

Merit Reform as an Instrument of Executive Power

RONALD SYLVIA
University of Oklahoma

The 1978 Civil Service Reform Act was heralded as the most significant reform of public personnel systems since the Pendleton Act prescribed merit as the guiding principle of public personnel policy in 1883. As much as anything, the 1978 act sharply increased the managerial authority of the president by making the Office of Personnel Management directly responsible to the president. Federal merit reform, however, is only part of a general movement to modify the principle of separating personnel from politics which had come to be the cornerstone of personnel policy. State governments also have begun to modify their traditional merit systems along the lines of the federal reorganization.¹

As is the case in the federal government, state reorganizations increase the managerial authority of the governor. In states where there are significant vestiges of patronage, moreover, reorganizations of the merit system may provide the governor's office with its first real control of personnel policies. If used wisely, this control can result in a modernization of state personnel practices which can benefit agency administrators and legislators as well as governors. What follows are some observations on the potentials of state personnel reorganizations.

Unlike presidents with their concerns for foreign policy, national defense and the like, the principal role of a governor is that of chief executive officer of the state. Like presidents prior to 1978, governors traditionally deal with personnel systems in which a significant percentage of state agencies operate under an independent civil service system. When large numbers of employees are insulated by merit, governors are unable to install the sorts of developmental, accountability and control systems which are characteristic of personnel operations in large-scale private organizations.

A governor's ability to use personnel policies as managerial control systems in state-funded patronage agencies also is limited. Despite their supposed hegemony over patronage bureaucracies, governors rarely affect agency personnel policies for several reasons. First, the press of other gubernatorial duties limits her/his time for personnel concerns. Second, the absence of a personnel agency for patronage bureaucracies makes personnel non-viable as a managerial control system. Finally, recent court decisions (see below) and employee connections in the state legislature both protect rank and file patronage employees. A governor's appointment and removal authority, therefore, is usually applied only at the top of patronage agencies.

The continued fusion of merit protection and personnel operations in states which retain substantial vestiges of patronage results in little gubernatorial control of personnel management in either type of agency. In such circumstances, a reorganization that would establish an independent Merit Protection Board and an Office of Personnel Management accountable to the governor could result in significant reforms of state personnel practices provided that all state agencies were within the latter's purview.

For instance, upon the creation of a state OPM, a governor could begin to impose modern personnel practices upon all state agencies. As was the case with the president, managerially oriented appraisal systems and incentive pay practices can be combined to increase the executive authority of the governor. Other changes which the establishment of a state OPM could bring about are of a more general nature which could benefit agency administrators and members of the legislature. These changes include uniform classification systems and position control audits.

Classification Authority

One of the seemingly more mundane personnel functions which gubernatorial leadership could affect is classification. A well organized and properly financed state OPM could meet the classification needs of patronage as well as merit agencies by an executive order imposing uniform classification systems upon all agencies, including those formerly under patronage. Uniform classification systems are desirable because patronage agencies traditionally are able to pay their employees whatever their administrators see fit, subject only to budgetary limitations and legislatively-imposed pay caps. As a result, salaries within patronage agencies may vary significantly among persons performing substantially the same work. Similarly, the salaries of patronage employees often vary significantly from comparative positions in merit-controlled agencies. This difference can be particularly demoralizing for merit employees whose salaries are based upon objective analyses of the job content.

Position Control Audits

By empowering an OPM to engage in position control audits, a governor and legislature can make the OPM an instrument of fiscal control. In some states, agencies submit their budget requests based upon an analysis of the number of persons necessary to accomplish the mission. Unless the state has strict prohibitions against diverting funds from their stated purpose, an administrator can increase funds for equipment purchases or travel by not filling some of the requested positions. Even if money cannot be transferred to other functions, patronage administrators can take money earmarked for unfilled positions and

use it to reward favored employees with higher salaries than their co-workers. Position control auditing can result in a return to the treasury of funds allocated for positions which are not subsequently filled. Position control auditing also can assist administrators in making realistic projections of their personnel needs.

The full benefits of this assistance, however, can only be achieved when the OPM also provides agencies with a human resource planning capacity. A human resource planning system is a natural extension of a rationalized uniform classification system and position control auditing. The data generated from comprehensive human resource plans, moreover, would prove invaluable in the legislative process as decisionmakers seek to make informed choices among programs regarding growth or reduction.

