

# United States Senate

COMMITTEE ON COMMERCE, SCIENCE,  
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEBSITE: <https://commerce.senate.gov>

March 11, 2024

The Honorable Mark Greenblatt  
Chairman

Council of the Inspectors General on Integrity and Efficiency  
1750 H Street NW  
Washington, D.C. 20006

Dear Mr. Greenblatt:

Congress established the Council of the Inspectors General on Integrity and Efficiency (CIGIE) to increase the effectiveness of oversight by Offices of Inspectors General (OIG) into waste, fraud, and abuse at federal agencies.<sup>1</sup> Inspectors general play a crucial role in holding federal agencies in check and protecting taxpayer dollars. That is why it is so disappointing that, instead of focusing on its important mission, CIGIE is blindly advancing the Biden administration's partisan policy goal of diversity, equity, and inclusion (DEI). CIGIE's recently issued DEI guidance recommends OIGs consider race in their employment processes and require employees to take unconscious bias trainings.<sup>2</sup> Such policies not only spread racial division and hatred, but are illegal. The harm is made that much worse coming from inspectors general who should hold themselves to a higher standard than the agencies they oversee.

In response to President Biden's Executive Order 14035, which "establishes that diversity, equity, inclusion, and accessibility are priorities for [the Biden] [a]dministration," CIGIE's DEI Committee released the *Roadmap for Offices of Inspectors General: Advancing Diversity, Equity, Inclusion, and Accessibility* (the Guidance).<sup>3</sup> The Guidance provides 91 pages of "actionable steps any OIG can take" to advance DEI.<sup>4</sup> Despite no mention of DEI in its authorizing statute, CIGIE maintains that DEI is one of its "foundational principles" and explains that it is committed to the advancement of DEI because it "is the right thing to do."<sup>5</sup>

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<sup>1</sup> *The Inspector General Reform Act of 2008*, Pub. L. 110-409, 122 Stat. 4302.

<sup>2</sup> Sandra D. Bruce & Stefania Pozzi Porter, *Advancing Diversity, Equity, Inclusion, and Accessibility: A Roadmap for Offices of Inspectors General*, Council of the Inspectors General on Integrity and Efficiency 2, 4, 19–20 (Oct. 2023) [hereinafter *Guidance*] <https://www.ignet.gov/sites/default/files/files/AdvancingDEIAinOIGCommunityVersion10-2023.pdf> (encouraging OIGs to "improve diversity of applicant pools," while defining diversity as including attributes like race and color); see Caroline Colvin, *Biden's DEI Executive Order Aims to Set the Tone for 2023*, HR DRIVE (Feb. 23, 2023), <https://www.hrdrive.com/news/dei-government-abbott-biden-desantis/643456/>.

<sup>3</sup> Exec. Order No. 14,035, 86 Fed. Reg. 34,593 (June 25, 2021); Guidance, *supra* note 2, at 17.

<sup>4</sup> Guidance, *supra* note 2, at 2.

<sup>5</sup> *Id.*

To that end, the Guidance recommends OIGs consider race in recruiting, hiring, and promoting employees.<sup>6</sup> CIGIE’s Guidance provides OIGs with step-by-step instructions for how to incorporate race, skin color, sex, and other intrinsic characteristics into hiring decisions. **First**, it instructs OIGs to “[d]evelop quarterly reports on professional development, attrition, rewards, retention, and promotion action by race.”<sup>7</sup> **Second**, the Guidance tells OIGs to “[c]onduct annual human capital planning discussions with senior leaders, hiring officials, and managers to develop a targeted hiring and recruitment plan” for increasing “demographic diversity.”<sup>8</sup> **Third**, it directs OIGs to “[e]stablish a tool to track and measure the outcomes of recruitment strategies and activities” that “[u]se[s] available demographic data to assess the diversity of applicants” and “convey[s] the status of organization workforce diversity” to the office’s leaders.<sup>9</sup> **Fourth**, it encourages OIGs to “[c]ollect demographics” data on their respective workforces and to use that data to “establish[] a baseline,” as well as to “[c]onduct trends and analyses to identify gaps, develop plans of action, and make improvements.”<sup>10</sup> **Finally**, it encourages OIGs to “improve the diversity of applicant pools,” while defining diversity as attributes like “race,” “color,” “ethnicity,” “gender,” “sexual orientation,” and “gender identity”—in short encouraging OIGs to increase hiring based on those protected classes identified as underrepresented based on the previously collected data.<sup>11</sup> To ensure that offices are advancing DEI, the Guidance recommends OIGs include “[DEI] elements in annual performance plans for senior executives and hiring officials.”<sup>12</sup>

In effect, the Guidance provides a comprehensive manual for creating and implementing race-based employment practices at every federal OIG when employment decisions should be based on merit. Considering skin color in employment practices is immoral, and claiming that such actions are necessary to advance DEI—an inherently racist ideology—does not change that. It is also plainly illegal.

