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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 their home agencies 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, and those actions have raised concerns in Congress regarding the independence of IGs. In addition, Congress has considered and enacted additional removal requirements since 1978.

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 Section 3(b) of the IG Act (5 U.S.C. Appendix, as amended). 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, which are listed in Section 8G(2) of the IG Act, 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 inspector general for the U.S. Postal Service may be

removed only with agreement of seven out of nine postal governors and only “for cause.”

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). Additionally, in most cases, the President must provide Congress with written notice 15 days before placing an IG on non-duty status and generally cannot do so at all during the 30-day notice period before removal of an IG.

Acting IGs, some of whom have served in that capacity for years at a time, may not enjoy the same removal protections as confirmed IGs. The status of acting IGs in positions subject to Senate confirmation is dictated by the Federal Vacancies Reform Act of 1998 (5 U.S.C. §§3345-3349c; see CRS Report R44997, *The Vacancies Act: A Legal Overview*, by Valerie C. Brannon).

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 a number of the previously removed IGs) met with the approval of Congress. By the time the

Subcommittee on Intergovernmental Relations and Human Resources of the House Committee on Government Operations held a hearing on April 1, 1981, Chairperson Fountain stated that his concerns had been eased by the fact that five of the former IGs had been renominated and the Administration had made other commitments to support the IG system.

Chairperson 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 (U.S. Congress, House Committee on Government Operations, Subcommittee on Intergovernmental Relations and Human Resources, *Oversight of Offices of Inspector General*, 97th Cong., 1st sess., April 1, 1981, pp. 1-2).

Presidential Transitions After Reagan

Following the actions at the beginning of the Reagan Administration, some Members of Congress have been proactive in informing new Administrations that they expect IGs to remain in their positions notwithstanding the change in Administration. For instance, in both 1988 and 1992, Senators John Glenn and William Roth, the chair and vice chair of the Senate Committee on Governmental Affairs, sent letters to Presidents-elect George H.W. Bush and Bill Clinton emphasizing this position. Since 1981, IGs have remained in their positions during each presidential transition.

Recent Presidential Removals of Inspectors General

There are also at least three instances of a President acting to remove an IG since 2008:

- On June 11, 2009, President Barack Obama notified Congress that he was removing the IG of the Corporation for National Community Service, Gerald Walpin. President Obama's stated reason for Walpin's removal was that he no longer had "the fullest confidence" in Walpin (letter from Barack Obama to Nancy Pelosi, June 11, 2009).
- On April 3, 2020, President Donald Trump notified Congress that he was removing the IG of the Intelligence Community, Michael Atkinson, because he no longer had the "fullest confidence" in Atkinson (letter from Donald Trump, to Senators Richard Burr and Mark Warner, April 3, 2020). The removal requirements for the IG for the Intelligence Community are under Title 50, Section 3033(c)(4), of the *United States Code*.
- On May 15, 2020, President Trump notified Congress of his intent to remove the IG for the State Department,

Steven Linick, because he no longer had the "fullest confidence" in Linick (letter from Donald Trump, to Speaker Nancy Pelosi, May 15, 2020).

In each case, legislators objected to the lack of specificity in these notices (see, for example, letter from Senator Chuck Grassley et al. to Donald Trump, April 8, 2020). Senators ultimately received more information from the Obama Administration (letter from Norm Eisen, Special Counsel for Ethics and Government Reform, to Senators Joseph Lieberman and Susan Collins, June 16, 2009).

The "specific rationale" requirement of the Securing Inspector General Independence Act discussed above appears to address congressional disclosure concerns.

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 consider.

Effectiveness of New Procedures

Congress enacted new procedures related to the removal of IGs in December 2022. Based on past history, it may be years before a President chooses to remove an IG. Nonetheless, Congress may wish to monitor how Presidents implement these new requirements, especially whether they act in a way that undermines congressional intent or expectations.

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, 110th Congress, as engrossed by the House), for instance, provided that IGs would serve for fixed seven-year terms and could be removed only for one of nine specified reasons (including malfeasance, gross mismanagement, and similar justifications).

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.

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