



TOP AMERICA FIRST ACTIONS TO

MAKE THE BUREAUCRACY ACCOUNTABLE



The American republic was founded as a government by, for, and of the people.

Today that aspiration often seems like a distant dream. Unelected Washington bureaucrats now rule huge swaths of American life, with little accountability to voters' elected representatives. These bureaucrats live in a social and economic bubble disconnected from most Americans. And civil service protections make it almost impossible to fire them.

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1 **Make Federal Bureaucrats At-Will**

The Pendleton Act of 1883 required merit-based hiring while keeping federal employees at-will, meaning that they could be fired at the discretion of their superiors. The general federal workforce did not gain removal protection until the 1960s. These protections shield intransigent or ineffective bureaucrats from accountability to the head of the executive branch, which represents the entire country—the president. Returning the federal government to at-will employment would restore accountability to the bureaucracy.

2 **Move Government Closer to the People**

Washington, D.C., exists in a social and economic bubble impervious to the economic forces affecting the rest of America and the day-to-day consequences of federal agencies' actions. Relocating federal agencies outside Washington would bring the federal government closer to the people. It would economically boost many communities. And, because Washington, D.C., has very high living costs, it would save taxpayers billions in lower living-cost adjustments for federal employees.

3 **Require Congressional Approval of New Rules**

Most Washington policymaking is carried out by federal bureaucrats, not Congress. Federal agencies unilaterally issue regulations that have the force and effect of law. Major rules should require approval from elected representatives in Congress before they can take effect.

4 **Protect Due Process Rights**

The Constitution protects Americans' due process rights in criminal proceedings, for example,

by guaranteeing the presumption of innocence and a speedy trial. But Americans accused of legal violations by administrative agencies lack similar protections. Federal bureaucrats can—and do—presume citizens are guilty until proven innocent, drag civil proceedings out for years, and intentionally withhold exculpatory evidence. Agencies should instead be required to protect due process rights in administrative proceedings.

5 **Democratically Accountable Officials Should Make Major Decisions**

Career federal bureaucrats make major decisions on their own authority. They bring enforcement actions, award federal grants, and in some cases, issue regulations in their own name. Only democratically accountable officials appointed by the president or his agency heads should wield such significant authority.

6 **Focus Federal Diversity Efforts on Viewpoint Diversity**

The federal government heavily promotes “diversity” within the bureaucracy. These efforts focus almost exclusively on demographic diversity. At the same time, studies show the federal government suffers from a lack of viewpoint diversity. Federal employees tend to share the same political and philosophical views. Federal diversity efforts should be re-focused on promoting intellectual diversity.

7 **Limit Federal Unions**

Federal union grievances act as alternative civil service protections, often forcing agencies to reinstate dismissed employees. Federal union opposition prevented the Department of Veterans Affairs (VA) from using the Accountability Act authority to remove poor performers. The union obtained an arbitrator's judgment

forcing VA to reinstate every employee dismissed using Accountability Act procedures. Federal union power should be restricted so the bureaucracy can be held accountable.

8 **Bureaucrats Should Not Decide What the Law Means**

Under the Constitution, Congress passes laws, the executive branch carries them out, and the judiciary interprets and upholds them. The Supreme Court's Chevron doctrine undermines this constitutional separation of powers. It frequently enables the executive branch to decide a law's meaning and requires courts to defer to that interpretation. Chevron should be overruled. The bureaucrats who enforce the law should not get to decide what it means.

9 **Protect the Right to a Jury Trial**

The Constitution guarantees Americans the right to a jury trial in criminal and civil cases. But executive branch officials routinely fine citizens in administrative proceedings—without a jury trial. Americans should be guaranteed the right to a jury trial whenever the government seeks to fine them.

10 **Publicize Agency Guidance**

Agencies often announce major policy decisions through “guidance documents.” Guidance is typically drafted behind closed doors and can often be hard for the general public to find. Agencies should have to publish all their guidance documents on a public website, and the public should have an opportunity to comment on them before they take effect.