**Final Merit Board Nominee Promises to Protect Civil Service as Agency Looks to Regain Teeth**

President Trump’s third and final nominee to the federal employee appeals board faced no apparent resistance at a confirmation hearing this week, potentially clearing the way for the agency to finally have a governing quorum for the first time in more than two years.

The Merit Systems Protection Board is [currently without](https://www.govexec.com/pay-benefits/2019/02/federal-employee-appeals-boards-doomsday-has-arrived/155216/) any Senate-confirmed leadership for the first time in its 40-year history. MSPB lost the final member of its presidentially appointed three-person central board when Mark Robbins’ term expired at the end of March. It has operated without a quorum since early 2017, leaving a backlog of more than 2,000 unheard cases involving federal employee and agency appeals of adverse actions.

Trump’s nominee to fill the third slot at MPSB, B. Chad Bungard, testified on Wednesday before the Senate Homeland Security and Governmental Affairs Committee, which has already approved two of the president’s nominees to serve on the board: Dennis Kirk and Julia Clark. Senate Republicans said they would not vote on final confirmation for those two individuals, however, until Trump nominated a third board member to ensure the board maintains a Republican majority. Trump’s previous third nominee, Andrew Maunz, withdrew his name from consideration earlier this year. Clark was recommended for nomination by Senate Democrats.

While most of the questions from senators on Wednesday focused on Trump’s nominee to head the Federal Emergency Management Agency and other Homeland Security Department appointees who shared the hearing with Bungard, the MSPB designee used his brief speaking time to promise to protect the civil service.

“We must have a federal workforce that the American people can count on, and key to that is protecting merit system principles and promoting a workplace free of prohibited personnel practices,” Bungard said, who vowed to hear cases without any prejudice or objective. “It is absolutely essential that the board inspire public confidence in its independence, integrity, and impartiality.”

Bungard said MSPB’s biggest challenge is addressing the backlog of cases, which he expected to tackle immediately.

“Without having a quorum for a very long time, if confirmed, I would work with the chairman and the other board member to reduce that as quickly as possible while ensuring quality of the decisions,” he said.

For the 10 months prior to his nomination, Bungard served at the Social Security Administration as the deputy commissioner for the Office of Analytics, Review and Oversight. He supervised 2,000 employees in the role, according to the White House, and oversaw the office that adjudicates appeals to decisions from SSA’s administrative law judges. He has experience at MSPB, serving as its general counsel during the George W. Bush and Obama administrations. He has also served as general counsel to the special inspector general for the Troubled Asset Relief Program and chief counsel to the SSA inspector general.

Prior to his executive branch experience, Bungard worked for several years on federal workforce issues for the then-House Oversight and Government Reform Committee.

Also on Wednesday, that committee, now known as House Oversight and Reform, approved a measure to provide temporary relief to some employees with cases before MSPB while it has no members. After Robbins’ departure, the board announced it could no longer stay whistleblower referral cases from the Office of Special Counsel. Such deferrals delay adverse actions from taking effect while OSC investigates potential cases of whistleblower reprisal.

The House bill would enable MSPB’s general counsel to stay those cases while the board has no Senate-confirmed members. Congress will have to act quickly to pass the measure into law while it is still relevant, however. Bungard is set for a committee confirmation vote next week. All three board nominees are expected to receive an en bloc vote on the Senate floor shortly thereafter.

Robbins, the lone MSPB board member for the last two years until his term expired in March, told Congress in February he expected the agency to operate normally in his absence. MSPB would continue to lack the capacity to make final decisions on appeals or issue studies of the civil service, he said, but would still perform administrative tasks.