

By: Bettencourt

S.B. No. 1862

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the office of inspector general at the Texas Education Agency to investigate the administration of public education.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 7, Education Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. OFFICE OF INSPECTOR GENERAL

Sec. 7.151. DEFINITIONS. In this subchapter:

(1) "Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to that person or some other person. The term includes any act that constitutes fraud under applicable federal or state law.

(2) "Local education agency" includes a school district or county system described by Subchapter G, Chapter 11.

(3) "Office" means the office of inspector general established under this subchapter.

Sec. 7.152. OFFICE OF INSPECTOR GENERAL. (a) The office of inspector general is established as a division within the agency.

(b) The commissioner shall appoint an inspector general to serve as director of the office. The inspector general serves until removed by the commissioner.

(c) The agency shall provide staff and administrative

1 resources and support services as necessary to ensure
2 investigations and reviews authorized by this subchapter are
3 conducted expeditiously.

4 Sec. 7.153. GENERAL RESPONSIBILITIES. (a) The office is
5 responsible for the investigation, prevention, and detection of
6 wrongdoing and of fraud, waste, and abuse in the administration of
7 public education by school districts, open-enrollment charter
8 schools, regional education service centers, and other local
9 education agencies in this state.

10 (b) The office may investigate allegations of fraud, waste,
11 and abuse and violations of this code or other law.

12 (c) The office may:

13 (1) conduct civil and administrative investigations
14 and initiate reviews of a school district, an open-enrollment
15 charter school, a regional education service center, or another
16 local education agency as considered appropriate by the inspector
17 general;

18 (2) receive and investigate complaints from any source
19 on its own initiative;

20 (3) conduct special investigations authorized by the
21 commissioner under Section 39.003(a); and

22 (4) make findings of fact that a school district, an
23 open-enrollment charter school, a regional education service
24 center, or another local education agency or an employee or agent of
25 the entity committed an act of wrongdoing, fraud, waste, or abuse in
26 the administration of public education and take appropriate action
27 as determined by the commissioner, regardless of any time

1 requirement relating to the action under Chapter 8, 12, or 39A.

2 (d) The commissioner may order the office to conduct a
3 forensic audit of any entity over which the office has
4 jurisdiction. The entity for which the audit was ordered shall pay
5 the costs of the audit.

6 (e) The office shall perform all other duties and exercise
7 all other powers granted to the office by this subchapter or other
8 law.

9 Sec. 7.154. GENERAL POWERS. (a) The office has all the
10 powers necessary or appropriate to carry out its responsibilities
11 and functions under this subchapter and other law.

12 (b) Subject to Subsection (c), in conducting an
13 investigation under this subchapter of the board of trustees of a
14 school district, the governing body of an open-enrollment charter
15 school, the board of directors of a regional education service
16 center, another local education agency, or the executive leadership
17 of any of those entities, the office may:

18 (1) attend any meeting or proceeding of the school
19 district, open-enrollment charter school, regional education
20 service center, or other local education agency, including a
21 meeting or proceeding that is closed to the public, except for a
22 private consultation of the entity with its attorney permitted
23 under Section 551.071, Government Code; and

24 (2) inspect the records, documents, and files of the
25 school district, open-enrollment charter school, regional
26 education service center, or other local education agency,
27 including any record, document, or file that is not subject to

1 public disclosure under Chapter 552, Government Code, or other law.

2 (c) The office's authority under Subsection (b) applies
3 only to a meeting, a proceeding, or information that is relevant to
4 the discovery of relevant information regarding an allegation of
5 wrongdoing or a violation of this code or of fraud, waste, or abuse
6 in the administration of public education by a person or entity
7 described by Subsection (b). The office may not inspect a record,
8 document, or file that is a privileged communication between an
9 individual and the individual's attorney.

10 (d) The inspection or disclosure of a record, document, or
11 file for purposes of an investigation under this subchapter is not a
12 voluntary disclosure under Section 552.007, Government Code. A
13 record, document, or file made available to the office for purposes
14 of an investigation under this subchapter is not subject to public
15 disclosure by the office.

