

1-1 By: Bettencourt, et al. S.B. No. 215
 1-2 (In the Senate - Filed November 23, 2020; March 3, 2021,
 1-3 read first time and referred to Committee on Education;
 1-4 April 23, 2021, reported favorably by the following vote: Yeas 11,
 1-5 Nays 0; April 23, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Taylor	X			
1-8 Lucio	X			
1-9 Bettencourt	X			
1-10 Hall	X			
1-11 Hughes	X			
1-12 Menéndez	X			
1-13 Paxton	X			
1-14 Perry	X			
1-15 Powell	X			
1-16 Schwertner	X			
1-17 West	X			

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the creation of the office of inspector general at the
 1-22 Texas Education Agency to investigate the administration of public
 1-23 education.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Chapter 7, Education Code, is amended by adding
 1-26 Subchapter E to read as follows:

1-27 SUBCHAPTER E. OFFICE OF INSPECTOR GENERAL

1-28 Sec. 7.151. DEFINITIONS. In this subchapter:

1-29 (1) "Fraud" means an intentional deception or
 1-30 misrepresentation made by a person with the knowledge that the
 1-31 deception could result in some unauthorized benefit to that person
 1-32 or some other person. The term includes any act that constitutes
 1-33 fraud under applicable federal or state law.

1-34 (2) "Local education agency" includes a school
 1-35 district or county system described by Subchapter G, Chapter 11.

1-36 (3) "Office" means the office of inspector general
 1-37 established under this subchapter.

1-38 Sec. 7.152. OFFICE OF INSPECTOR GENERAL. (a) The office of
 1-39 inspector general is established as a division within the agency.

1-40 (b) The commissioner shall appoint an inspector general to
 1-41 serve as director of the office. The inspector general serves until
 1-42 removed by the commissioner.

1-43 (c) The agency shall provide staff and administrative
 1-44 resources and support services as necessary to ensure
 1-45 investigations and reviews authorized by this subchapter are
 1-46 conducted expeditiously.

1-47 Sec. 7.153. GENERAL RESPONSIBILITIES. (a) The office is
 1-48 responsible for the investigation, prevention, and detection of
 1-49 wrongdoing and of fraud, waste, and abuse in the administration of
 1-50 public education by school districts, open-enrollment charter
 1-51 schools, regional education service centers, and other local
 1-52 education agencies in this state.

1-53 (b) The office may investigate allegations of fraud, waste,
 1-54 and abuse and violations of this code or other law.

1-55 (c) The office may:

1-56 (1) conduct civil and administrative investigations
 1-57 and initiate reviews of a school district, an open-enrollment
 1-58 charter school, a regional education service center, or another
 1-59 local education agency as considered appropriate by the inspector
 1-60 general;

1-61 (2) receive and investigate complaints from any source

2-1 on its own initiative;

2-2 (3) conduct special accreditation investigations
2-3 authorized by the commissioner under Section 39.057(a); and

2-4 (4) make findings of fact that a school district, an
2-5 open-enrollment charter school, a regional education service
2-6 center, or another local education agency or an employee or agent of
2-7 the entity committed an act of wrongdoing, fraud, waste, or abuse in
2-8 the administration of public education and take appropriate action
2-9 as determined by the commissioner, regardless of any time
2-10 requirement relating to the action under Chapter 8, 12, or 39A.

2-11 (d) The commissioner may order the office to conduct a
2-12 forensic audit of any entity over which the office has
2-13 jurisdiction. The entity for which the audit was ordered shall pay
2-14 the costs of the audit.

2-15 (e) The office shall perform all other duties and exercise
2-16 all other powers granted to the office by this subchapter or other
2-17 law.

2-18 Sec. 7.154. GENERAL POWERS. (a) The office has all the
2-19 powers necessary or appropriate to carry out its responsibilities
2-20 and functions under this subchapter and other law.

2-21 (b) Subject to Subsection (c), in conducting an
2-22 investigation under this subchapter of the board of trustees of a
2-23 school district, the governing body of an open-enrollment charter
2-24 school, the board of directors of a regional education service
2-25 center, another local education agency, or the executive leadership
2-26 of any of those entities, the office may:

2-27 (1) attend any meeting or proceeding of the school
2-28 district, open-enrollment charter school, regional education
2-29 service center, or other local education agency, including a
2-30 meeting or proceeding that is closed to the public, except for a
2-31 private consultation of the entity with its attorney permitted
2-32 under Section 551.071, Government Code; and

2-33 (2) inspect the records, documents, and files of the
2-34 school district, open-enrollment charter school, regional
2-35 education service center, or other local education agency,
2-36 including any record, document, or file that is not subject to
2-37 public disclosure under Chapter 552, Government Code, or other law.

2-38 (c) The office's authority under Subsection (b) applies
2-39 only to a meeting, a proceeding, or information that is relevant to
2-40 the discovery of relevant information regarding an allegation of
2-41 wrongdoing or a violation of this code or of fraud, waste, or abuse
2-42 in the administration of public education by a person or entity
2-43 described by Subsection (b). The office may not inspect a record,
2-44 document, or file that is a privileged communication between an
2-45 individual and the individual's attorney.

