

Updated May 22, 2024

## Removal of Inspectors General: Rules, Practice, and Considerations for Congress

In 1978, Congress passed the Inspector General Act (IG Act; P.L. 95-452) with the intent to improve oversight within certain executive branch agencies. During the floor debate on the legislation, Senator Thomas Eagleton described independence as the “most important” characteristic of the inspectors general (*Congressional Record*, vol. 124, part 29, October 22, 1978, p. 30952). While this independence has been considered essential, it is also weighed against the fact that inspectors general (IGs) are situated within the agencies and that their dual mission is to report to both agency leaders and Congress. This calls for consideration of the balance between independence from and general supervision by agencies.

The removal procedures for IGs fall between removal without limitations and removal only for cause and have been considered an integral element of IG independence since 1978. Nonetheless, Presidents have removed IGs, creating concerns in Congress regarding the independence of IGs, which have led to both oversight of and changes to statutory removal requirements.

This In Focus provides an overview of the current removal procedure for IGs, identifies past presidential removals, and discusses potential issues for Congress.

### Removal Procedure

The removal procedure for presidentially appointed IGs is found in Title 5, Section 403(b), of the *U.S. Code*. The section reads in part:

An Inspector General may be removed from office by the President. If an Inspector General is removed from office or is transferred to another position or location within an establishment, the President shall communicate in writing the substantive rationale, including detailed and case-specific reasons for any such removal or transfer to both Houses of Congress (including the appropriate congressional committees), not later than 30 days before the removal or transfer. Nothing in this subsection shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.

For the IGs appointed by agency heads under Title 5, Section 415, the same notice rule applies, except that the head of the agency, rather than President, appoints and removes the IG. For agencies headed by boards, committees, or commissions, removal requires the written concurrence of two-thirds of the members. The IG of the U.S. Postal Service may be removed only “for cause” and

with agreement of seven of nine postal governors and three of five Postal Regulatory Commission commissioners.

The 30-day notice requirement was established under the Inspector General Reform Act of 2008 (P.L. 110-409), and the requirement that notice include a “substantive rationale” was added by the Securing Inspector General Independence Act of 2022 (Title LII, Subtitle A, of P.L. 117-263).

Further, in most cases, the President must provide Congress with written notice 15 days before placing an IG on non-duty status and cannot do so at all during the 30-day notice period before removal of an IG without a specific finding regarding the potential threat posed by the IG to employees or the interest of the government.

Additional protection for ongoing investigations is provided by a requirement that when an IG is removed or placed on non-duty status, the acting IG must report to Congress within 15 days on the office’s projects at the time the IG was removed (5 U.S.C. 405(f)).

When an IG position is vacant, the “first assistant” is the designated acting IG. However, the President may appoint another official working in an IG office to serve as an acting IG instead. Such an appointment also requires 30-day advance notice to Congress including a substantive rationale for the action.

### Removal Practice

There are several examples of Presidents removing IGs. A common theme across those examples, which are outlined below, is concern from Congress that removals have the potential to undermine the actual and perceived independence of IGs.

#### President Reagan’s Removal of All Inspectors General

During presidential transitions, turnover of most political appointees is the norm. New Presidents have the authority to remove IGs at the start of their Administrations and make their own nominations. However, following such action at the start of the Reagan Administration, practice has disfavored removal of IGs during presidential transitions.

One of President Ronald Reagan’s first official acts upon his inauguration on January 20, 1981, was to remove all 15 confirmed and acting IGs then working across the executive branch. This action appears to have caused bipartisan concern in Congress. On February 3, 1981, an article in the *New York Times* quoted Representatives L. H. Fountain and Frank Horton—the chair and ranking member of the House Committee on Government Operations, respectively—as

saying that the move had the potential to politicize, and thereby undermine, the position of IG (Robert Pear, “Ouster of All Inspectors General by Reagan Called Political Move,” *New York Times*, February 3, 1981, p. B14).

