

262 Public Interest Organizations Support Swift Action to Restore Strong, Comprehensive Whistleblower Rights

January 27, 2009

To: President Barack Obama; Senator Daniel Akaka, Senator Susan Collins, Senator Joseph Lieberman, Senator George Voinovich, Rep. Edolphus Towns, Rep. Darrell Issa, Rep. Chris Van Hollen

The undersigned organizations and corporations, representing millions of Americans, write to support the completion of the landmark, nine-year legislative effort to restore a credible Whistleblower Protection Act. We offer our support to expeditiously re-initiate the process of reconciling House and Senate passed versions of this vital good government legislation, which both chambers passed last Congress as H.R. 985 and S. 274. Whistleblower protection is a foundation for any change in which the public can believe. It does not matter whether the issue is economic recovery, prescription drug safety, environmental protection, infrastructure spending, national health insurance, or foreign policy. We need conscientious public servants willing and able to call attention to bureaucratic corruption on behalf of the taxpayers.

Unfortunately, every month that passes has very tangible consequences for federal government whistleblowers, because none have viable rights. Last year an average of 16 whistleblowers lost every month in initial decisions from administrative hearings at the Merit Systems Protection Board (MSPB). For final rulings by the MSPB, the record is 2-53 under the current Chair. Since January, the Federal Circuit Court of Appeals, which has a monopoly on appellate review, has ruled against whistleblowers in another thirteen consecutive decisions on the merits, leaving a track record of 3-206 since October 1994 when Congress last strengthened the law.

We stand ready to provide any information that would help expedite the process, and to help you come to agreement on any unresolved issues. Any compromise should protect several critical provisions, which have already passed with overwhelming support. It is crucial that the final bill:

- Grant employees the right to a jury trial in federal court;
- Specifically protect federal scientists who report efforts to alter, misrepresent, or suppress federal research;
- Extend meaningful protections to FBI and intelligence agency whistleblowers;
- Strengthen protections for federal contractors, as strong as those provided to DoD contractors and grantees in last year's defense authorization legislation;
- Extend meaningful protections to Transportation Security Officers (screeners);
- Neutralize the government's use of the "state secrets" privilege;
- Bar the MSPB from ruling for an agency before whistleblowers have the opportunity to present evidence of retaliation;

- Provide whistleblowers the right to be made whole, including compensatory damages;
- Grant comparable due process rights to employees who blow the whistle in the course of a government investigation or who refuse to violate the law; and
- Remove the Federal Circuit's monopoly on precedent-setting cases.

We know that your offices share the commitment of every group signing the letter below and we deeply appreciate the years of effort to create more accountability in government. Please let us know how we can participate to expeditiously complete this badly needed good government reform. Once the reconciled version becomes law, the real winners will be the public!

Sincerely,

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Senate Minority Leader Mitch McConnell
Speaker Nancy Pelosi
House Majority Leader Steny Hoyer
House Minority Leader John Boehner