

Comments by the Joseph P. Carson, PE, the GOAT - Greatest of All Time - Career Federal Agency Whistleblower on Interim Final Rule Implemented by US Merit Systems Protection Board (MSPB) on October 7, 2024. See Federal Register (FR) Notice, Volume 89, No. 174 of Monday September 9, 2024, starting on page 72957.

Background and significance of Engineer Carson's comments

The "background" section of the FR Notice takes no exception/tacitly concedes the public testimony of Engineer Carson that Cathy Harris, the Chairman of the MSPB, as all her predecessors since the creation of MSPB in 1979, are violating their most important statutory duty for "protecting" American health, safety, security and welfare. It takes no exception in Engineer Carson's testimony about the failure/refusal of MSPB, since its creation in 1979, to issue a relevant regulation for this statutory duty, to conceal its failure/refusal to perform it.

Specifically, this is by her (as her predecessors) lawbreaking failure/refusal to report to the President and Congress that federal agency whistleblower, as a rule, are NOT adequately protected from reprisal and their whistleblower disclosures do NOT, as a rule, obtain an adequate - timely and objective - resolution. Therefore, the "public interest in a civil service free of (whistleblower reprisal and other unlawful agency employment practices, collectively termed) prohibited personnel practices is NOT being adequately protected." See 5 U.S.C. section 1204(a)(3), second clause, for this explicit duty. (In the alternative, she could report they are adequately protected, the law requires this determination, whatever it is, be reported).

Engineer Carson takes no exception MSPB's compliance with the first clause of 5 U.S.C. section 1204(a)(3) - it has conducted "special studies" since its creation. But its Chairmen have failed/refused to comply with the second clause of 5 U.S.C. section 1204(a)(3) - to determine and "report to the President and to the Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected."

Engineer Carson's comments are appropriate, by the words of the FR Notice, which states, in its background section, "the Board also requests additional comments on any other aspect of its regulations that stakeholders or other interested individuals feel need amending." Therefore, Engineer Carson's comments comply with the FR notice, as much as he suspects Cathy Harris will direct Board personnel to violate the FR Notice's claim that "all comments received will be made available online at the Board website."

Engineer Carson desires his name, home address and email address be included with this comment, if MSPB Chairman Cathy Harris allows this comment to be posted. He has nothing to hide and welcomes any examination of his claims and motives.

By the wording in the background section of this "interim final rule," it results from a

“comprehensive new review” by MSPB of its regulations, that started in 2019. Despite the stated scope of the review, it did not consider - apparently because of the lawyer-led corruption in MSPB, starting with Cathy Harris, its lawyer-leader - whether MSPB regulations even address all its statutory duties, specifically the one found in the second clause of 5 U.S.C. section 12014(a)(3).

The readily determined fact is that MSPB’s regulations, found at 5 C.F.R. parts 1200-1216, do not address either of its two statutory duties found at 5 U.S.C. section 1204(a)(3) - while they do address all its other statutory duties listed at 5 U.S.C. section 1204(a).

So why was this omission not mentioned/addressed in this “interim final rule”? Because MSPB cannot issue a relevant regulation for the second part of this statutory duty - the part requiring it Chairman to report to the President and Congress whether the public interest in a civil service free of prohibited personnel practices is being adequately protected - without also tacitly admitting its lawyer-leaders have failed/refused to make its required report to the President and Congress since MSPB’s creation.

Cathy Harris, the lawyer-leader of MSPB, apparently twists and weaponizes legal ethics to reason she would be corrupt as an attorney if she did not do her utmost to conceal/stonewall her and her predecessors decades of law-breaking in their failure to comply with the explicit statutory duty, found in the second clause of 5 U.S.C. section 1204(a)(3), to report to the President and Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected.”

This is apparently so even if this law-breaking is a causal factor in much which has befallen America since 1979, puts America at greater risk of existential catastrophe now, and erodes the trust of the American public/electorate in their federal government, its agencies, and the entities regulated by those agencies.

Was this public interest adequately protected in any of the following events?

- The loss of the space shuttle Challenger in 1986 and Columbia in 2003?
- The security failures that resulted in a successful terrorist attack on 9/11?
- Going to war in Iraq for false reasons?
- American torture as part of its war on terror?
- The economic meltdown of 2008?
- The Deepwater Horizon oil spill in the Gulf of Mexico in 2010?
- The 29 dead coal miners at the Upper Big Branch coal mine explosion in WV in 2010?
- The apparently endless scandals in the Department of Veterans Affairs?
- The number of diseased, disabled, or prematurely deceased workers in the Department of Energy (DOE) facilities during the Cold War - now approaching 150,000 and 25 billion dollars in compensation for DOE and its contractors failing to protect their health?
- The number of sick/dead 9/11 recovery workers?

- The number sick/dead recovery workers from the TVA Kingston Plant fly ash spill in 2008?
- The estimated 500 billion dollar environmental clean up costs for Department of Energy facilities, the third largest debit on the federal government's balance sheet?

Engineer Carson, the GOAT of career federal agency whistleblowers, knows the answer - NO!

Cathy Harris, as her predecessors, apparently lacks the moral courage to ask this question - while twisting legal ethics to justify their lack of moral courage - even as their lack of moral courage could contribute to a nuclear 9/11 or other existential catastrophe.

These comments on this interim rule are Joseph Carson, PE, public testimony, report and statement. He makes them regardless of risk to his professional engineer (PE) license in Tennessee. By the rules of professional conduct of the Tennessee Engineering Board, Engineer Carson should be disciplined, if his public testimony about the law-breaking of Cathy Harris, her predecessors, and its dire consequences, if only indirect, for American health, safety, security and welfare is less than "fully truthful and objective."

But, no, he is not "holding his breath" that Cathy Harris or anyone at MSPB will summon the moral courage to file a professional misconduct complaint against him. Why not? Because then he could get a chance to "make his case," something Cathy Harris will apparently do her utmost to prevent.

Why? Apparently, because she reasons she would be corrupt as an attorney in not "protecting" her client, MSPB, the agency she also leads, if she did not do her utmost to prevent any resolution of Engineer Carson's whistleblower disclosure against her and her client (maybe she also reasons that the fifth amendment against self-incrimination also applies - who knows how much she twists legal ethics to justify her law-breaking and that of her client, MSPB?)

Also, if Engineer Carson's whistleblower disclosure is vindicated, despite Chairman Harris' stonewalling, then President Trump might well remove her (and perhaps one or both other current Board members) for cause, per 5 U.S.C. section 1202(d). This could leave the Board without a quorum and also give President Trump more reason implement Schedule F, making tens of thousands of agency employees "at will" employees.

The stakes for American health, safety, security and welfare about the stonewalling of MSPB Chairman Cathy Harris to Engineer Carson's whistleblower disclosure are high, perhaps existential.

Finally, none of this is in any corner, another reason Cathy Harris will apparently not allow anyone at MSPB to file a professional misconduct complaint against Engineer Carson, see <https://stopstonewallingmspb.com/> and https://whsknox.blogs.com/mspb_watch/.
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