

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

JAMES M. READ,

*Plaintiff,*

v.

COUNCIL OF THE INSPECTORS GENERAL  
ON INTEGRITY AND EFFICIENCY  
("CIGIE"); *ET AL.*,

*Defendants.*

CIVIL CASE NO. 1:24-cv-01808-TJK

**PLAINTIFF'S CORRECTED NOTICE CONCERNING SUBSTITUTION  
OF PARTIES UNDER FED. R. CIV. P. 25(d) AND THE EFFECT,  
ON THIS ACTION, OF THE SEPARATION OF TWO PUBLIC  
OFFICERS SUED IN THEIR OFFICIAL CAPACITIES**

Pursuant to Fed. R. Civ. P. 25(d), Plaintiff James M. Read hereby provides the Court with notice of the separation from public office of two Defendants sued in their official capacities. As explained below, as a result of these personnel changes, the organizational Defendants are now completely unaccountable to the President. The organizational Defendants' continued exercise of executive power supported by appropriated funds thus violates the Constitution.

**BACKGROUND**

On June 24, 2024, Plaintiff instituted this action against two organizational Defendants in the executive branch, the Council of the Inspectors General for Integrity & Efficiency (CIGIE) and CIGIE's Integrity Committee, as well as three individual Defendants: Jason Miller,

Executive Chairperson of CIGIE; Mark Greenblatt, Chairperson of CIGIE; and Kimberly Howell, Chairperson of CIGIE's Integrity Committee. The individual Defendants were and are sued in their official capacities.

Plaintiff's claims are that Defendants have violated and/or are in continuing violation of: (1) The Constitution, insofar as Defendant Howell, an employee of the Corporation for Public Broadcasting, a private non-profit corporation, wields executive power yet is unaccountable to anyone in the executive branch; (2) the Federal Advisory Committee Act (FACA), insofar as CIGIE and its Integrity Committee are comprised of federal employees and private citizens who provide formal advice to the President and executive agencies without following the transparency and accountability procedures required by FACA; and (3) the Privacy Act, by giving a private citizen access to Plaintiff's personally-identifiable information from a government system of records. ECF 1. Defendants seek dismissal of the Complaint under Fed. R. Civ. P. 12(b). ECF 9. Plaintiff opposes dismissal. ECF 11. Briefing on Defendants' Motion to Dismiss was completed on October 11, 2024. All of the personnel changes among Defendants, described below, occurred subsequent to that date.

***The position of CIGIE Chairperson is vacant.*** Defendant Greenblatt's term as CIGIE Chairperson ended on December 31, 2024. The next day Hannibal Ware, who in 2018 was appointed by the President and confirmed by the Senate as Inspector General of the Small Business Administration (SBA), commenced his two-year term as CIGIE Chairperson. However, on January 24, 2025, President Trump removed Inspector General Ware from his position as Inspector General of SBA, thereby rendering him ineligible to serve as CIGIE Chairperson. *See* 5 U.S.C. §§ 402, 424(b)(1)(A)(i) & (2)(B) (the SBA Inspector General is a

member of CIGIE; the members of CIGIE elect one member to serve as Chairperson). As of February 22, 2025, the CIGIE website indicates that the position of “Chair” is “vacant” and that the “Vice Chair” is Tammy Hull, the Inspector General of the Postal Service. *See* <https://www.ignet.gov/content/leadership-and-staff> (last visited 2/22/25). According to her official biography, in 2018 the Governors of the Postal Service appointed Ms. Hull as the Postal Service Inspector General, and in 2025 then-Chairperson Ware of CIGIE appointed Ms. Hull as Vice Chairperson of CIGIE. *See* <https://www.ignet.gov/content/tammy-hull> (last visited 2/22/25).

***The CIGIE Executive Chairperson has changed.*** On or about January 20, 2025, Defendant Jason Miller was separated from employment in the executive branch, and he therefore ceased to be the Executive Chairperson of CIGIE. According to CIGIE’s website, the current Executive Chairperson of CIGIE is Deirdre Harrison, an employee of the Office of Management & Budget (OMB). *See* <https://www.ignet.gov/content/leadership-and-staff> (last visited 2/22/25).

### **EFFECT OF SEPARATIONS ON THIS ACTION**

“An action does not abate when a public officer who is a party in an official capacity dies, resigns, or otherwise ceases to hold office when the action is pending.” Fed. R. Civ. P. 25(d). With respect to Defendant Miller, who separated from his official position on or about January 20, 2025, his “successor” Deirdre Harrison “is automatically substituted as a party.” *Id.* The situation is not nearly as straightforward with respect to the replacement of CIGIE Chairperson Greenblatt with Inspector General Ware on January 1, 2025, followed by Chairperson Ware’s removal from office 23 days later. These changes create a structure that is

even more clearly unconstitutional than the structure that existed when Plaintiff filed the Complaint.

As stated in Plaintiff's Memorandum of Points and Authorities in Support of His Opposition to Defendants' Motion to Dismiss —

because the Constitution vests executive power in the President, the President must be able to oversee the functions of an executive agency or to attribute the agency's failings "to those he *can* oversee." *Free Enterprise Fund v. Public Company Accounting Oversight Bd.*, 561 U.S. 477, 496 (2010) (emphasis in original). Executive power "acquires its legitimacy and accountability to the public through 'a clear and effective chain of command' down from the President." *United States v. Arthrex*, 594 U.S. 1, \_\_\_, 141 S. Ct. 1970, 1979 (2021) (quoting *Free Enterprise Fund*, 561 U.S. at 498).

