

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

September 22, 2008

To: Sen. Joseph Lieberman; Sen. Susan Collins; Sen. Daniel Akaka; Sen. George Voinovich; Rep. Henry Waxman; Rep. Tom Davis; Rep. Todd Platts; Rep. Chris Van Hollen

The undersigned organizations, representing millions of Americans, write to support the completion of the landmark, eight-year legislative effort to restore a credible Whistleblower Protection Act. We offer our support to expeditiously conclude the process of reconciling House and Senate passed versions of this vital good government legislation, H.R. 985 and S. 274.

Unfortunately, every month that passes has very tangible consequences for scores of whistleblowers who still lack viable legal rights. In just the first three months of this year, since both chambers passed their versions of the legislation, whistleblowers have a 2-49 win-loss record 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 2-203 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