

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2395
OFFERED BY MR. CHAFFETZ OF UTAH**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Inspector General Empowerment Act of 2015”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Full and prompt access to all documents.
- Sec. 3. Additional authority provisions for Inspectors General.
- Sec. 4. Additional responsibilities of the Council of the Inspectors General on Integrity and Efficiency.
- Sec. 5. Amendments to the Inspector General Act of 1978 and the Inspector General Reform Act of 2008.
- Sec. 6. Reports required.
- Sec. 7. Public release of misconduct report.

6 SEC. 2. FULL AND PROMPT ACCESS TO ALL DOCUMENTS.

7 Section 6 of the Inspector General Act of 1978 (5
8 U.S.C. App.) is amended—

9 (1) in subsection (a), by striking paragraph (1)
10 and inserting the following:

11 “(1)(A) to have timely and independent access
12 to all records, reports, audits, reviews, documents,
13 papers, recommendations, data, data systems, and

1 other materials in any medium or format available
2 to the applicable establishment which relate to the
3 programs and operations with respect to which that
4 Inspector General has responsibilities under this Act;
5 and

6 “(B) to have access under subparagraph (A)
7 notwithstanding any other provision of law, except
8 any provision of law that expressly—

9 “(i) refers to the Inspector General; and

10 “(ii) limits the right of access of the In-
11 spector General;”; and

12 (2) in subsection (b), by inserting after
13 paragraph (2) the following:

14 “(3) Each Inspector General shall ensure compliance
15 with statutory limitations on disclosure relevant to any in-
16 formation provided by the applicable establishment under
17 subsection (a).”.

18 **SEC. 3. ADDITIONAL AUTHORITY PROVISIONS FOR INSPEC-**
19 **TORS GENERAL.**

20 (a) SUBPOENA AUTHORITY FOR INSPECTORS GEN-
21 ERAL TO REQUIRE TESTIMONY OF CERTAIN PERSONS.—
22 The Inspector General Act of 1978 (5 U.S.C. App.) is
23 amended—

24 (1) by inserting after section 6 the following
25 new section:

1 **“SEC. 6A. ADDITIONAL AUTHORITY.**

2 “(a) TESTIMONIAL SUBPOENA AUTHORITY.—In ad-
3 dition to the authority otherwise provided by this Act and
4 in accordance with the requirements of this section, each
5 Inspector General, in carrying out the provisions of this
6 Act (or in the case of an Inspector General or Special In-
7 spector General not established under this Act, the provi-
8 sions of the authorizing statute), is authorized to require
9 by subpoena the attendance and testimony of witnesses
10 as necessary in the performance of the functions assigned
11 to the Inspector General by this Act (or in the case of
12 an Inspector General or Special Inspector General not es-
13 tablished under this Act, the functions assigned by the au-
14 thorizing statute), in the case of contumacy or refusal to
15 obey, shall be enforceable by order of any appropriate
16 United States district court. An Inspector General may
17 not require by subpoena the attendance and testimony of
18 any current Federal employees, but may use other author-
19 ized procedures.

20 “(b) NONDELEGATION.—The authority to issue a
21 subpoena under subsection (a) may not be delegated.

22 “(c) PANEL REVIEW BEFORE ISSUANCE.—

23 “(1) APPROVAL REQUIRED.—

24 “(A) REQUEST FOR APPROVAL BY SUB-
25 POENA PANEL.—Before the issuance of a sub-
26 poena described in subsection (a), an Inspector

1 General shall submit a request for approval to
2 issue a subpoena to a panel (in this section, re-
3 ferred to as the ‘Subpoena Panel’), which shall
4 be comprised of three Inspectors General of the
5 Council of the Inspectors General on Integrity
6 and Efficiency, who shall be designated by the
7 Inspector General serving as Chairperson of the
8 Council.

9 “(B) PROTECTION FROM DISCLOSURE.—
10 The information contained in the request sub-
11 mitted by an Inspector General under subpara-
12 graph (A) and the identification of a witness
13 shall be protected from disclosure to the extent
14 permitted by law. Any request for disclosure of
15 such information shall be submitted to the In-
16 spector General requesting the subpoena.

17 “(2) TIME TO RESPOND.—

18 “(A) IN GENERAL.—Except as provided in
19 subparagraph (B), the Subpoena Panel shall
20 approve or deny a request for approval to issue
21 a subpoena not later than 10 days after the
22 submission of such request.

