

United States Senate

February 1, 2018

The Honorable Donald J. Trump
President of the United States
1600 Pennsylvania Avenue N.W.
Washington, D.C. 20006

Dear President Trump,

I write to ask that you move quickly to nominate two qualified individuals to fill the vacant seats on the Merit Systems Protection Board (“MSPB”). Our civil servants are awaiting justice while the board lacks a quorum.

In your State of the Union address earlier this week, I was concerned by your apparent desire to remove workplace protections from our hard-working civil servants. Like you, I believe that our federal workforce should be of the highest caliber in serving the public interest. However, we must ensure there are protections in place so that personnel decisions affecting our civil servants are free from political influence.

Congress has made clear the importance of a professional, merit-based civil service since it passed the Pendleton Act in 1883. The MSPB serves a critical function in protecting the rights of our federal workforce by ensuring that personnel decisions regarding government employees are fair and not politically motivated. The three-member board adjudicates employees’ appeals of personnel actions, including cases of retaliation against whistleblowers, cases affecting workers’ retirement benefits, and cases brought by the United States Office of Special Counsel.

Since 2015, the board has operated with only two members. However, in January 2017, Chairman Susan Grundmann stepped down from the board, leaving the board with a single member, Mark Robbins. With only one member, the board is without a quorum and cannot perform many of its responsibilities. Although administrative judges can still adjudicate initial MSPB cases, appeals must be heard by the board itself. The last time the board was without a quorum was in 2003, and the lack of quorum only lasted a few weeks. Now, the board has been without a quorum for an entire year, with no end in sight.

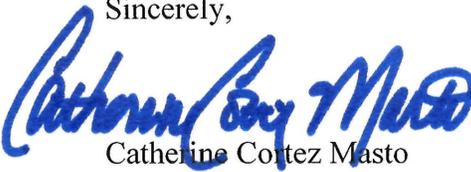
The current situation is delaying justice for thousands of our federal workers. During Fiscal Year 2016, the board decided 1,180 total cases. This number will be significantly reduced for FY 2017 because of these vacancies and the lack of a quorum. Additionally, the board was not able to meet its metrics for FY 2017, and now FY 2018 is also at risk, as processing times for appeals continuing to rise.

When Americans decide to serve their country as civil servants, they should be able to trust that there is a fair process to protect them from retaliation. Right now, that is not the case. Thousands

of federal employees are still waiting for a just resolution to their cases because the MSPB is unable to do its work.

I urge you to fill these vacancies as soon as possible. Our civil servants deserve the due process they have been promised. Thank you for your prompt attention to this critically important issue.

Sincerely,



Catherine Cortez Masto
United States Senator