making. In the President's view, employees without employment protections will be more responsive to his directions. On July 17, President Trump issued executive order 14317 that created Schedule G, a new class of high-level positions to be filled by persons that can be hired and fired outside the merit system. Schedule G is for "positions of a policy-making or policy-advocating character normally subject to change as a result of a Presidential transition." These are new positions the president can fill and, by doing so, add new layers of political appointees in departments and agencies.

President Trump also reinstated Schedule F on Inauguration Day (E.O. 14171) to give him more flexibility over employees in what the administration defines as *policy-related* positions, including lawyers, scientists, and managers. The president created Schedule F in his first term only to have President Biden rescind it in the first week of his presidency. The order directs agencies to submit lists of such positions to the Office of Personnel Management for inclusion in this category. Positions included in this category would lose their removal protections.¹⁹ Ultimately, the Trump Administration

¹⁸ For more details and different outcomes by commission see Hassan Ali Kanu, "Trump tried to fire them. But these Democratic appointees are still on the job," *Politico*, June 30, 2025.

¹⁹ More specifically, persons with competitive status retain that status but lose due process rights related to removal from positions in the new schedule. The president's order also directs agencies to establish policies around prohibited personnel practices but it is not yet clear what that means. See Partnership for Public Service. "FAQ: Schedule Policy/Career (formerly Schedule F)." (<https://fedsupport.org/resources/resource-library/faq-schedule-policy-career-formerly-schedule-f/>, accessed September 6, 2025).

predicts this could affect 50,000 positions in and around the policy making process.²⁰ The full effect of the president's order will not be seen until a proposed rule implementing the new rules and revoking the Biden – era policy is promulgated.

These actions were paired by the President with a fundamental reshaping of the Senior Executive Service (SES). The SES is a corps of managers that sit between Senate confirmed presidential appointees and rank-in-file federal employees in the civil service system. The SES is comprised of 10,000 managers and the Civil Service Reform Act of 1978 limits the number of political appointees to be no more than 10 percent of the SES. Some executive positions can only be filled by career members of the SES (i.e., career-reserved positions). Career members are selected into the SES based upon evaluations by Executive Resources Boards from inside an agency. Appointees are selected by the president's team. On Inauguration Day, President Trump issued an executive order which reduced the number of career-reserved positions, disbanded agency Executive Resources Boards, and directed the reconstituting of these boards with an appointee as chair. The order further directs agency officials to “use all available authorities to reinvigorate the SES system and prioritize accountability” which was later clarified to mean that adherence to the president's policies was the most important element of assessing performance.²¹

Among the rank-in-file, the president froze pay and hiring and followed multiple paths to shrink the size of the federal workforce. Some federal workers were immediately fired or placed on administrative leave.²² Others were offered a federal buyout, what the administration called the “fork

²⁰ The estimate of 50,000 positions comes from the Trump Administration's proposed rule implementing the new order. U.S. Office of Personnel Management. 2025. “Improving Performance, Accountability and Responsiveness in the Civil Service.” 90 FR 17182, April 23, 2025.

²¹ Drew Friedman, “OPM launches ‘radically different’ training program for federal executives,” *Federal News Network*, August 7, 2025.

²² James Fitzgerald, Nadine Yousif, and Kayla Epstein, “Trump puts all US government diversity staff on paid leave ‘immediately,’” *BBC*, January 23, 2025; Charlie Savage, “Trump Brazenly Defies Laws in Escalating Executive Power Grab,” *New York Times*, February 5, 2025.

in the road.”²³ The administration fired large numbers of probationary employees that had not yet obtained competitive status and pursued widescale layoffs through reductions-in-force (RIF).²⁴ The administration justified RIFs on the basis of the unitary executive theory in some contexts²⁵ and reorganizations and lack of work in other contexts.²⁶ The administration claimed that such actions are justified when agencies are performing tasks not directly required by their statutory mandates or employees are doing work the Administration defines as unconstitutional (e.g., diversity, equity, and inclusion).²⁷ In parallel, the president took actions to weaken government employee unions and end union contracts in federal employment.²⁸ In total, the Trump Administration shed 200,000 federal workers during the first 8 months even while expanding the workforces of Customs and Border Protection and Immigration and Customs Enforcement.²⁹ The administration has also sought to change hiring criteria by asking applicants to write short essays explaining their favorite Trump executive order and explain how they will advance the president’s priorities.³⁰

Notable among the personnel actions were the President’s removal of executives and personnel involved in implementing civil service laws. The president targeted the leadership of the Federal Labor Relations Authority (unions), Merit Systems Protection Board (civil service violations),

²³ Chris Cameron, Madeleine Ngo, and Erica L. Green. 2025. “Trump Administration Entices Millions of Federal Workers to Resign,” *New York Times*, January 28, 2025.