23 “(B) ADDITIONAL INFORMATION FOR
24 PANEL.—If the Subpoena Panel determines
25 that additional information is necessary to ap-

1 prove or deny such request, the Subpoena Panel
2 shall request such information and shall ap-
3 prove or deny such request not later than 20
4 days after the submission of such request.

5 “(3) DENIAL BY PANEL.—If a majority of the
6 Subpoena Panel denies the approval of a subpoena,
7 that subpoena may not be issued.

8 “(d) NOTICE TO ATTORNEY GENERAL.—

9 “(1) IN GENERAL.—If the Subpoena Panel ap-
10 proves a subpoena under subsection (b), the Inspec-
11 tor General shall notify the Attorney General that
12 the Inspector General intends to issue the subpoena.

13 “(2) DENIAL FOR INTERFERENCE WITH AN ON-
14 GOING INVESTIGATION.—Not later than 10 days
15 after the date on which the Attorney General is noti-
16 fied pursuant to paragraph (1), the Attorney Gen-
17 eral may object to the issuance of the subpoena be-
18 cause the subpoena will interfere with an ongoing in-
19 vestigation and the subpoena may not be issued.

20 “(3) ISSUANCE OF SUBPOENA APPROVED.—If
21 the Attorney General does not object to the issuance
22 of the subpoena during the ten-day period described
23 in paragraph (2), the Inspector General may issue
24 the subpoena.

1 “(e) REGULATIONS.—The Chairperson of the Council
2 of the Inspectors General on Integrity and Efficiency, in
3 consultation with the Attorney General, shall prescribe
4 regulations to carry out the purposes of this section.

5 “(f) INSPECTOR GENERAL DEFINED.—For purposes
6 of this section, the term ‘Inspector General’ includes each
7 Inspector General established under this Act and each In-
8 spector General or Special Inspector General not estab-
9 lished under this Act.

10 “(g) APPLICABILITY.—The provisions of this section
11 shall not affect the exercise of authority by an Inspector
12 General of testimonial subpoena authority established
13 under another provision of law.”;

14 (2) in section 5(a)—

15 (A) in paragraph (15), by striking “; and”
16 and inserting a semicolon;

17 (B) in paragraph (16), by striking the pe-
18 riod at the end and inserting “; and”; and

19 (C) by inserting at the end the following
20 new paragraph:

21 “(17) a description of the use of subpoenas for
22 the attendance and testimony of certain witnesses
23 authorized under section 6A.”; and

24 (3) in section 8G(g)(1), by inserting “6A,” be-
25 fore “and 7”.

1 (b) MATCHING PROGRAM AND PAPERWORK REDUC-
2 TION ACT EXCEPTION FOR INSPECTORS GENERAL.—Sec-
3 tion 6 of the Inspector General Act of 1978 (5 U.S.C.
4 App.) is amended by adding at the end the following:

5 “(g)(1) In this subsection, the terms ‘agency’,
6 ‘matching program’, ‘record’, and ‘system of records’ have
7 the meanings given those terms in section 552a(a) of title
8 5, United States Code.

9 “(2) For purposes of section 552a of title 5, United
10 States Code, or any other provision of law, a computerized
11 comparison of 2 or more automated Federal systems of
12 records, or a computerized comparison of a Federal sys-
13 tem of records with other records or non-Federal records,
14 performed by an Inspector General or by an agency in co-
15 ordination with an Inspector General in conducting an
16 audit, investigation, inspection, evaluation, or other review
17 authorized under this Act shall not be considered a match-
18 ing program.

19 “(3) Nothing in this subsection shall be construed to
20 impede the exercise by an Inspector General of any match-
21 ing program authority established under any other provi-
22 sion of law.

23 “(4) An Inspector General shall maintain the same
24 level of confidentiality for any information provided under
25 this subsection as is required of the head of the agency

1 or other Government entity from which such information
2 is obtained. Inspectors General and employees of the office
3 of an Inspector General are subject to the same statutory
4 penalties for unauthorized disclosure or use as officers or
5 employees of the agency or other Government entity.

