

February 19, 2019

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

Dear Secretary DeVos:

We are writing to request information about troubling actions by the Department of Education with regard to the Office of Inspector General (OIG). Last month, Acting Inspector General Sandra D. Bruce was suddenly replaced with Deputy General Counsel Philip H. Rosenfelt. The decision was reversed several days later. As we learn more about this inappropriate appointment and surrounding events, we have become increasingly concerned by the Department's efforts to influence the independence of the OIG and that Office's critical work. In particular, we are disturbed to learn that the decision to remove Acting Inspector General Bruce was preceded by demands from the Department that the OIG drop an investigation into Secretary DeVos' reinstatement of the Accrediting Council for Independent Colleges and Schools (ACICS) or alternatively to focus the investigation on Department decisions during the Obama Administration.

We are also disappointed by the limited documentation and information we have received related to the initial decision to replace Acting Inspector General Bruce, and we reiterate our request that the Department provide these responses promptly.

On December 17, 2018, Chairman Scott and Ranking Member Murray requested the OIG to examine the Department's decision to grant re-recognition to ACICS.¹ Several days later, the OIG confirmed plans to conduct an investigation.² We have now received correspondence between the Department and the OIG that reveals troubling efforts by the Department to influence the ACICS investigation.

In a January 3, 2019, letter to Acting Inspector General Bruce, Deputy Secretary Mitchell Zais expressed displeasure that the Inspector General was responding to a congressional request to conduct an investigation into the Department's decision to continue recognition of ACICS, and he asked the OIG to reconsider. Deputy Secretary Zais wrote that he found it "disturbing" that the OIG "appears to be responding to a Congressional request that is really a disagreement over policy and the merits of the Department's decision." He then asked the OIG to "reconsider any

¹ Letter from Rep. Bobby Scott, Ranking Member, House Committee on Education and the Workforce, and Sen. Patty Murray, Ranking Member, Senate Committee on Health, Education, Labor, and Pensions, to Ms. Sandra Bruce, Acting Inspector General, Department of Education (Dec. 17, 2018).

² <https://www.apnews.com/4398a6f06b5c496283cf03bab7da67c7>

plan that it might have to review the Department's 2018 Decision and 2018 Recommendation" regarding ACICS.³

Deputy Secretary Zais stated that, if the OIG refused to drop its investigation, "any such inquiry should begin with an examination of the previous Administration's decision-making." He then outlined a series of questions he wanted the OIG to investigate, and he stated: "Should you choose not to look into the previous Administration's actions, I expect to receive a clear, written explanation with sound reasons why that will not be done."⁴

In response, Acting Inspector General Bruce communicated her plans to continue the review of the ACICS decision and underscored the importance of maintaining independence from the Department.⁵ A few weeks later, Deputy Secretary Zais notified Acting Inspector General Bruce of her removal from office.

We are concerned that these actions by the Deputy Secretary represent a clear attempt to violate the statutory independence of the OIG.⁶ The law clearly states that "neither the head of the establishment [involved] nor the officer next in rank below such head shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation." As Deputy Secretary, Mr. Zais is the officer next in rank below Secretary DeVos and therefore subject to this statutory prohibition.⁷ Deputy Secretary Zais' attempt to pressure Acting Inspector General Bruce into dropping the investigation into Secretary DeVos's actions appears to be at odds with Congress's clear intent that inspectors general should remain independent from agency leadership.

Given this correspondence and the efforts to replace Acting Inspector General Bruce with a senior Department official, we have significant concerns with the Department's efforts to compromise the integrity of the OIG. The independence and objectivity of inspectors general is central to their efforts to effectively investigate waste, fraud, and abuse within federal departments. We therefore reiterate our request that the Department provide the following documents and information:

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

³ Letter from the Honorable Mitchell Zais, Deputy Secretary, Department of Education, to Ms. Sandra Bruce, Acting Inspector General and Deputy Inspector General, Office of the Inspector General, Department of Education (Jan. 3, 2019).

⁴ *Id.*

⁵ Letter from Ms. Sandra Bruce, Acting Inspector General and Deputy Inspector General, Office of the Inspector General, Department of Education, to the Honorable Mitchell Zais, Deputy Secretary, Department of Education (Jan. 7, 2019).

⁶ 5 U.S.C. App. 3, Section 3(a).

⁷ <https://www2.ed.gov/about/offices/or/index.html?src=rt>

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. 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?

In addition, please provide the following information by March 5, 2019. Please include responsive information from January 20, 2017, to the present.

7. Please provide all communications between any political appointee or senior executive at the Department and any member of the Office of the Inspector General of the Department that requests the Office of the Inspector General stop or change, alter, or amend the scope of any planned or ongoing investigation.

Thank you in advance for your attention to this matter. If you have any questions, or would like to 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, with Chairman Scott's House Committee on Education & Labor at 202-578-1034, Jared Bass with Chair DeLauro's Labor-HHS-Education subcommittee at 202-225-3508, Russell Anello with Chairman Cummings' staff on the House Committee on Oversight and Reform at (202) 225-5051, or Yelena Tsilker with HSGAC Minority Committee staff at (202) 224-4870.

Sincerely,

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

ELIJAH E. CUMMINGS
Chairman
Committee on Oversight and Government
Reform
U.S. House of Representatives

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Chairwoman

Subcommittee on Labor, Health and Human
Services, Education, and Related Agencies

Committee on Appropriations

U.S. House of Representatives

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Ranking Member

Committee on Health, Education, Labor
and Pensions

U.S. Senate

SCOTT H. PETERS

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U.S. House of Representatives