

BILL ANALYSIS

Senate Research Center
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S.B. 215
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Education
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, the Texas Education Agency's (TEA) commissioner of education (commissioner) lacks explicit statutory authority to investigate and take action regarding instances of fraud, waste, and abuse by school districts, open-enrollment charter schools, regional education service centers, and other entities subject to the commissioner's regulatory authority. TEA is one of the only major agencies that does not have an Office of the Inspector General (OIG).

When entities subject to the commissioner's authority commit fraud, waste, or abuse, the commissioner must rely on implicit authority to investigate such misconduct and act on it, which subjects the commissioner's investigations and actions regarding fraud, waste, and abuse to legal challenges in administrative and court proceedings. In addition, the commissioner does not currently have a formally designated OIG to investigate on the commissioner's behalf instances of fraud, waste, and abuse by entities subject to the commissioner's regulatory authority. With nearly 25 percent of the state budget going to public education, an inspector general is essential to hold entities responsible for managing such large sums of money. Some agencies with an OIG include: the Health and Human Services Commission (HHSC), the Department of Public Safety of the State of Texas (DPS), the Texas Department of Criminal Justice (TDCJ), and the Texas Juvenile Justice Department.

S.B. 215 would modify statute to make explicit the commissioner's authority to investigate and take action regarding instances of fraud, waste, and abuse by school districts, open-enrollment charter schools, regional education service centers, and other entities subject to the commissioner's regulatory authority.

KEY POINTS:

- The following Texas agencies already have an OIG: HHSC, the Texas Juvenile Justice Department, TDCJ, and DPS.
- Establishes a TEA OIG to carry out investigations of fraud, waste, and abuse on behalf of the commissioner.
- The OIG shall investigate allegations of fraud, waste, and abuse and violations of the Education Code or other law.
- The OIG may conduct criminal, civil, and administrative investigations and initiate reviews of a school district, open-enrollment charter school, regional education service center, or other local education agency as considered appropriate by the inspector general.
- Provides the OIG with subpoena power for the production of documents and relevant witnesses.
- Adds county departments of education to the list of entities that the OIG can investigate—e.g., the Harris County Department of Education.
- Authorizes the OIG to provide information and evidence relating to criminal acts to the State Auditor's Office and appropriate law enforcement officials.
- Authorizes the OIG to refer matters for further civil, criminal, and administrative action to appropriate administrative and prosecutorial agencies, including the attorney general.

As proposed, S.B. 215 amends current law relating to the creation of the office of inspector general at the Texas Education Agency to investigate the administration of public education.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 7, Education Code, by adding Subchapter E, as follows:

SUBCHAPTER E. OFFICE OF INSPECTOR GENERAL

Sec. 7.151. DEFINITIONS. Defines "fraud," "local education agency," and "office" for purposes of this subchapter.

Sec. 7.152. OFFICE OF INSPECTOR GENERAL. (a) Provides that the office of inspector general (office) is established as a division within the Texas Education Agency (TEA).

(b) Requires the commissioner of education (commissioner) to appoint an inspector general to serve as director of the office. Provides that the inspector general serves until removed by the commissioner.

(c) Requires TEA to provide staff and administrative resources and support services as necessary to ensure investigations and reviews authorized by this subchapter are conducted expeditiously.

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

(b) Authorizes the office to investigate allegations of fraud, waste, and abuse and violations of the Education Code or other law.

(c) Authorizes the office to:

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

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

(3) conduct special accreditation investigations authorized by the commissioner under Section 39.057(a) (relating to certain special accreditation investigations the commissioner may authorize to be conducted under certain circumstances); and

(4) make findings of fact that a school district, an open-enrollment charter school, a regional education service center, or another local education agency or an employee or agent of the entity committed an act of wrongdoing, fraud, waste, or abuse in the administration of public education and take appropriate action as determined by the commissioner, regardless of any time requirement relating to the action under Chapter 8 (Regional Education Service Centers), 12 (Charters), or 39A (Accountability Interventions and Sanctions).

(d) Authorizes the commissioner to order the office to conduct a forensic audit of any entity over which the office has jurisdiction. Requires the entity for which the audit was ordered to pay the costs of the audit.

(e) Requires the office to perform all other duties and exercise all other powers granted to the office by this subchapter or other law.

Sec. 7.154. GENERAL POWERS. (a) Provides that the office has all the powers necessary or appropriate to carry out its responsibilities and functions under Subchapter E and other law.

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

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

(2) inspect the records, documents, and files of the school district, open-enrollment charter school, regional education service center, or other local education agency, including any record, document, or file that is not subject to public disclosure under Chapter 552 (Public Information), Government Code, or other law.

(c) Provides that the office's authority under Subsection (b) applies only to a meeting, a proceeding, or information that is relevant to the discovery of relevant information regarding an allegation of wrongdoing or a violation of the Education Code or of fraud, waste, or abuse in the administration of public education by a person or entity described by Subsection (b). Prohibits the office from inspecting a record, document, or file that is a privileged communication between an individual and the individual's attorney.

(d) Provides that the inspection or disclosure of a record, document, or file for purposes of an investigation under this subchapter is not a voluntary disclosure under Section 552.007 (Voluntary Disclosure of Certain Information When Disclosure Not Required), Government Code. Provides that a record, document, or file made available to the office for purposes of an investigation under this subchapter is not subject to public disclosure by the office.

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

(b) Authorizes a subpoena to be served personally or by certified mail. Authorizes the inspector general, acting through the attorney general, if a person fails to comply with a subpoena, to file suit to enforce the subpoena in a district court in Texas.

(c) Requires the court, on finding that good cause exists for issuing the subpoena, to order the person to comply with the subpoena. Authorizes the court to hold in contempt a person who fails to obey the court order.

Sec. 7.156. COOPERATION WITH OTHER ENTITIES. Authorizes the office to refer matters for further civil and administrative action to appropriate administrative agencies, including the attorney general.

SECTION 2. Amends Section 39.057(a), Education Code, to authorize the commissioner to authorize special accreditation investigations to be conducted by the office of inspector general for the purpose of investigating allegations of fraud, waste, and abuse in the administration of public education. Makes nonsubstantive changes.

SECTION 3. Effective date: upon passage or September 1, 2021.