

By: Bettencourt, et al.

S.B. No. 215

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 accreditation investigations  
21 authorized by the commissioner under Section 39.057(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 39.057(a), Education Code, is amended to  
9 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 3. This Act takes effect immediately if it receives  
21 a vote of two-thirds of all the members elected to each house, as  
22 provided by Section 39, Article III, Texas Constitution. If this  
23 Act does not receive the vote necessary for immediate effect, this  
24 Act takes effect September 1, 2021.