2-46 (d) The inspection or disclosure of a record, document, or
2-47 file for purposes of an investigation under this subchapter is not a
2-48 voluntary disclosure under Section 552.007, Government Code. A
2-49 record, document, or file made available to the office for purposes
2-50 of an investigation under this subchapter is not subject to public
2-51 disclosure by the office.

2-52 Sec. 7.155. SUBPOENAS. (a) The inspector general may issue
2-53 a subpoena to compel the attendance of a relevant witness at a
2-54 hearing or deposition under this subchapter or to compel the
2-55 production, for inspection or copying, of books, papers, records,
2-56 documents, or other relevant materials, including electronic data,
2-57 in connection with an investigation, review, hearing, or deposition
2-58 conducted under this subchapter.

2-59 (b) A subpoena may be served personally or by certified
2-60 mail. If a person fails to comply with a subpoena, the inspector
2-61 general, acting through the attorney general, may file suit to
2-62 enforce the subpoena in a district court in this state.

2-63 (c) On finding that good cause exists for issuing the
2-64 subpoena, the court shall order the person to comply with the
2-65 subpoena. The court may hold in contempt a person who fails to obey
2-66 the court order.

2-67 Sec. 7.156. COOPERATION WITH OTHER ENTITIES. The office
2-68 may refer matters for further civil and administrative action to
2-69 appropriate administrative agencies, including the attorney

3-1 general.

3-2 SECTION 2. Section 39.057(a), Education Code, is amended to
3-3 read as follows:

3-4 (a) The commissioner may authorize special accreditation
3-5 investigations to be conducted:

3-6 (1) when excessive numbers of absences of students
3-7 eligible to be tested on state assessment instruments are
3-8 determined;

3-9 (2) when excessive numbers of allowable exemptions
3-10 from the required state assessment instruments are determined;

3-11 (3) in response to complaints submitted to the agency
3-12 with respect to alleged violations of civil rights or other
3-13 requirements imposed on the state by federal law or court order;

3-14 (4) in response to established compliance reviews of
3-15 the district's financial accounting practices and state and federal
3-16 program requirements;

3-17 (5) when extraordinary numbers of student placements
3-18 in disciplinary alternative education programs, other than
3-19 placements under Sections 37.006 and 37.007, are determined;

3-20 (6) in response to an allegation involving a conflict
3-21 between members of the board of trustees or between the board and
3-22 the district administration if it appears that the conflict
3-23 involves a violation of a role or duty of the board members or the
3-24 administration clearly defined by this code;

3-25 (7) when excessive numbers of students in special
3-26 education programs under Subchapter A, Chapter 29, are assessed
3-27 through assessment instruments developed or adopted under Section
3-28 39.023(b);

3-29 (8) in response to an allegation regarding or an
3-30 analysis using a statistical method result indicating a possible
3-31 violation of an assessment instrument security procedure
3-32 established under Section 39.0301, including for the purpose of
3-33 investigating or auditing a school district under that section;

3-34 (9) when a significant pattern of decreased academic
3-35 performance has developed as a result of the promotion in the
3-36 preceding two school years of students who did not perform
3-37 satisfactorily as determined by the commissioner under Section
3-38 39.0241(a) on assessment instruments administered under Section
3-39 39.023(a), (c), or (l);

3-40 (10) when excessive numbers of students eligible to
3-41 enroll fail to complete an Algebra II course or any other advanced
3-42 course as determined by the commissioner;

3-43 (11) when resource allocation practices as evaluated
3-44 under Section 39.0821 indicate a potential for significant
3-45 improvement in resource allocation;

3-46 (12) when a disproportionate number of students of a
3-47 particular demographic group is graduating with a particular
3-48 endorsement under Section 28.025(c-1);

3-49 (13) when an excessive number of students is
3-50 graduating with a particular endorsement under Section
3-51 28.025(c-1);

3-52 (14) in response to a complaint submitted to the
3-53 agency with respect to alleged inaccurate data that is reported
3-54 through the Public Education Information Management System (PEIMS)
3-55 or through other reports required by state or federal law or rule or
3-56 court order and that is used by the agency to make a determination
3-57 relating to public school accountability, including accreditation,
3-58 under this chapter;

3-59 (15) when a school district for any reason fails to
3-60 produce, at the request of the agency, evidence or an investigation
3-61 report relating to an educator who is under investigation by the
3-62 State Board for Educator Certification; ~~or~~

3-63 (16) by the office of inspector general for the
3-64 purpose of investigating allegations of fraud, waste, and abuse in
3-65 the administration of public education; or

3-66 (17) as the commissioner otherwise determines
3-67 necessary.

3-68 SECTION 3. This Act takes effect immediately if it receives
3-69 a vote of two-thirds of all the members elected to each house, as

4-1 provided by Section 39, Article III, Texas Constitution. If this
4-2 Act does not receive the vote necessary for immediate effect, this
4-3 Act takes effect September 1, 2021.

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