

U.S. Senate Homeland Security and Governmental Affairs Committee

Nomination of Dennis Kirk to be Chairman, MSPB,

Hon. Julia Clark to be a Member, MSPB

Andrew Maunz to be a Member, MSPB

Carmen McLean to be an Associate Judge, DC Superior Court

July 19, 2017

Senator Gary C. Peters, Acting as Ranking Member

Opening Statement

Thank you, Mr. Chairman, and thank you to the nominees for being here today and for your willingness to serve.

Ms. McClean, you have the rare distinction of being nominated to the bench by President Obama and President Trump. I'd love to hear more about how you managed that. It's a great relief to have a judicial nomination without rancor or controversy. I hope you won't feel left out if you don't face too many questions at this hearing.

Today we are also considering three candidates for appointment to the Merit Systems Protection Board (MSPB), which, as its name suggests, has the core function of safeguarding a merit-based system of governance.

In a merit-based system, jobs to civil servants are not handed out based on political backgrounds or financial contributions. Instead, employees must be hired and retained based on their skills and effectiveness in carrying out the many federal services our communities rely on.

Whether it's securing our borders, assisting our veterans, or protecting our environment, we need to ensure the federal government is pulling from a wide and diverse talent pool of Americans who are dedicated to working hard for the public.

This is a long-term strategy. Presidents, their Cabinets, and legislators will come and go. A stable civil service is essential for maintaining a level of consistency, reliability, and competence in the American government, regardless of political winds.

The Merit Systems Protection Board was established in the same legislation that codified a framework for a merit-based workforce. The Merit System Principles and Prohibited Personnel Practices laid out in the Civil Service Reform Act provide us with the necessary ingredients for preventing our civil service from becoming a system of political patronage.

The principles include commonsense worker protections like equal opportunity, retention based on job performance, and fair pay. They rightfully prohibit employees from taking personnel actions based on anything other than an individual's qualifications, performance, and suitability for public service. Importantly, they also prohibit retaliation against whistleblowers who lawfully disclose instances of waste, fraud, and abuse.

With over 2 million employees, the federal government is a large, often cumbersome entity. But the merit system principles set a critical foundation for accountability. While protecting this framework, we should also diligently try to identify opportunities to make the workforce more efficient.

The MSPB can play a role in this. The Board is tasked with upholding the merit system principles through the precedent it sets in adjudicating cases and by taking proactive steps through civil service studies and reviews of OPM rules.

As we consider your nominations, the question of how you will reinforce the merit system and promote an effective federal workforce is central to this conversation, especially given the unfair—and frankly harmful—sensationalized attacks on our civil service.

We should approach these issues mindful that we have been entrusted as stewards of taxpayer dollars and that we should work together so that government works for everyone. Thank you, and I look forward to your testimony.