²⁴ Sophia Cai, Eli Stoklos, Jack Detsch, and Brakkton Booker, “Trump administration fires thousands of federal workers,” *Politico*, February 13, 2025.

²⁵ Eric Katz, “Trump admin. tells judge it can fire at least some career feds at any time for any reason,” *Government Executive*, July 17, 2025.

²⁶ Justin Doubleday, “Trump EO directs agencies to submit reorganization plans, prepare for RIFs,” *Federal News Network*, February 11, 2025; Eileen Sullivan and Karoun Demirjian, “What to Know About Trump’s Large-Scale Layoff Plans,” *New York Times*, April 14, 2025.

²⁷ Dan Garisto, Max Kozlov, and Jeff Tollefson, “Trump team orders huge government lay-offs: how science could fare,” *Nature*, February 28, 2025.

²⁸ Lauren Kaori Gurley, Emily Davies, and Tobi Raji, “Trump administration moves to end union rights at many federal agencies,” *Washington Post*, March 28, 2025.

²⁹ Partnership for Public Service. 2025. “Federal Harms Tracker: The Cost to Your Government,” August 26, 2025; Rebecca Santana, “What to Know: Four ways ICE is training new agents and scaling up,” *AP News*, August 24, 2025; Terry Gerton, “Big plans for workforce expansion at Customs and Border Protection,” *Federal News Network*, June 2, 2025.

³⁰ Meryl Kornfield and Hannah Natanson, “Trump accelerates push to reward loyalty in federal workforce,” *Washington Post*, June 16, 2025.

Office of Government Ethics (ethics), Office of Special Counsel (whistleblowers), and Office of Personnel Management (hiring, classification), agencies responsible for ensuring the integrity of federal hiring and protecting the rights of federal employees. Switching out leaders disrupts these protections through the loss of quorums and the loss of leadership (Bednar and Phillips 2025; Devins and Lewis 2023; Richardson et al. 2025). This makes it more difficult for federal employees to contest the actions of the Trump Administration and pave the way for the president to assert greater control over agency action.

Conclusion

President Trump's second term is a fulfillment of the commitments he made during his first term to deconstruct the administrative state partly by rooting out employees he perceives as corrupt or insufficiently loyal. The president has coupled his expansive view of the president's powers under the Constitution with a willingness to flout existing laws he believes are unconstitutional and an aggressive use of existing legal authorities. This organized strategy has allowed him to begin a process that is fundamentally reshaping the administrative state, starting with its personnel system.

Given these dramatic changes, the question remains of how to make sense of the president in historical perspective. Does President Trump's presidency, particularly his second term, represent continuity or change? The president arguably resembles a new Andrew Jackson, breaking norms, challenging convention, going after elites and upsetting the political system. While upsetting, his presidency still fits firmly within the standard to and fro of presidential politics. In other ways, however, the president seems *sui generis*, threatening not just convention but the rule of law itself. His actions have so troubled some scholars that they have issued dire warnings about the future of democracy in the United States (see, e.g., Moe and Howell 2025; Snyder 2017). Ultimately, whether President Trump is another president like Andrew Jackson or a threat to democracy itself will depend upon the actions of the public in elections and the resilience of the other branches. The president's

approval has hit historic lows in his first year and the Supreme Court has docketed key cases related to personnel and executive power.

Regardless of what the courts decide on the personnel cases, however, the President has been successful uprooting, disrupting, and cowing federal employees. Large numbers have left voluntarily. Others have been removed. Another class waits for another opportunity to leave government employment once they find an acceptable opportunity. The government is having a hard time hiring in jobs where it is growing.³¹ The president has undoubtedly made the administrative state smaller, less active, and more responsive to him personally. Decades of social science research suggest, however, that such efforts come at a cost (see, e.g., Light 2008; Resh 2015; Richardson 2019). A deconstructed administrative state does not just do less it does things badly. It does not prepare adequately for emerging problems like terrorist attacks or natural disasters (Lewis 2019). It does not have the foresight or capacity to get ahead of financial products that could sink the whole economy. It leaves on the table solutions to big problems homelessness, rural health care, and an opioid epidemic, problems that the national government has a pivotal role solving. Modern problems are national and complex and their solutions depend upon excellent personnel working in effective systems (Evans and Rauch 1999; Rothstein 2011).

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³¹ Perry Stein, "Justice Department struggles as thousands exit – and few are replaced," *Washington Post*, November 10, 2025.

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