The controversy dissipated after President Reagan’s nominees (including many of the previously removed IGs) were well received by Congress. The Subcommittee on Intergovernmental Relations and Human Resources of the House Committee on Government Operations held a hearing on April 1, 1981, at which Chairman Fountain stated that his concerns had been eased by the renomination of five of the former IGs. Chairman Fountain also described the impact of the removals:

This action undoubtedly had an adverse effect on the operations of the offices whose directors were abruptly removed. Much more serious damage was done, however, by the perception that Inspectors General were being viewed in the same light as political appointees, who expect to be removed with each change in administrations.

Following the actions at the beginning of the Reagan Administration, some Members of Congress have pushed new Administrations to retain IGs. Since 1981, IGs have remained in their positions during each presidential transition.

### Recent Presidential Removals of Inspectors General

There are also at least four instances of a President acting to remove an IG since 2008, when the congressional notice requirement was added to the IG Act:

1. On June 11, 2009, President Barack Obama notified Congress of his intent to remove the IG of the Corporation for National Community Service, Gerald Walpin.
2. On April 3, 2020, President Donald Trump notified Congress of his intent to remove the IG of the Intelligence Community, Michael Atkinson.
3. On May 15, 2020, President Trump notified Congress of his intent to remove the IG of the State Department, Steven Linick.
4. On March 29, 2024, President Joe Biden notified Congress of his intent to remove the IG of the Railroad Retirement Board, Martin Dickman.

In each case, some Members of Congress objected to the lack of specificity in these notices. The “substantive rationale” requirement added to the IG Act in 2022 applied to President Biden’s removal of IG Dickman and is intended to provide Congress more detail on removal actions. While President Biden provided more information to Congress regarding an ongoing misconduct investigation involving the IG than past notices did, at least one Member (Senator Chuck Grassley) has argued that the information provided in this notice was still inadequate.

Replacing an acting IG with another official is another personnel action that Congress has determined raises similar independence concerns to the removal of a confirmed IG. There are at least three examples of such actions:

1. On April 7, 2020, President Trump replaced Glenn Fine as acting Department of Defense IG with Environmental Protection Agency IG Sean O’Donnell.
2. On May 15, 2020, President Trump replaced Mitch Behm as acting Department of Transportation IG with Howard Elliot, who also served as the director of the Pipeline and Hazardous Materials Safety Administration.
3. On May 1, 2024, President Biden notified Congress of his intent to replace the Acting IG of the Department of Commerce, Roderick Anderson, with a senior official in the Department of the Interior’s IG Office, Jill Baisinger.

It has sometimes been suggested that other IGs have resigned under threat of removal since 1978. Because it is not possible to describe these cases with certainty from the publicly available materials, they are not discussed here. Nonetheless, because such actions may impact the independence of IGs, Congress may monitor or investigate reports of such incidents.

### Considerations for Congress

The removal of IGs has remained a topic of interest for Congress since 1978. Below are some aspects of the issue that Congress may wish to keep in mind when conducting oversight regarding the IG community.

#### Effectiveness of New Procedures

Congress now has examples of presidential removal of an IG and replacement of an acting IG under the new notice requirements enacted in 2022. While the Biden Administration’s notices under the revised statute provided more information than previous notices did, Congress may wish to evaluate their legal sufficiency and usefulness.

#### Additional Removal Protections

Congress might also consider additional actions that would limit IG removal. The most frequently discussed of these options has been to allow removal of IGs only for reasons that fall within a provided definition of *good cause*. The version of the Inspector General Reform Act of 2008 that initially passed the House (H.R. 928, 110<sup>th</sup> Congress, as engrossed by the House), for instance, provided that IGs would serve for fixed seven-year terms and could be removed only for specified reasons.

#### Constitutional Limits on Congress’s Policy Options

Some policy options that limit the removal of executive branch officials could raise separation of powers concerns. Congress may explore those issues before enacting legislation that could later be challenged in the courts.

**Ben Wilhelm**, Analyst in Government Organization and Management

---

## Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.