

By: Bettencourt, et al.

S.B. No. 933

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.

1       (c) The agency shall provide staff and administrative  
2 resources and support services as necessary to ensure  
3 investigations and reviews authorized by this subchapter are  
4 conducted expeditiously.

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

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

13       (c) The office may:

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

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

21               (3) conduct special accreditation investigations  
22 authorized by the commissioner under Section 39.057(a); and

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

1 as determined by the commissioner, regardless of any time  
2 requirement relating to the action under Chapter 8, 12, or 39A.

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

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

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

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

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

25 (2) inspect the records, documents, and files of the  
26 school district, open-enrollment charter school, regional  
27 education service center, or other local education agency,

1 including any record, document, or file that is not subject to  
2 public disclosure under Chapter 552, Government Code, or other law.

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

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

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

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

1        (c) On finding that good cause exists for issuing the  
2 subpoena, the court shall order the person to comply with the  
3 subpoena. The court may hold in contempt a person who fails to obey  
4 the court order.

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

9        SECTION 2. Section 39.057(a), Education Code, is amended to  
10 read as follows:

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

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

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

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

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

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

27                (6) in response to an allegation involving a conflict

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

5 (7) when excessive numbers of students in special  
6 education programs under Subchapter A, Chapter 29, are assessed  
7 through assessment instruments developed or adopted under Section  
8 39.023(b);

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

14 (9) when a significant pattern of decreased academic  
15 performance has developed as a result of the promotion in the  
16 preceding two school years of students who did not perform  
17 satisfactorily as determined by the commissioner under Section  
18 39.0241(a) on assessment instruments administered under Section  
19 39.023(a), (c), or (l);

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

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

26 (12) when a disproportionate number of students of a  
27 particular demographic group is graduating with a particular

1 endorsement under Section 28.025(c-1);

2 (13) when an excessive number of students is  
3 graduating with a particular endorsement under Section  
4 28.025(c-1);

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

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

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

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

21 SECTION 3. The Texas Education Agency is required to  
22 implement a provision of this Act only if the legislature  
23 appropriates money specifically for that purpose. If the  
24 legislature does not appropriate money specifically for that  
25 purpose, the agency may, but is not required to, implement a  
26 provision of this Act using other appropriations available for that  
27 purpose.

1           SECTION 4. This Act takes effect immediately if it receives  
2 a vote of two-thirds of all the members elected to each house, as  
3 provided by Section 39, Article III, Texas Constitution. If this  
4 Act does not receive the vote necessary for immediate effect, this  
5 Act takes effect September 1, 2019.