6 “(h) Subchapter I of chapter 35 of title 44, United
7 States Code, shall not apply to the collection of informa-
8 tion during the conduct of an audit, investigation, inspec-
9 tion, evaluation, or other review conducted by the Council
10 of the Inspectors General on Integrity and Efficiency or
11 any Office of Inspector General, including any Office of
12 Special Inspector General.”.

13 **SEC. 4. ADDITIONAL RESPONSIBILITIES OF THE COUNCIL**
14 **OF THE INSPECTORS GENERAL ON INTEG-**
15 **RITY AND EFFICIENCY.**

16 (a) FUNCTIONS AND DUTIES OF COUNCIL.—Section
17 11(c)(1) of the Inspector General Act of 1978 (5 U.S.C.
18 App.) is amended—

19 (1) in subparagraph (G), by striking “; and”
20 and inserting a semicolon;

21 (2) by redesignating subparagraph (H) as sub-
22 paragraph (I); and

23 (3) by inserting after subparagraph (G) the fol-
24 lowing new subparagraph:

1 “(H) except for any investigation, inspec-
2 tion, audit, or review conducted ? under section
3 103H of the National Security Act of 1947 (50
4 U.S.C. 3033), receive, review, and mediate any
5 disputes submitted in writing to the Council by
6 an Office of Inspector General regarding an
7 audit, investigation, inspection, evaluation, or
8 project that involves the jurisdiction of more
9 than one Federal agency or entity; and”.

10 (b) INTEGRITY COMMITTEE.—Section 11(d) of the
11 Inspector General Act of 1978 (5 U.S.C. App.) is amend-
12 ed—

13 (1) in paragraph (5)—

14 (A) in subparagraph (B), by striking “;
15 and” and inserting a semicolon;

16 (B) in subparagraph (C), by striking the
17 period at the end and inserting “; and”; and

18 (C) by inserting at the end the following
19 new subparagraph:

20 “(D) not later than 60 days after the date
21 on which an allegation of wrongdoing is re-
22 ceived by the Integrity Committee, make a de-
23 termination whether the Integrity Committee
24 will initiate an investigation of such allegation
25 under this subsection.”;

1 (2) in paragraph (6)(B)(i), by striking “may”
2 and inserting “shall”; and

3 (3) in paragraph (7)—

4 (A) in subparagraph (B)(i)—

5 (i) in subclause (III), by striking “;
6 and” and inserting a semicolon;

7 (ii) in subclause (IV), by striking the
8 period at the end and inserting a semi-
9 colon; and

10 (iii) by inserting at the end the fol-
11 lowing new subclauses:

12 “(V) creating a regular rotation
13 of Inspectors General assigned to in-
14 vestigate complaints through the In-
15 tegrity Committee; and

16 “(VI) creating procedures to
17 avoid conflicts of interest for Integrity
18 Committee investigations.”;

19 (B) by redesignating subparagraph (C) as
20 subparagraph (E); and

21 (C) by inserting after subparagraph (B)
22 the following new subparagraphs:

23 “(C) COMPLETION OF INVESTIGATION.—If
24 a determination is made under paragraph (5) to

1 initiate an investigation, the Integrity Com-
2 mittee—

3 “(i) shall complete the investigation
4 not later than six months after the date on
5 which the Integrity Committee made such
6 determination;

7 “(ii) if the investigation cannot be
8 completed within such six-month period,
9 shall—

10 “(I) promptly notify the congress-
11 sional committees listed in paragraph
12 (8)(A)(iii); and

13 “(II) to the maximum extent
14 practicable, complete the investigation
15 not later than 3 months after the ex-
16 piration of the six-month period; and

17 “(iii) if the investigation cannot be
18 completed within such nine-month period,
19 shall brief the congressional committees
20 listed in paragraph (8)(A)(iii) every thirty
21 days until the investigation is complete.

22 “(D) CONCURRENT INVESTIGATION.—If an
23 investigation of an allegation of wrongdoing
24 against an Inspector General or a staff member
25 of an Office of Inspector General described

1 under paragraph (4)(C) is initiated by a gov-
2 ernmental entity other than the Integrity Com-
3 mittee, the Integrity Committee may conduct
4 any related investigation for which a determina-
5 tion to initiate an investigation was made under
6 paragraph (5) concurrently with the other gov-
7 ernment entity.”.

