

United States Senate
WASHINGTON, DC 20510

April 22, 2024

VIA ELECTRONIC TRANSMISSION

The Honorable Joseph R. Biden
President of the United States

Dear President Biden:

I write to you today concerning your March 29, 2024, communication notifying Congress about the removal of Martin Dickman, the Inspector General (IG) of the U.S. Railroad Retirement Board (RRB) “effective 30 days” from the date of the letter and his placement on non-duty status “for the 30-day period prior to his removal from office.”¹ Your communication failed to adequately provide Congress the details and case-specific reasons for the RRB IG’s removal, as required by law.²

On December 23, 2022, the “James M. Inhofe National Defense Authorization Act for Fiscal Year 2023” was signed into law and included provisions from the *Securing Inspector General Independence Act*, which I introduced with a bipartisan group of colleagues.³ Those provisions require that the President “shall” communicate to Congress in writing before removing or transferring an IG from office the “substantive rationale, including detailed and case-specific reasons.”⁴ The law also prohibits an IG from being placed on non-duty status during the 30-day period preceding the date of removal or transfer unless the continued presence of the Inspector General in the workplace poses a threat as described by requirements in the Administrative Leave Act and the President submits a report to Congress.⁵

Your March 29, 2024, letter states that “the Inspector General’s continued presence in the workplace would jeopardize legitimate government interests.”⁶ Moreover, your letter notes “evidence of misconduct uncovered by an ongoing, independent investigation conducted by the Integrity Committee of the Council of the Inspectors General on Integrity and Efficiency” (CIGIE) and a general loss of confidence in the RRB IG.⁷ Your letter references that further evidence of misconduct is described in greater detail in an “attached letter from Counsel to the President Ed Siskel.”⁸ Your letter to Congress didn’t provide “detailed and case-specific reasons” as required by federal law. Moreover, the letter from Mr. Siskel provides broad and vague statements of alleged misconduct, also inadequately providing the level of specificity as required by law.

¹ Letter from President Joseph R. Biden to Republican Leader Mitch McConnell (Mar. 29, 2024) (on file with Committee staff).

² *Id.*; see Pub. L. 117-263.

³ See S. 587, Securing Inspector General Independence Act of 2021, 117th Congress (introduced Mar. 4, 2021) <https://www.congress.gov/bill/117th-congress/senate-bill/587/text>.

⁴ Pub. L. 117-263.

⁵ *Id.*; see 5 U.S.C. § 6329b(b)(2)(A)(i)-(iv) (2) Requirements.—An agency may place an employee in leave under paragraph (1) only if the agency has—(A) made a determination with respect to the employee that the continued presence of the employee in the workplace during an investigation of the employee or while the employee is in a notice period, as applicable, may— (i) pose a threat to the employee or others; (ii) result in the destruction of evidence relevant to an investigation; (iii) result in loss of or damage to Government property; or (iv) otherwise jeopardize legitimate Government interests.

⁶ Letter from President Biden to Republican Leader McConnell *supra* note 1.

⁷ *Id.*

⁸ *Id.*

Mr. Siskel's letter states that you removed the RRB IG because his "continued presence in the workplace would jeopardize legitimate Government interests" citing to 5 U.S.C. § 6329b(b)(2)(A)(iv).⁹ Mr. Siskel's letter indicates CIGIE's investigation found evidence the RRB IG used crude and inappropriate language, "repeatedly engaged in abusive treatment of employees of the RRB-OIG," openly belittled RRB OIG employees and RRB members, created a "continuing toxic work environment," attempted to "impede" the investigation into him; and his actions have created a "chilling effect for overall whistleblower cooperation."¹⁰ This information wasn't included in your letter to Congress.

Your and Mr. Siskel's letters provide conclusions without including the precise factual findings supporting your rationale for removing the RRB IG. Neither your letter nor Mr. Siskel's provide the actual crude and inappropriate statements allegedly used by the RRB OIG or to whom these statements were directed; the number of instances or the specific misconduct constituting the alleged abusive treatment of employees; details about the number of and specific actions committed by the RRB IG that created the alleged toxic work environment; the actions and efforts to impede the investigation; or detail the specific retaliatory actions allegedly taken by the RRB IG that's created a chilling effect on whistleblowers. The communication of conclusory statements without additional detailed and specific factual findings isn't enough to satisfy the requirements of the statute.

While IGs aren't immune from committing acts requiring their removal, it's critically important that legally mandated communications from any President notifying Congress about removal actions include sufficient detail with respect to the "substantive rationale, including detailed and case-specific reasons" so that Congress has time to analyze your decision and to assure Congress and the public that the termination isn't based on politics, but due to real concerns with the IG's ability to carry out the mission.¹¹ This is a matter of public and congressional accountability and ensuring the public's confidence in the Inspector General community. Simply put, the law must be followed.

Your letter failed to hit the mark and you should reissue a letter to Congress with the specificity and detail required by law, to include clarification with respect to whether Mr. Siskel's letter constituted the "report," so that proper precedent is set for any future removals by you and other Presidents.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Budget

⁹ Letter from President Biden to Republican Leader McConnell *supra* note 1 (letter from Counsel to the President Edward N. Siskel to Speaker Mike Johnson, (Mar. 29, 2024) enclosed as an attachment).

¹⁰ *Id.*

¹¹ Pub. L. 117-263.