



U.S. OFFICE OF SPECIAL COUNSEL
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The Special Counsel

April 3, 2024

VIA ELECTRONIC TRANSMISSION

The Honorable Charles E. Grassley
Ranking Member
Committee on the Budget
Dirksen Senate Office Building
Washington, DC 20510

Dear Ranking Member Grassley:

I am writing in response to your March 8, 2024, letter to Department of Justice (DOJ) Inspector General Michael Horowitz regarding concerns that officials at the Executive Office for Immigration Review (EOIR) issued an unlawful gag order that prohibited immigration judges from speaking publicly absent prior agency approval.¹

We understand the order was issued by EOIR's Chief Immigration Judge via email on February 15, 2024, and referenced EOIR's Speaking Engagements policy. You noted that the email does not mention employees' right to make disclosures to Congress or include the anti-gag provision found at 5 U.S.C. § 2302(b)(13).

OSC takes attempts to chill employee speech seriously, and we aggressively enforce the prohibition against nondisclosure agreements and communications that discourage employees from blowing the whistle. In March, when OSC became aware that EOIR may have sent an unlawful gag order to employees, we immediately reached out to the agency. We proposed several actions that EOIR has now taken. EOIR has represented to my office that it has revised its Speaking Engagements policy to include the language found at section 2302(b)(13)(A) and affirm employees' protections from retaliation under section 2302(b)(8); sent a clarifying email to all EOIR employees that linked to the revised policy and stated that the February 15 email was not intended to supersede, conflict with, or restrict any employee's right to make protected disclosures or engage in protected activities, citing the protections of section 2302(b)(13); updated its intranet site to include the revised policy as well as links to DOJ's Office of Inspector

¹ You copied U.S. Office of Special Counsel (OSC) Acting Special Counsel Karen Gorman on the letter.

General website on “Whistleblower Rights and Protections”; and agreed to have OSC conduct Prohibited Personnel Practice training.

Thank you for your steadfast support of whistleblowers and ongoing efforts to ensure their constitutional and statutory rights to speak are protected. I hope this letter helps to assure you and the Committee that OSC will act promptly to address potential gag orders. Should you have additional questions, please do not hesitate to reach out to me at [REDACTED] or my legislative affairs liaison, Travis Millsaps, at [REDACTED]

Regards,

A handwritten signature in cursive script that reads "Hampton Dellinger".

Hampton Dellinger
Special Counsel
U.S. Office of Special Counsel