

December 19, 2018

Hon. Mitch McConnell
Majority Leader
United States Senate

Hon. Charles Schumer
Minority Leader
United States Senate

Hon. Paul Ryan
Speaker
U.S. House of Representatives

Hon. Nancy Pelosi
Minority Leader
U.S. House of Representatives

Dear Leader McConnell, Speaker Ryan, Leader Schumer, and Leader Pelosi:

As the 115th Congress concludes its work, the undersigned organizations urge you to enact bipartisan policy provisions that will guarantee the maintenance and continued operation of our federal government's non-partisan civil service. Specifically, we write regarding the U.S. Merit Systems Protection Board (MSPB).

The MSPB's current and only Board member, the Honorable Mark A. Robbins, is currently in a holdover period which expires on March 1, 2019. Absent immediate action, in this Congress, the MSPB faces a situation in which:

- There is a potential that, per DOJ legal opinion we understand has been rendered, MSPB judicial operations may cease to function without an Article II judge (e.g. Robbins) serving on the MSPB. By law, all authorities are delegated through the MSPB chairman. If there is no chairman or acting chairman, the question arises, without authority to delegate judicial operations, can MSPB administrative judges continue their work? If not, this will dramatically add to the existing backlog created by the current lack of quorum on the board. The backlog for board-level cases currently totals more than 1,500, as reported.
- Without at least one member serving on the MSPB board, the Office of Special Counsel (OSC) will not be able to secure stays for whistleblowers and other significant cases. This sends a signal to whistleblowers and other employees with pending actions before MSPB that protecting lawful disclosures of waste, fraud, abuse, and mismanagement are not a priority for Congress or the Administration.

Given this, we urge you to extend the statutory Board holdover period from one year to two years. Enactment of this policy would ensure the hard work of Mr. Robbins writing numerous decisions the past two years the Board lacked a quorum would not be wasted. It would also ensure the continuing ability of the Board to hear cases and issue stays in whistleblower cases.

America's civil service serves as an important model for the free world because of its strong merit systems principles. We urge you to take immediate action to ensure the MSPB can continue its critical role in maintaining that system for our democracy. Any questions regarding

this request can be directed to NFFE's Steve Lenkart (202) 216-4458 or SEA's Jason Briefel (301) 807-1263.

Sincerely,

FAA Managers Association (FAAMA)

Federal Law Enforcement Officers Association (FLEOA)

Federal Managers Association (FMA)

Government Accountability Project (GAP)

International Association of Fire Fighters (IAFF)

International Brotherhood of Electrical Workers (IBEW)

International Brotherhood of Teamsters (IBT)

International Federation of Professional and Technical Engineers (IFPTE)

Metal Trades Department, AFL-CIO (MTD)

National Active and Retired Federal Employees Association (NARFE)

National Association of Government Employees (NAGE)

National Council of Social Security Management Associations (NCSSMA)

National Federation of Federal Employees (NFFE)

National Weather Service Employees Organization (NWSEO)

Partnership for Public Service

Patent Office Professional Association (POPA)

Professional Managers Association (PMA)

Project on Government Oversight (POGO)

Senior Executives Association (SEA)

Volcker Alliance