The Guidance’s recommendations to consider race in employment decisions are also unconstitutional in light of the Supreme Court’s decision in *Students for Fair Admissions v. Harvard*.<sup>13</sup> In that case, the Court asked whether universities’ race-based admissions systems are a permissible exception to the Constitution’s promise of equal protection of the law. The Court applied its regular, two-step “strict scrutiny” test for evaluating racial classifications, asking, first, whether taking race into account in admissions furthers a compelling governmental interest and, second, whether the use of race is narrowly tailored to achieve that interest.<sup>14</sup> The Court

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<sup>6</sup> *Id.* at 4, 19–20.

<sup>7</sup> *Id.* at 19.

<sup>8</sup> *Id.* 19–20.

<sup>9</sup> *Id.* at 21.

<sup>10</sup> *Id.* at 80.

<sup>11</sup> *Id.* at 4, 20–21.

<sup>12</sup> *Id.* at 22.

<sup>13</sup> *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181 (2023).

<sup>14</sup> *Id.* at 206–207, 214–218.

ultimately held that race-based admissions do *not* further a compelling government interest, such as “remediating specific, identified instances of past discrimination,” and are therefore unconstitutional.<sup>15</sup> This case law applies equally to the race-based hiring systems at federal agencies recommended by CIGIE. Through its Guidance, CIGIE urges OIGs to consider race in hiring and promoting individuals but fails to list any specific instances of discrimination or show that the solution is narrowly tailored, and instead leans on “equity” to justify such practices.<sup>16</sup>

CIGIE’s instructions to OIGs to consider race in employment decisions are not the only concerning aspect of the Guidance. The Guidance also calls on OIGs to prioritize “continuous education” on DEI principles to get “people who are ambivalent or actively resistant to [DEI] programs” to “buy-in.”<sup>17</sup> For example, the Guidance advises OIGs to “[c]onduct annual mandatory unconscious bias training for leaders, managers, and staff involved in staffing, recruitment, and hiring activities,” as well as hold office-wide DEI training on “unconscious bias that highlights both the personal and systematic issues in relation to performance management.”<sup>18</sup> While OIGs develop these courses, CIGIE itself offers an Inspector General New Manager Course that peddles unconscious bias training.<sup>19</sup> That training has no place in the federal government. Last Congress, I introduced the END CRT Act, which would prohibit federal agencies from promoting such divisive and racist trainings.<sup>20</sup> CIGIE’s Guidance underscores why such legislation is necessary.

The Standing Rules of the Senate provide the Committee on Commerce, Science, and Transportation the authority and duty to “review and study, on a continuing basis” matters relating to agencies under the committee’s jurisdiction, including inspectors general.<sup>21</sup> So that the Committee may better understand the recommendations CIGIE is making to OIGs in its jurisdiction, please provide the following documents and written responses to the following requests by no later than March 25, 2024, according to the attached instructions:

1. Copies of all resources for OIGs to collaborate on efforts to advance DEI, including other OIG’s DEI collaboration websites, or direct access to them, including:<sup>22</sup>
  - a. All editions of the Ally newsletter;
  - b. The U.S. Postal Service OIG collaboration site and all subgroups related to DEI;
  - c. The CIGIE DEIA collaboration site and all subgroups related to DEI;
  - d. The Inspector General New Manager Course; and

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<sup>15</sup> *Id.* at 207, 214.

<sup>16</sup> *See* Guidance, *supra* note 2, at 4.

<sup>17</sup> *Id.* at 9–10.

<sup>18</sup> *Id.* at 19, 33.

<sup>19</sup> Training Institute, *Inspector General New Manager Course*, COUNCIL OF THE INSPECTORS GEN. ON INTEGRITY AND EFFICIENCY, <https://www.ignet.gov/content/training-programs-0> (last accessed Mar. 8, 2024).

<sup>20</sup> END CRT Act, S. 2221, 117th Cong. (2021).

<sup>21</sup> S. Rules XXV(1)(f), XXVI(8).

<sup>22</sup> *See* Guidance, *supra* note 2, at 5.

- e. All documents referring or relating to training on DEI, unconscious bias, critical race theory, or similar topics.
2. Transcripts and any other similar documents such as meeting notes or meeting minutes of DEIA Committee meetings from April 1, 2021, to present.
3. Documents sufficient to show or a list identifying all criteria that CIGIE recommends OIGs consider in hiring employees, promoting employees, and offering professional development opportunities to employees.

Thank you for your attention to this matter.

Sincerely,



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Ted Cruz  
Ranking Member