8 (e) TECHNICAL CORRECTION; DESIGNEE AUTHOR-
9 ITY.—Section 11 of the Inspector General Act of 1978 (5
10 U.S.C. App.) is amended—

11 (1) in subsection (b)(1)(B) by striking “Office
12 of the Director of National Intelligence” and insert-
13 ing “Intelligence Community”; and

14 (2) in subsection (d)(2)—

15 (A) in subparagraph (C), by inserting “or
16 the designee of the Special Counsel” before the
17 period at the end; and

18 (B) in subparagraph (D), by inserting “or
19 the designee of the Director” before the period
20 at the end.

1 **SEC. 5. AMENDMENTS TO THE INSPECTOR GENERAL ACT**
2 **OF 1978 AND THE INSPECTOR GENERAL RE-**
3 **FORM ACT OF 2008.**

4 (a) INCORPORATION OF PROVISIONS FROM THE IN-
5 SPECTOR GENERAL REFORM ACT OF 2008 INTO THE IN-
6 SPECTOR GENERAL ACT OF 1978.—

7 (1) AMENDMENT.—Section 11(d) of the Inspec-
8 tor General Act of 1978 (5 U.S.C. App.) is amended
9 by adding at the end the following new paragraph:

10 “(12) ALLEGATIONS OF WRONGDOING AGAINST
11 SPECIAL COUNSEL OR DEPUTY SPECIAL COUNSEL.—

12 “(A) SPECIAL COUNSEL DEFINED.—In this
13 paragraph, the term ‘Special Counsel’ means
14 the Special Counsel appointed under section
15 1211(b) of title 5, United States Code.

16 “(B) AUTHORITY OF INTEGRITY COM-
17 MITTEE.—

18 “(i) IN GENERAL.—An allegation of
19 wrongdoing against the Special Counsel or
20 the Deputy Special Counsel may be re-
21 ceived, reviewed, and referred for investiga-
22 tion by the Integrity Committee to the
23 same extent and in the same manner as in
24 the case of an allegation against an Inspec-
25 tor General (or a member of the staff of
26 an Office of Inspector General), subject to

1 the requirement that the Special Counsel
2 recuse himself or herself from the consider-
3 ation of any allegation brought under this
4 paragraph.

5 “(ii) COORDINATION WITH EXISTING
6 PROVISIONS OF LAW.—This paragraph
7 does not eliminate access to the Merit Sys-
8 tems Protection Board for review under
9 section 7701 of title 5, United States
10 Code. To the extent that an allegation
11 brought under this subsection involves sec-
12 tion 2302(b)(8) of that title, a failure to
13 obtain corrective action within 120 days
14 after the date on which that allegation is
15 received by the Integrity Committee shall,
16 for purposes of section 1221 of such title,
17 be considered to satisfy section
18 1214(a)(3)(B) of that title.

19 “(C) REGULATIONS.—The Integrity Com-
20 mittee may prescribe any rules or regulations
21 necessary to carry out this paragraph, subject
22 to such consultation or other requirements as
23 might otherwise apply.”.

24 (2) CONFORMING AMENDMENT.—Section 7(b)
25 of the Inspector General Reform Act of 2008 (Public

1 Law 110–409; 122 Stat. 4312; 5 U.S.C. 1211 note)
2 is repealed.

3 (b) AGENCY APPLICABILITY.—

4 (1) AMENDMENTS.—The Inspector General Act
5 of 1978 (5 U.S.C. App.), as amended by section
6 3(a), is further amended—

7 (A) in section 8M—

8 (i) in subsection (a)(1)—

9 (I) by striking “agency” the first
10 place it appears and inserting “Fed-
11 eral agency and designated Federal
12 entity”; and

13 (II) by striking “agency” the sec-
14 ond and third place it appears and in-
15 serting “Federal agency or designated
16 Federal entity”; and

17 (ii) in subsection (b)—

18 (I) in paragraph (1), by striking
19 “agency” and inserting “Federal
20 agency and designated Federal enti-
21 ty”; and

22 (II) in paragraph (2)—

23 (aa) in subparagraph (A),
24 by striking “agency” and insert-

1 ing “Federal agency and des-
2 ignated Federal entity”; and

3 (bb) in subparagraph (B),
4 by striking “agency” and insert-
5 ing “Federal agency and des-
6 ignated Federal entity”; and

7 (B) in section 11(c)(3)(A)(ii), by striking
8 “department, agency, or entity of the executive
9 branch” and inserting “Federal agency or des-
10 ignated Federal entity”.

