



Removal of Inspectors General: The First Tests of New Statutory Requirements

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In the past two months, President Biden has twice [exercised his authority](#) to change the leadership of inspector general (IG) offices by notifying Congress of his intent to remove the IG for the Railroad Retirement Board (RRB) and replacing the acting IG for the Department of Commerce. These are the first times a President has initiated the removal of an IG under changes to the Inspector General Act that were [enacted](#) in December 2022.

Congress has regularly supported independence of IGs to ensure that they can effectively perform their oversight duties. Congress has established statutory requirements for the removal of IGs based on a concern that removal could be used as a tactic to stymie IG work that might lead to findings critical of an agency or Administration.

This Insight briefly describes recent changes to IG removal statutes and examines the first applications of the new law.

Recent Changes to Removal Requirements

In 2022, Congress passed [amendments](#) to the Inspector General Act that increased removal protections for IGs. Since its initial enactment, the Inspector General Act has included some form of notice to Congress when IGs are removed from their positions, but formal actions to remove IGs were [rare](#) before the mid-2000s. In addition to advance notice to Congress, current law bars removals with immediate effect in most circumstances and limits who may serve as an acting IG in the event of a vacancy.

Since the enactment of the 2022 amendments, a notification to Congress must include a “substantive rationale, including detailed and case-specific reasons” for the removal action. Under the prior language of the Inspector General Act, which was less directive, [at least one federal court had ruled](#) that the President met the notice requirement by informing Congress only that he had lost confidence in the IG being removed.

In addition, the 2022 amendments limit when an IG may be placed on non-duty status to ensure that the 30-day notice period cannot be circumvented without specific, stated justification. That provision requires that the President either provide Congress written notice 15 days before placing an IG on non-duty status or issue a determination that “the continued presence of the Inspector General in the workplace poses a

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threat described in” Title 5, Section 6329b(b)(2)(A), of the *U.S. Code*, which pertains to circumstances in which the employee poses a threat to other employees, government property, or legitimate government interests. Finally, within 15 days of the removal of an IG, the acting IG must report to Congress on the work being conducted by the office at the time of removal action.

Removal of the RRB Inspector General

On March 29, 2024, President Biden notified Congress that he would be removing the RRB IG following the required 30-day notice period, stating that he no longer had the “fullest confidence” in the IG as the result of an ongoing investigation by the Integrity Committee of the Council of the Inspectors General on Integrity and Efficiency, a body created by Congress specifically to investigate misconduct by senior officials in the IG community.

The President’s letter to Congress was accompanied by background information from the White House Counsel’s office that the Integrity Committee had found “credible evidence” of abusive treatment of staff by the IG that created a toxic work environment and that the IG had “attempted to impede” the investigation.

Additionally, President Biden specifically determined that the IG’s continued presence in the workplace would pose a threat to legitimate government interests and, therefore, placed the IG on administrative leave (a non-duty status) with immediate effect.

The President’s notification also informed Congress that the IG for the Tennessee Valley Authority, Ben R. Wagner, would serve concurrently as acting RRB IG, as authorized under Title 5, Section 403(h)(2), of the *U.S. Code*.

Replacement of Commerce Department Acting Inspector General

In January 2024, Department of Commerce IG resigned, and the deputy IG became the acting IG. The House Committee on Science, Space, and Technology had been investigating the Office of Inspector General’s senior leadership following allegations of whistleblower retaliation and mismanagement of the IG office. Based on information gathered in that investigation, on March 18, 2024, Science Committee Chairman Frank Lucas and Ranking Member Zoe Lofgren asked President Biden to replace the acting IG with an official from another IG office.

On May 1, 2024, President Biden notified Congress that he would appoint Jill Baisinger, an official in the Department of the Interior’s IG office, to serve concurrently as acting Commerce IG at the end of the required 30-day notice period. President Biden’s notification specifically cited the ongoing Science Committee investigation and Lucas and Lofgren’s letter as the reason for the leadership change.

Effect of New Removal Provisions on Notifications

Compared to previous congressional notifications regarding the removal of IGs, these two notices from President Biden provided more information and explanation for the actions. Specific reference to ongoing investigations by officials outside the White House may signal that there is evidence of misconduct within the IG office that may justify the President’s response and alleviate concerns that the action was intended to undermine IG independence. In the case of the acting Commerce IG, for instance, the leaders of the House Science Committee referenced the notification to connect their investigation and the President’s action.

At the same time, at least one Member has raised concerns about the adequacy of the notification regarding the removal of the RRB IG. In a letter to President Biden, Senator Chuck Grassley argued that the notification did not provide sufficient detail on the case-specific reasons for the IG’s removal and

placement on non-duty status. Regardless of how Congress evaluates these notices, how Members and the body respond is likely to help shape future practice and the information that officials provide when removing an IG.

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