



FEDERAL AGENCY WORKERS URGE CONGRESS TO PROTECT THEM FROM REPRISALS AGAINST WHISTLEBLOWERS

Urge Intervention in Nomination of Cathy Harris, President Biden’s Pick for US Merit Systems Protection Board

Harris’s refusal to “sound the alarm” that federal agency employees are not protected from reprisal and other unlawful agency practices puts American health, safety, security, and welfare at risk.

WASHINGTON, DC, January 30, 2024 – A growing group of federal employees concerned about whether they are protected from whistleblower reprisals and unlawful agency employment practices is calling on Congress to act due to stonewalling by Cathy A. Harris, Acting Chairman of the Merit Systems Protection Board (MSPB). The President has renominated Harris as Chairman and awaits Senate confirmation.

As its name implies, the Presidentially nominated, Senate-confirmed leaders of the Merit System Protection Board (MSPB) have a singularly crucial statutory duty regarding American health, safety, security, and welfare. That is to “[sound the alarm](#)” to the President and Congress when, for decades now, federal agency employees have **not** been adequately protected from reprisal and other corrupt agency employment practices.

Led by organizations including the Project on Government Oversight (POGO), the Government Accountability Project (GAP), and nuclear safety engineer and Department of Energy whistleblower Joseph (Joe) Carson, PE (professional engineer), a group of federal employees has created an organization named [Stop Stonewalling MSPB](#) to advance their cause. Thus far, they have petitioned the Secretary of Energy, the Senate, and President Biden. Carson, an engineer and whistleblower in the U.S. Department of Energy (DOE) for over 30 years, has prevailed in at least eight whistleblower reprisal-related decisions at the U.S. Merit Systems Protection Board (MSPB).

“Harris, like her predecessors, refuses to comply with this duty or even explain why,” said Carson. “Stonewalling is her lawyerly tactic, like the stonewalling of lawyers representing opioid companies and pedophile priests. And the stakes for American health, safety, security, and welfare could be existential when agencies can readily silence or ignore their whistleblowers,” said Carson.

Such corrupt agency practices violate the [merit principles](#), the statutory bedrock for federal agency employment. The failure of MSPB's leaders, past and current, to "sound the alarm" means the [Presidential duty](#) to "take any action necessary" to root out such corrupt agency employment practices is not activated.

"Instead of complying with her statutory duty to perform this duty, Ms. Harris, an attorney, apparently considers her duty to protect her client - MSPB, the agency she also leads - of greater importance than "sounding the alarm. Congress is responsible for directing Ms. Harris to report her determination - whether federal agency employees are adequately protected from reprisal and other unlawful/corrupt agency employment practices. If Congress fails or refuses to do so, it is complicit with a clear and present risk to American health, safety, security, and welfare."

Tom Devine, GAP's Legal Director since 1979, has personally assisted on more than 7,000 whistleblower cases. His observations from the past 49 years can be found [here](#). Among the critical insights is his description of how and why "whistleblowers need skilled navigators to exercise and enforce their rights effectively."

Whistleblowers undertake a journey through a treacherous terrain that is packed with land mines. It is not fair that they will know and understand all the rules, procedures, and standards. Laws designed to guide them to a safe destination are confusing. So, they need trustworthy counsel to navigate them through the territory. Whistleblower laws must include resources for education, training, and counseling on how to act on their rights, as well as access to legal aid and attorney fees for those who prove violations. Otherwise, whistleblowers will be unable to understand or afford their rights.

On January 4, 2022, President Joseph R. Biden renominated Cathy A. Harris to serve as a Member of the Merit Systems Protection Board (MSPB or Board) and separately renominated her as Chairman. The U.S. Senate confirmed her nomination as a Member on May 25, 2022, and Ms. Harris was sworn in on June 1, 2022. President Biden designated Ms. Harris as Vice Chairman on June 6, 2022. Harris will serve as Acting Chairman until the Senate confirms her nomination.

The petition is below.

Dear Senators,

Several months ago, several organizations made a request to Senate Majority Leader Schumer that Cathy Harris not receive a final Senate Confirmation vote as Chairman of the US Merit Systems Protection Board (MSPB). They requested a delay in the vote until she took action to resolve a well-evidenced whistleblower disclosure against her and her predecessors at MSPB that is significant to public health, safety, security, and welfare. Instead of doing so, she continues to stonewall. ([Their letter is available here.](#))

The whistleblower disclosure against Ms. Harris involves her failure or refusal, together with her colleagues and predecessors at MSPB, to report to the President and Congress whether federal agency employees are adequately protected from whistleblower reprisal and other corrupt agency employment practices. Our opinion, one shared by many, including in Congress, is that any

existence of corrupt agency employment practices results in harm, perhaps great harm, to American health, safety, security, and welfare.

We request that Cathy Harris not receive a final Senate confirmation vote until she requests the Attorney General resolve the whistleblower disclosure.

**Signed,
Concerned Citizens and Federal Agency Workers**

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