11 (2) IMPLEMENTATION.—Not later than 180
12 days after the date of the enactment of this Act, the
13 head and the Inspector General of each Federal
14 agency and each designated Federal entity (as such
15 terms are defined in sections 12 and 8G of the In-
16 spector General Act of 1978 (5 U.S.C. App.), re-
17 spectively) shall implement the amendments made by
18 this subsection.

19 (c) REQUIREMENTS FOR INSPECTORS GENERAL
20 WEBSITES.—Section 8M(b)(1) of the Inspector General
21 Act of 1978 (5 U.S.C. App.) is amended—

22 (1) in subparagraph (A), by striking “report or
23 audit (or portion of any report or audit)” and insert-
24 ing “audit report, inspection report, or evaluation
25 report (or portion of any such report)”; and

1 (2) by striking “report or audit (or portion of
2 that report or audit)” and inserting “report (or por-
3 tion of that report)”, each place it appears.

4 (d) CORRECTIONS.—

5 (1) EXECUTIVE ORDER NUMBER.—Section
6 7(c)(2) of the Inspector General Reform Act of 2008
7 (Public Law 110–409; 122 Stat. 4313; 31 U.S.C.
8 501 note) is amended by striking “12933” and in-
9 serting “12993”.

10 (2) PUNCTUATION AND CROSS-REFERENCES.—
11 The Inspector General Act of 1978 (5 U.S.C. App.),
12 as amended by section 3(a) and subsection (b), is
13 further amended—

14 (A) in section 4(b)(2)—

15 (i) by striking “8F(a)(2)” and insert-
16 ing “8G(a)(2)”, each place it appears; and

17 (ii) by striking “8F(a)(1)” and insert-
18 ing “8G(a)(1)”;

19 (B) in section 6(a)(4), by striking “infor-
20 mation, as well as any tangible thing)” and in-
21 serting “information), as well as any tangible
22 thing”;

23 (C) in section 8G(g)(3), by striking “8C”
24 and inserting “8D”; and

1 (D) in section 5(a)(13), by striking
2 “05(b)” and inserting “804(b)”.

3 (3) SPELLING.—The Inspector General Act of
4 1978 (5 U.S.C. App.), as amended by section 3(a),
5 subsection (b), and paragraph (2), is further amend-
6 ed—

7 (A) in section 3(a), by striking “subpena”
8 and inserting “subpoena”;

9 (B) in section 6(a)(4), by striking “sub-
10 pena” and “subpenas” and inserting “sub-
11 poena” and “subpoenas”, respectively;

12 (C) in section 8D(a)—

13 (i) in paragraph (1), by striking “sub-
14 penas” and inserting “subpoenas”; and

15 (ii) in paragraph (2), by striking
16 “subpena” and inserting “subpoena”, each
17 place it appears;

18 (D) in section 8E(a)—

19 (i) in paragraph (1), by striking “sub-
20 penas” and inserting “subpoenas”; and

21 (ii) in paragraph (2), by striking
22 “subpena” and inserting “subpoena”, each
23 place it appears; and

24 (E) in section 8G(d), by striking “sub-
25 pena” and inserting “subpoena”.

1 (e) REPEAL.—Section 744 of the Financial Services
2 and General Government Appropriations Act, 2009 (divi-
3 sion D of Public Law 111–8; 123 Stat. 693) is repealed.

4 **SEC. 6. REPORTS REQUIRED.**

5 (a) REPORT ON VACANCIES IN THE OFFICES OF IN-
6 SPECTOR GENERAL.—

7 (1) GAO STUDY REQUIRED.—The Comptroller
8 General shall conduct a study of prolonged vacancies
9 in the Offices of Inspector General, during which a
10 temporary appointee has served as the head of the
11 office that includes—

12 (A) the number and duration of Inspector
13 General vacancies;

14 (B) an examination of the extent to which
15 the number and duration of such vacancies has
16 changed over time;

17 (C) an evaluation of the impact such va-
18 ncancies have had on the ability of the relevant
19 Office of the Inspector General to effectively
20 carry out statutory requirements; and

21 (D) recommendations to minimize the du-
22 ration of such vacancies.

