

By: Bettencourt

S.B. No. 84

A BILL TO BE ENTITLED

AN ACT

relating to the oversight of public education, including the creation of the office of inspector general at the Texas Education Agency.

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) "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.

Sec. 7.153. GENERAL RESPONSIBILITIES. (a) The office is responsible for the investigation, prevention, and detection of

1 criminal misconduct and wrongdoing and of fraud, waste, and abuse
2 in the administration of public education by:

3 (1) school districts, including school districts
4 described by Section 11.301(a);

5 (2) open-enrollment charter schools;

6 (3) regional education service centers;

7 (4) county systems described by Section 11.301(a); and

8 (5) other local education agencies in this state.

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

11 (c) The office may:

12 (1) conduct criminal, civil, and administrative
13 investigations and initiate reviews of:

14 (A) a school district, including a school
15 district described by Section 11.301(a);

16 (B) an open-enrollment charter school;

17 (C) a regional education service center;

18 (D) a county system described by Section
19 11.301(a); or

20 (E) any other local education agency as
21 considered appropriate by the inspector general;

22 (2) receive and investigate complaints from any source
23 on its own initiative; and

24 (3) conduct special accreditation investigations
25 authorized by the commissioner under Section 39.057(a).

26 (d) The office shall perform all other duties and exercise
27 all other powers granted to the office by this subchapter or another

1 law.

2 Sec. 7.154. GENERAL POWERS. The office has all the powers
3 necessary or appropriate to carry out its responsibilities and
4 functions under this subchapter and other law.

5 Sec. 7.155. SUBPOENAS. (a) The inspector general may
6 issue a subpoena to compel the attendance of a relevant witness at a
7 hearing or deposition under this subchapter or to compel the
8 production, for inspection or copying, of books, papers, records,
9 documents, or other relevant materials, including electronic data,
10 in connection with an investigation, review, hearing, or deposition
11 conducted under this subchapter.

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

16 (c) On finding that good cause exists for issuing the
17 subpoena, the court shall order the person to comply with the
18 subpoena. The court may hold in contempt a person who fails to obey
19 the court order.

20 Sec. 7.156. COOPERATION WITH LAW ENFORCEMENT OFFICIALS AND
21 OTHER ENTITIES. (a) The office may provide information and
22 evidence relating to criminal acts to the State Auditor's Office
23 and appropriate law enforcement officials.

24 (b) The office may refer matters for further civil,
25 criminal, and administrative action to appropriate administrative
26 and prosecutorial agencies, including the attorney general.

27 SECTION 2. Subchapter G, Chapter 11, Education Code, is

1 amended by adding Section 11.305 to read as follows:

2 Sec. 11.305. OVERSIGHT OF CERTAIN ENTITIES. (a) This
3 section only applies to a school district or county system
4 described by Section 11.301(a).

5 (b) Each school district or county system subject to this
6 section shall provide a report to the agency not later than February
7 27 of each year. The annual report must include:

8 (1) a summary of the district's or system's operations
9 for the preceding fiscal year; and

10 (2) the district's or system's audited financial
11 statements for the preceding fiscal year.

12 (c) The commissioner may direct the agency to investigate a
13 school district or county system subject to this section for
14 allegations of fraud, waste, or abuse.

15 (d) If, after an investigation described by Subsection (c),
16 the commissioner determines that the school district or county
17 system has engaged in fraud, waste, or abuse, and the district or
18 system does not timely correct the fraud, waste, or abuse to the
19 satisfaction of the commissioner, the commissioner may replace the
20 governing board of the district or system with a board of managers
21 in accordance with Chapter 39A.

22 (e) If a school district or county system subject to this
23 section discovers an instance of fraud, waste, or abuse, the
24 district or system shall report the fraud, waste, or abuse to the
25 agency not later than the 20th day after the date the fraud, waste,
26 or abuse is discovered.

27 (f) If a school district or county system fails to file an

1 annual report required under Subsection (b) or fails to report
2 fraud, waste, or abuse as required under Subsection (e), the
3 commissioner may replace the governing board of the district or
4 system with a board of managers in accordance with Chapter 39A and
5 rules adopted under that chapter.

6 (g) The commissioner may adopt rules as necessary to
7 implement this section.

8 SECTION 3. Section 39.057(a), Education Code, as effective
9 September 1, 2017, is amended to read as follows:

10 (a) The commissioner may authorize special accreditation
11 investigations 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 a school district for any reason fails to
12 produce, at the request of the agency, evidence or an investigation
13 report relating to an educator who is under investigation by the
14 State Board for Educator Certification; ~~or~~

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

18 (17) as the commissioner otherwise determines
19 necessary.

20 SECTION 4. This Act takes effect December 1, 2017.