16 Sec. 7.155. SUBPOENAS. (a) The inspector general may issue
17 a subpoena to compel the attendance of a relevant witness at a
18 hearing or deposition under this subchapter or to compel the
19 production, for inspection or copying, of books, papers, records,
20 documents, or other relevant materials, including electronic data,
21 in connection with an investigation, review, hearing, or deposition
22 conducted under this subchapter.

23 (b) A subpoena may be served personally or by certified
24 mail. If a person fails to comply with a subpoena, the inspector
25 general, acting through the attorney general, may file suit to
26 enforce the subpoena in a district court in this state.

27 (c) On finding that good cause exists for issuing the

1 subpoena, the court shall order the person to comply with the
2 subpoena. The court may hold in contempt a person who fails to obey
3 the court order.

4 Sec. 7.156. COOPERATION WITH OTHER ENTITIES. The office
5 may refer matters for further civil and administrative action to
6 appropriate administrative agencies, including the attorney
7 general.

8 SECTION 2. Section 39.003(a), Education Code, is amended to
9 read as follows:

10 (a) The commissioner may authorize special investigations
11 to be conducted:

12 (1) when excessive numbers of absences of students
13 eligible to be tested on state assessment instruments are
14 determined;

15 (2) when excessive numbers of allowable exemptions
16 from the required state assessment instruments are determined;

17 (3) in response to complaints submitted to the agency
18 with respect to alleged violations of civil rights or other
19 requirements imposed on the state by federal law or court order;

20 (4) in response to established compliance reviews of
21 the district's financial accounting practices and state and federal
22 program requirements;

23 (5) when extraordinary numbers of student placements
24 in disciplinary alternative education programs, other than
25 placements under Sections 37.006 and 37.007, are determined;

26 (6) in response to an allegation involving a conflict
27 between members of the board of trustees or between the board and

1 the district administration if it appears that the conflict
2 involves a violation of a role or duty of the board members or the
3 administration clearly defined by this code;

4 (7) when excessive numbers of students in special
5 education programs under Subchapter A, Chapter 29, are assessed
6 through assessment instruments developed or adopted under Section
7 39.023(b);

8 (8) in response to an allegation regarding or an
9 analysis using a statistical method result indicating a possible
10 violation of an assessment instrument security procedure
11 established under Section 39.0301, including for the purpose of
12 investigating or auditing a school district under that section;

13 (9) when a significant pattern of decreased academic
14 performance has developed as a result of the promotion in the
15 preceding two school years of students who did not perform
16 satisfactorily as determined by the commissioner under Section
17 39.0241(a) on assessment instruments administered under Section
18 39.023(a), (c), or (l);

19 (10) when excessive numbers of students eligible to
20 enroll fail to complete an Algebra II course or any other advanced
21 course as determined by the commissioner;

22 (11) when resource allocation practices as evaluated
23 under Section 39.0821 indicate a potential for significant
24 improvement in resource allocation;

25 (12) when a disproportionate number of students of a
26 particular demographic group is graduating with a particular
27 endorsement under Section 28.025(c-1);

1 (13) when an excessive number of students is
2 graduating with a particular endorsement under Section
3 28.025(c-1);

4 (14) in response to a complaint submitted to the
5 agency with respect to alleged inaccurate data that is reported
6 through the Public Education Information Management System (PEIMS)
7 or through other reports required by state or federal law or rule or
8 court order and that is used by the agency to make a determination
9 relating to public school accountability, including accreditation,
10 under this chapter;

11 (15) when 10 percent or more of the students
12 graduating in a particular school year from a particular high
13 school campus are awarded a diploma based on the determination of an
14 individual graduation committee under Section 28.0258;

15 (16) when a school district for any reason fails to
16 produce, at the request of the agency, evidence or an investigation
17 report relating to an educator who is under investigation by the
18 State Board for Educator Certification; ~~or~~

19 (17) by the office of inspector general for the
20 purpose of investigating allegations of fraud, waste, and abuse in
21 the administration of public education; or

22 (18) as the commissioner otherwise determines
23 necessary.

24 SECTION 3. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2023.