
New Congress Expected to Zoom to Private Sector Investigations

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- WilmerHale says Republican power signals a new era of oversight
- Both parties will pursue investigative and policy-making agendas

Perhaps no use case better exemplifies the rapidly evolving privacy law landscape in the US than the legal framework surrounding companies' use of cookies, pixels, and other web trackers.

The 119th Congress brings new challenges for companies that may find themselves subject to oversight inquiries. With Republican majority control of the House and Senate—though with a razor-thin margin in the House—we can expect Congress to focus its investigative powers on the private sector rather than a Republican executive branch. This will likely result in a significant number of investigative inquiries—using both voluntary and compulsory process—and requests for senior leaders to testify.

Accompanying the consolidation of Republican power in Congress are significant changes to committee chair and ranking member positions. These tactical and strategic changes in leadership signal a new era of investigative oversight priorities that will shape practices well beyond the next two years. With leadership selections finalized in the House and clear front-runners for most Senate committees, organizations should prepare to engage with incoming leaders and their staff.

Republican chairs in both chambers will be focused primarily on the private sector and retrospective oversight of the Biden administration. As the priorities of President-elect Donald Trump and his administration take shape, we can expect GOP-led oversight to both pursue and frame issues in alignment with Trump's agenda.

House committees will continue to pursue many of the priorities from last Congress, as well as key policy issues for the Trump administration. For example, even though Rep. Tim Walberg (R-MI) is

replacing Rep. Virginia Foxx (R-NC) as chair of Education and Workforce, his public statements indicate that antisemitism, DEI, and school choice will remain key committee priorities.

Similarly, the selection of Rep. Brett Guthrie (R-KY) to serve as the chair of the Energy and Commerce Committee indicates a continued emphasis on protecting US technology from Chinese interference, connecting more Americans to broadband, and continuing oversight into rising health-care costs.

GOP leaders remaining in chair positions have expressed a desire to continue their commitment to certain issues or to align their committees' efforts with the Trump administration's key priorities. For example, Rep. Jim Jordan (R-OH) will remain chair of the powerful House Judiciary Committee and has expressed a continued resolve to investigate potential censorship across various sectors.

Rep. James Comer (R-KY), who continues as the chair of the House Oversight Committee, issued a statement noting his Committee's alignment with the administration, stating that "[m]any of President Trump's key priorities align with the Oversight Committee's jurisdiction," and "[w]e will actively work with President Trump and his administration to hold the federal bureaucracy accountable and ensure taxpayer dollars are spent wisely."

The Trump administration has made clear that top priority policy areas include tax cuts, supply chain integrity, China touchpoints, and immigration. Companies could find themselves pulled into oversight inquiries that focus on government policies as committees look for witnesses as examples of a key issue.

Like many Republican House committee leaders, Majority Leader Sen. John Thune (R-SD) has emphasized his close working relationship with Trump and his desire to prioritize the issues most important to his administration, including immigration, extending tax cuts, and improving America's energy security.

Several of the major investigative committees will have new Democratic ranking members, representing a shift to more aggressive, progressive, and in several cases, younger leaders who could shepherd their committees for years to come.

While uncommon for House Democrats to openly challenge committee leaders, recent bids for highly sought positions indicate that committee members have prioritized replacing old guard leaders with more aggressive ranking members to challenge strong Republican chairs and to more publicly contest the Trump administration's agenda.

Former House Speaker Nancy Pelosi shared her support for "the newer members who are running for office," and "the fact that they're ready to take charge of their committees."

The most notable examples include Rep. Jamie Raskin's (D-MD) successful bid to replace Rep. Jerrold Nadler (D-NY) as the Democrat lead on the influential Judiciary Committee, Rep. Angie Craig's election (D-MN) as the ranking member of the Agriculture Committee over long-standing leader Rep. David Scott (D-GA), and the decision by Rep. Raúl Grijalva (D-AZ) to not seek re-election as ranking member of the Natural Resources Committee following a challenge from Rep. Jared Huffman (D-CA).

Even unsuccessful bids to replace existing leaders, such as Rep. Alexandria Ocasio-Cortez's (D-NY) attempt to replace Rep. Gerry Connolly (D-VA) on House Oversight, have sparked conversations about other roles young Democrats can take on in the upcoming legislative session.

While ranking members don't have the ability to compel responses, the slim margin of control in the House means that current Democratic leaders may signal the issues they would investigate if able to regain control in the next legislative session.

With Republicans promising enforcement of President Trump's agenda and Democrats indicating an appetite to forcefully challenge committee leaders, companies and their counsel should take stock of their current activities and the potential for future oversight to more effectively prepare for engagement and communication with relevant committee members and staff.

By conducting an issues inventory and identifying key risk areas, organizations will be better situated to address both informal and formal congressional inquiries that may arise in the next two years.

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