By:  Bettencourt, et al. S.B. No. 215

(In the Senate - Filed November 23, 2020; March 3, 2021, read first time and referred to Committee on Education; April 23, 2021, reported favorably by the following vote: Yeas 11, Nays 0; April 23, 2021, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Taylor            X

Lucio                X

Bettencourt          X

Hall                 X

Hughes               X

Menéndez             X

Paxton               X

Perry                X

Powell               X

Schwertner           X

West                 X

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

Sec. 7.153.  GENERAL RESPONSIBILITIES. (a) 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)  The office may investigate allegations of fraud, waste, and abuse and violations of this code or other law.

(c)  The office may:

(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); 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, 12, or 39A.

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

(e)  The office shall 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) The office has all the powers necessary or appropriate to carry out its responsibilities and functions under this subchapter and other law.

(b)  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, the office may:

(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, 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, Government Code, or other law.

(c)  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 this code or of fraud, waste, or abuse in the administration of public education by a person or entity described by Subsection (b). The office may not inspect a record, document, or file that is a privileged communication between an individual and the individual's attorney.

(d)  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, Government Code. 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) The inspector general may 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)  A subpoena may be served personally or by certified mail. If a person fails to comply with a subpoena, the inspector general, acting through the attorney general, may file suit to enforce the subpoena in a district court in this state.

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

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

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

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

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

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

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

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

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

(6)  in response to an allegation involving a conflict between members of the board of trustees or between the board and the district administration if it appears that the conflict involves a violation of a role or duty of the board members or the administration clearly defined by this code;

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

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

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

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

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

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

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

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

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

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

(17)  as the commissioner otherwise determines necessary.

SECTION 3.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.

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