ECF 11-1 at 7. In the present case, the chain of command from the President to CIGIE leadership and Integrity Committee leadership was already attenuated when Plaintiff filed this action, and with the personnel changes described above it is now broken.

For the last 29 days, CIGIE has had no Chairperson. This void is untenable, as the Chairperson is charged by statute with the responsibility for: Making payments from appropriated funds necessary to carry out CIGIE's functions, 5 U.S.C. § 424(b)(3)(B)(iv); selecting, appointing, and employing personnel to assist in carrying out CIGIE's functions, 5 U.S.C. § 424(b)(3)(B)(v); and entering into contracts with appropriated funds as necessary to carry out CIGIE's functions, 5 U.S.C. § 424(b)(3)(B)(vi). The Chairperson is also responsible for ensuring that CIGIE's functions are carried out. 5 U.S.C. § 424(b)(3)(B)(ii). Among those functions, which are described in Defendants' Memorandum of Points and Authorities in Support of Their Motion to Dismiss, are: Developing policies, 5 U.S.C. § 424(c)(1)(C); maintaining training academies, 5 U.S.C. § 424(c)(1)(E); making reports to Congress, 5 U.S.C. § 424(c)(1)

(G); mediating disputes, 5 U.S.C. § 424(c)(1)(H); through the Integrity Committee, investigating and reporting on allegations of wrongdoing on the part of certain executive branch officials, including Principal Officers appointed by the President with Senate confirmation, 5 U.S.C. § 424(d)(5), (6), (7), (8); and, through the Integrity Committee, prescribing rules and regulations, 5 U.S.C. § 424(d)(12)(C). ECF 9-1 at 15-16.

It is not clear who has been overseeing these significant governmental activities for the last 29 days. The Executive Chairperson of CIGIE is an employee of OMB, and in any case her duties under the Inspector General Act are largely ceremonial. The statutory provisions cited above vest authority to oversee the functions of CIGIE and its Integrity Committee in the CIGIE Chairperson and the Integrity Committee Chairperson, respectively. The Inspector General Act contemplates that the Vice Chairperson of CIGIE will “act in the absence of the Chairperson,” 5 U.S.C. § 424(b)(3)(B)(iii), but the Vice Chairperson of CIGIE was appointed by the Governors of the Postal Service, she cannot be removed by the President, and she is not supervised in her activities as CIGIE Vice Chairperson by anyone in the executive branch. Similarly, the Chairperson of the Integrity Committee is an employee of the Corporation for Public Broadcasting, a “non-profit corporation” “which will not be an agency or establishment of the United States Government.” 47 U.S.C. § 396(b). The Chairperson of the Integrity Committee was not appointed by the President, she cannot be removed by the President, and she is not supervised in her activities as head of the Integrity Committee by anyone in the executive branch; indeed, she is not supervised in *any* of her activities by anyone in the executive branch. Notably, the President has no power to repair these constitutional deficiencies by appointing a new Chairperson of CIGIE, because under the Inspector General Act the Chairperson of CIGIE

is elected by the members of CIGIE from among CIGIE's members. 5 U.S.C. § 424(b)(2)(B). Likewise, the President has no power to replace the Chairperson of the Integrity Committee, as the Integrity Committee Chairperson is elected by the members of the Integrity Committee. 5 U.S.C. § 424(d)(2)(B)(i).

Even assuming that the President could persuade the leaders of the Postal Service and the Corporation for Public Broadcasting to remove Ms. Hull and Ms. Howell from their Inspector General positions, thereby making them ineligible to continue serving as Vice Chairperson of CIGIE and Chairperson of CIGIE's Integrity Committee, respectively, he would be no closer to having control over those two bodies. This is because, as stated above, the members of CIGIE — not the President — choose the CIGIE Chairperson from among CIGIE's members, the Chairperson of CIGIE chooses the members of the Integrity Committee, and the members of the Integrity Committee chose the Chairperson of the Integrity Committee. Compounding the problem is the fact that more than half of CIGIE's members are not appointed by the President, *see* 5 U.S.C. §§ 402, 415, and the further fact that among CIGIE's members are five employees of the legislative branch and at least four individuals who are not employed by the government at all, ECF 1, Complaint ¶¶ 11, 13-17. Given the statutory structure of CIGIE and CIGIE's Integrity Committee, it is impossible for the President to exercise meaningful control over those bodies via his Article II powers of appointment and removal.

### CONCLUSION

CIGIE and CIGIE's Integrity Committee are constitutional zombies. They are led by individuals who are beyond the supervision or control of the President, yet they wield significant executive power supported by appropriated funds. Under the Supreme Court's rulings in *Free*

*Enterprise Fund* and *Arthrex*, quoted above, such an arrangement is not permitted by the Constitution. Plaintiff prays that the Court deny Defendants' motion to dismiss and hold such further proceedings on the merits as are warranted.

February 23, 2025

Respectfully submitted,

/s/

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JAMES M. READ