

Congress of the United States
Washington, DC 20515

February 1, 2019

The Honorable Betsy DeVos
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Secretary DeVos:

We write with regard to the decision to install Department of Education (ED) Deputy General Counsel Philip H. Rosenfelt as the Department's Acting Inspector General. Specifically, we request documents and information regarding the decision to place a senior Department official in charge of this critical office. As you know, the Congress and the public relies on the independence and objectivity of inspectors general to effectively conduct audits and investigations of their agencies with integrity. However, the abrupt appointment of Mr. Rosenfelt to the position of Acting Inspector General would create incurable organizational impairments.

As required by the law, Deputy Inspector General Sandra D. Bruce has served as the Acting Inspector General since former Inspector General Kathy Tighe retired in November 2018. On January 30, 2019, Ms. Bruce was notified that Mr. Rosenfelt would begin serving as the Acting Inspector General, effective immediately. It is unclear whether Mr. Rosenfelt will continue serving as Deputy General Counsel concurrently with his appointment as Acting Inspector General. Ms. Bruce has served a distinguished career in offices of inspector general (OIGs) across multiple agencies. By contrast, Mr. Rosenfelt has spent much of his career in the ED Office of the General Counsel (OGC). Unlike the OIG, OGC is tasked with providing legal assistance to the Secretary and the Department and is not expected to remain independent.

We are concerned that the installation of Mr. Rosenfelt as Acting Inspector General would impede the ability of the OIG to conduct its critical work due to conflicts or appearances of conflict. The conflicts or appearances of conflict are a result of Mr. Rosenfelt's prior work in the Department's Office of General Counsel, which has a role implementing virtually all programs that the OIG is charged with investigating. Given Mr. Rosenfelt's work with the very programs he would be investigating, it would be virtually impossible to resolve these many conflicts and the work of the OIG, including its audits, would grind to a halt. Further, Mr. Rosenfelt's appointment would jeopardize the Office's investigations work, given the lack of independence from the Department and the resulting inability to maintain the integrity of investigations.

The decision to place a senior Department official in charge of the OIG dramatically undermines the Office's independence and the integrity of any work conducted under Mr. Rosenfelt's leadership of the Office. We therefore request that the Department immediately retract the appointment of Mr. Rosenfelt and provide the following documents and information by no later than February 8, 2019:

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1. Please provide all communications both within the Department and externally related to the decision to install Mr. Rosenfelt as the Acting Inspector General. Such communications should include, but not be limited to, emails, letters, faxes, and any other written materials, as well as a list of any meetings, calls, or other oral communication that took place. In the case of meetings, calls, or other oral communications, please include the date, time, and location at which such communications took place, a list of the individuals who participated, as well as a description of the communication.
2. Who made the decision to designate Mr. Rosenfelt as the Acting Inspector General?
3. What factors led to the decision to remove Ms. Bruce as the Acting Inspector General?
4. What factors led to the decision to designate Mr. Rosenfelt as the new Acting Inspector General?
5. In the course of the decision to designate Mr. Rosenfelt as the Acting Inspector General, what individuals and offices were consulted?
6. Does Mr. Rosenfelt intend to jointly hold the position of Acting Inspector General and his current role in the Office of General Counsel, or if not, return to the Office of General Counsel after a permanent Inspector General is confirmed?
7. Did the Department consult with the Counsel of Inspectors General on Integrity and Efficiency (CIGIE) on the plan to designate Mr. Rosenfelt as the Acting Inspector General?

Thank you in advance for your attention to this matter. If you have any questions, or would like to further discuss compliance with this request, please contact Elizabeth Letter with Senator Murray's HELP Committee Staff at 202-224-0767, Benjamin Sinoff, Director of Education Oversight, House Committee on Education & Labor at 202-578-1034, and Jared Bass with Chair DeLauro's Labor-HHS-Education subcommittee at 202-225-6680.

Sincerely,

ROBERT C. "BOBBY" SCOTT
Chairman
Committee on Education and Labor
U.S. House of Representatives

ROSA L. DELAURO
Chairwoman
Subcommittee on Labor, Health and Human
Services, Education, and Related Agencies
Committee on Appropriations
U.S. House of Representatives

PATTY MURRAY
Ranking Member
Committee on Health, Education, Labor
and Pensions
U.S. Senate