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Opening Statement of James M. Eisenmann (Partner, Alden Law Group)

Presented to the Democratic Members of the House Judiciary Committee on “Rights, Resources, and Recourses for DOJ Employees Targeted by the Trump Administration”

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Ranking Member Raskin, and Members of the Committee:

Good afternoon. Thank you for convening this panel and for the opportunity to speak today about the events since January 20th involving the illegal firings and involuntary reassignments of career staff at the Department of Justice. These actions violate federal law and the U.S. Constitution and are nothing short of an attack on the rule of law.

It is not overstating it to say that as it regards the federal workforce, we are at a pivotal moment in U.S. history.

While for most of my career I have been in private practice primarily representing federal employees, I had the honor to serve in the federal government between January 2010 and September 2018. In that time, I served as General Counsel then Executive Director of the U.S. Merit Systems Protection Board (MSPB). I served multiple Board members and two Chairmen – of both political parties. Also, I worked with some of the hardest working public servants.

Our civil service is the backbone of the federal government. Every day, millions of dedicated public servants—whether they are protecting our borders, responding to national emergencies, processing Social Security benefits, or ensuring public safety—work tirelessly to serve the American people. Their ability to do so effectively depends on a system that values competence and accountability – not political patronage and allegiance to a single person or a single administration.

That is precisely why the Merit Systems Protection Board is so important. The MSPB is an independent agency responsible for safeguarding the merit systems principles and preventing or rectifying prohibited personnel practices. It ensures that hiring and discipline of public servants are based on performance and qualifications, not political influence, favoritism, or personal bias.

MSPB serves that role in a few important ways. But none more important to the public at large than the role it plays in ensuring that public servants receive the due process protections guaranteed to them by the 5th Amendment to the U.S. Constitution.

MSPB provides an independent appeals process for federal workers facing disciplinary actions, and whistleblowers who have been retaliated against, among others. A core of professional and qualified administrative judges hear these appeals and render decisions based on the facts and the law, not politics or personal grudges.

This process protects both employees and agencies, ensuring fairness while maintaining accountability, which then benefits the public.

Without these protections, our federal workforce could become a political patronage system where loyalty — not expertise, performance, qualifications or skills — dictates whether a public servant is hired or fired.

All of what MSPB does helps to strengthen public trust in government. A professional and apolitical civil service ensures continuity and expertise in the services the government provides to the public, regardless of which political party is in power. In turn, public servants trust that they can carry out their duties without fear of termination for doing the right thing and following the law.

Having a fully staffed Board and administrative judge corps is vital to protecting federal public servants from discrimination and retaliation based on partisan politics and ensuring that due process guaranteed by the U.S. Constitution is not denied.

Which takes us to the illegal firings and involuntary reassignments of the career public servants. For example, the summary firings – without cause or procedure – of dozens of employees at DOJ and USAID are only a precursor of things to come.

Americans deserve a world where our government is administered by qualified individuals where they have security knowing that if they do their job well and in good faith, they will not be punished.

Conclusion

The civil service is the foundation of our federal government, and the Merit Systems Protection Board, along with other federal agencies, is its safeguard. Without a strong, independent MSPB, we risk a return to a system where political favoritism, corruption, and retaliation exist and will undermine the integrity of federal government and services it provides to the nation.

Thank you, and I look forward to your questions.

James M. Eisenmann
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