Classification Audits

As noted, the reorganized state OPM would set the standards whereby positions were classified. In addition, the OPM could audit agency classification procedures to prevent grade inflation. An activist governor opposed to big government could order an OPM to step-up its auditing activities which would result in a marginal reduction in the cost of state government operations. If stepped-up auditing was combined with a hiring freeze, the net result would be reduction in the total workforce as downgraded employees sought employment outside the government.

Aggressive classification audits also could be applied selectively to injure programs to which a given administration was opposed. Although selective audits would provoke opposition among political opponents of the administration, the latter could defend itself on the grounds of economy and efficiency in government—especially if significant grade inflation was uncovered in the target agency.

Managerial Control

Traditional rank-in-position classification schemes can be faulted for their rigidity which prevents flexibility of assignment of upper-level managers. Although requiring legislative enactment, separate from the creation of an OPM, reform minded states could develop cadres of senior executives modelled upon the federal Senior Executive Service. These executives could then be made directly responsible for the successful implementation of public policy as well as be reassigned according to the needs of the agency. And by breaking them out of the rigid classification system, these executives could be rewarded or penalized for exceptional or unsatisfactory performances. Accomplishing the former would require the establishment of a system of merit increases and one-time bonuses for exceptional performers. Penalties for no-performance might include zero pay increase, transfers, reductions in grade or dismissal.

Performance Appraisal

The private sector has long recognized the benefits of performance appraisal as a managerial control system. Performance appraisal is most effective when an employee's performance is assessed in context of the organization's mission and when there is linkage between the appraisal system and the reward system of the organization. Government agencies also have recognized the benefits of mission oriented appraisal systems such as management by objective (Sylvia, 1980).

The establishment of the criteria whereby performance could be judged and the definition of proper performance standards could be left to the agencies. OPM, however, could assume an assertive posture by auditing agency appraisal procedures and establishing rigid guidelines for compliance. A governor, moreover, could prescribe a preferred appraisal system by executive order; enforcement of the system could be left to the OPM.

Employee Development

A more flexible classification system also would allow for the creation of employee development programs. Again, the federal government has pointed the way with the Presidential Management Internship Program which each year selects 250 exceptionally qualified Masters of Public Administration graduates. Of course, state efforts would be more modest. In fact, state efforts could be confined to creating upward mobility programs for exceptional persons already in state service based upon a system of career paths. In this regard, the human resource planning capacity of the OPM could be combined with a program of training and development to provide an attractive incentive for careers in state government.

Uniform classification system, position control audits, performance appraisal systems and employee development programs are only a few of the potentials of a reformed state personnel system. A central Office of Personnel Management also could pave the way for uniform labor relations policies among state agencies. Finally, an OPM could be particularly helpful to patronage agencies which previously had lacked the where-with-all to engage in modern personnel practices.

Benefits to Patronage Administrators

Perhaps the greatest beneficiaries of a state personnel reorganization are the administrators of patronage agencies. The simple fact is that patronage is an inadequate system for dealing with the human resource needs of modern government, such as recruiting skilled personnel, insuring equal employment opportunity, and protecting the rights of employees.

Like the rest of society, government operations have become complex systems in need of a variety of technical skills from engineering and computer programming to the operation of bulldozers and rapid typing skills. None of the above is linked to political partisanship (Sorauf, 1980); yet, patronage administrators are frequently asked to ignore agency needs and hire a favored constituent. Matters are made worse by the fact that the patronage administrator lacks access to the statewide recruiting machinery enjoyed by merit administrators.

Patronage as a system of personnel has been significantly undermined by recent court decisions [*Elrod v. Burns* (427 U.S. 347) and *Branti v. Finkel* (62 LEd 2d 595)] in which patronage employees have been assured protection from the partisan personnel traditions by means of which they themselves secured government employment. Once hired, a patronage employee cannot be removed simply because the political administration of the state has changed. While partisan affiliation may still be a factor in the hiring decision, it cannot enter into the decision to terminate (Meier, 1981).