23 (2) COMMITTEE BRIEFING REQUIRED.—Not
24 later than nine months after the date of the enact-
25 ment of this Act, the Comptroller General shall

1 present a briefing on the findings of the study de-
2 scribed in subsection (a) to the Committee on Over-
3 sight and Government Reform of the House of Rep-
4 resentatives and the Committee on Homeland Secu-
5 rity and Governmental Affairs of the Senate.

6 (3) REPORT TO CONGRESS.—Not later than fif-
7 teen months after the date of the enactment of this
8 Act, the Comptroller General shall submit a report
9 on the findings of the study described in subsection
10 (a) to the Committee on Oversight and Government
11 Reform of the House of Representatives and the
12 Committee on Homeland Security and Governmental
13 Affairs of the Senate.

14 (b) REPORT ON ISSUES INVOLVING MULTIPLE OF-
15 FICES OF INSPECTOR GENERAL.—

16 (1) EXAMINATION REQUIRED.—The Council of
17 the Inspectors General on Integrity and Efficiency
18 shall conduct an analysis of critical issues that in-
19 volve the jurisdiction of more than one individual
20 Federal agency or entity to identify—

21 (A) each such issue that could be better
22 addressed through greater coordination among,
23 and cooperation between, individual Offices of
24 Inspector General;

1 (B) the best practices that can be em-
2 ployed by the Offices of Inspector General to in-
3 crease coordination and cooperation on each
4 issue identified; and

5 (C) any recommended statutory changes
6 that would facilitate coordination and coopera-
7 tion among Offices of Inspector General on crit-
8 ical issues.

9 (2) REPORT TO CONGRESS.—Not later than one
10 year after the date of the enactment of this Act, the
11 Council of the Inspectors General on Integrity and
12 Efficiency shall submit a report on the findings of
13 the analysis described in subsection (a) to the Com-
14 mittee on Oversight and Government Reform of the
15 House of Representatives and the Committee on
16 Homeland Security and Governmental Affairs of the
17 Senate.

18 **SEC. 7. PUBLIC RELEASE OF MISCONDUCT REPORT.**

19 (a) PUBLIC RELEASE BY INSPECTORS GENERAL OF
20 REPORT OF MISCONDUCT.—Section 4(a) of the Inspector
21 General Act of 1978 (5 U.S.C. App.) is amended—

22 (1) in paragraph (4), by striking “; and” and
23 inserting a semicolon;

24 (2) in paragraph (5), by striking the period and
25 inserting “; and”; and

1 (3) by inserting at the end the following new
2 paragraph:

3 “(6) to make publicly available not later than
4 60 days after issuing a final report on any adminis-
5 trative investigation that confirms misconduct, in-
6 cluding any violation of Federal law and any viola-
7 tion of Federal agency policy, by any member of the
8 Senior Executive Service, employee in a position that
9 is excepted from the competitive service because of
10 its confidential, policy-determining, policy-making, or
11 policy-advocating character, or commissioned officer
12 in the Armed Forces in pay grades O–6 and above
13 (ensuring that information protected under section
14 552 of title 5, United States Code (commonly known
15 as the ‘Freedom of Information Act’), section 552a
16 of title 5, United States Code (commonly known as
17 the ‘Privacy Act of 1974’), and section 6103 of the
18 Internal Revenue Code of 1986 is not disclosed).”.

19 (b) REPORTS OF MISCONDUCT IN SEMIANNUAL RE-
20 PORTS.—Section 5(a) of the Inspector General Act of
21 1978 (5 U.S.C. App.), as amended by section 3(a)(2) is
22 further amended—

23 (1) in paragraph (16), by striking “; and” and
24 inserting a semicolon;

1 (2) in paragraph (17), by striking the period at
2 the end and inserting “; and”; and

3 (3) by inserting at the end the following new
4 paragraph:

5 “(18) a list of and summary of any administra-
6 tive investigation that confirms misconduct, includ-
7 ing any violation of Federal law and violation of any
8 Federal agency policy, by any member of the Senior
9 Executive Service, employee in a position that is ex-
10 cepted from the competitive service because of its
11 confidential, policy-determining, policy-making, or
12 policy-advocating character, or commissioned officer
13 in the Armed Forces in pay grades O–6 and above.”.