Federal equal employment opportunity regulations apply equally to merit and patronage agencies. The former is assisted in achieving compliance by the state merit system; the latter is not. The best way to insure equality of opportunity in all privileges and conditions of employment is to establish a modern personnel system in which personnel decisions—including recruitment, classification, advancement, and training opportunities—are based upon the needs of the organization, objective assessments of position content, and the ability of the individual employee or applicant. In other words, equal employment opportunities require a merit personnel system.

If patronage agencies hope to deal effectively with the complexities of human resource management, they must establish modern personnel systems. The establishment of agency by agency personnel systems capable of dealing with these complexities would be both redundant and expensive. The same results can be achieved by a limited upgrading of agency in-house personnel systems and a reorganization of the state personnel system which would allow the OPM to service all state agencies.

Summary and Conclusions

Public personnel systems are not static. In the nineteenth century, merit replaced patronage as the principal criterion in government hiring decisions. In the first half of the twentieth century, merit came to encompass a broad range of personnel practices in government. The term merit eventually symbolized effective personnel management as well as non-patronage. Most recently, the merit protection and personnel functions have been separated in the federal government and a number of states. Where the personnel function has been placed under the direct control of the political executive, it represents a significant increase in executive authority.

This essay took the position that political executives can and should take an active role in the management of public programs, especially at the state level. This essay has sought to illustrate the ways in which personnel policies can be used as a managerial control system. Personnel authority can be used to upgrade the public service generally, or to impose economy measures on agencies, or as an instrument for securing bureaucratic compliance with administration policies. Unfortunately, this authority also could be utilized for partisan political purposes, although partisan excesses doubtlessly would bring about legislative opposition. In the final analysis, the potential of personnel policy as a managerial control system is dependent upon the ability and will of political executives to exercise their personnel authority.

Ironically, the greatest potential beneficiaries of state level reforms are administrators of patronage agencies who traditionally resisted accountability to state merit agencies. The creation of state OPMs with hegemony over all agencies will allow for significant modernization of personnel practices and bring about a condition of de facto merit in the form of more effective personnel systems.

Reference Note

¹States which have recently passed legislation similar to the Federal Civil Service Reform Act include: Florida, Georgia, Minnesota, Mississippi and Oklahoma. Oregon split the functions in 1969. States which have reform legislation pending are Arkansas, Massachusetts, Nebraska, New York, Utah, and Virginia (Oklahoma Merit System, 1981).

Bibliographical Notes

- Cayer, N. J., *Public Personnel Administration in the United States*. New York: St. Martin's Press, 1975.
- Hess, S., *Organizing the Presidency*. Washington, D.C.: Brookings Institution, 1976.
- House Committee on Post Office and Civil Service, *Documents Relating to Political Influence in Personnel Actions at the Department of Housing and Urban Development and Documents Relating to Political Influence in Personnel Actions at the General Services Administration*, vols. I and II, 93rd Congress, 2d session. Washington, D.C.: Government Printing Office, 1974.
- Meier, K., "Ode to Patronage: A Critical Analysis of Two Recent Supreme Court Decisions," 41 *Public Administration Review* (September/October, 1981): 558-564.
- Neustadt, R., *Presidential Power: The Politics of Leadership with Reflection on Johnson and Nixon*. New York: John Wiley and Sons, 1976.
- Oklahoma State Merit System, *Report to the Legislature on the Status of Merit Reform in the States*, 1981.
- Randal, R., "Presidential Powers vs. Bureaucratic Intransigence: The Influence of the Nixon Administration on Welfare Policy," 73 *American Political Science Review* (September 1979): 795-810.
- Seidman, A., *Politics, Position and Power: The Dynamics of Federal Organization*, 2nd ed. New York: Oxford University Press, 1977.
- Sorauf, F., *Party Politics in America*. Boston: Little, Brown and Co., 1980.
- Sylvia, R., "Some Potential Impacts of the Carter Reforms upon Agencies with MBO Systems," 10 *The Bureaucrat* (Winter 1980): 48-52.

Biographical Note

Ron Sylvia is Associate Professor of Political Science at the University of Oklahoma. He received his M.P.A. and Ph.D. degrees from Kent State University. He has taught at several colleges and universities. He has acted as a consultant to federal, state and local agencies. He has authored articles in the areas of psychology, organizational behavior, personnel administration as well as political science.