

By: Middleton

S.B. No. 79

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the appointment of an inspector general for education
3 and the creation of a division of inspector general for education in
4 the governor's office to investigate the administration of public
5 education.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Section 39.003(a), Education Code, is amended to
8 read as follows:

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

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

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

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

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

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

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

6 (7) when excessive numbers of students in special
7 education programs under Subchapter A, Chapter 29, are assessed
8 through assessment instruments developed or adopted under Section
9 39.023(b);

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

15 (9) when a significant pattern of decreased academic
16 performance has developed as a result of the promotion in the
17 preceding two school years of students who did not perform
18 satisfactorily as determined by the commissioner under Section
19 39.0241(a) on assessment instruments administered under Section
20 39.023(a), (c), or (1);

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

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

27 (12) when a disproportionate number of students of a

1 particular demographic group is graduating with a particular
2 endorsement under Section 28.025(c-1);

3 (13) when an excessive number of students is
4 graduating with a particular endorsement under Section
5 28.025(c-1);

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

13 (15) when 10 percent or more of the students
14 graduating in a particular school year from a particular high
15 school campus are awarded a diploma based on the determination of an
16 individual graduation committee under Section 28.0258;

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

21 (17) by the division of inspector general for
22 education established under Chapter 452, Government Code, for the
23 purpose of investigating:

24 (A) allegations of fraud, waste, and abuse in the
25 administration of public education;

26 (B) violations of school safety and security,
27 including audits conducted under Section 37.108, Section 37.1081,

1 Section 37.1082, and Section 37.109, and other violations of this
2 code; and

3 (C) violations of this code by school employees,
4 school representatives, or contractors involved in public schools;
5 or

6 (18) as the commissioner otherwise determines
7 necessary.

8 SECTION 2. Subtitle D, Title 4, Government Code, is amended
9 by adding Chapter 452 to read as follows:

10 CHAPTER 452. INSPECTOR GENERAL FOR EDUCATION

11 SUBCHAPTER A. GENERAL PROVISIONS

12 Sec. 452.001. DEFINITIONS. In this chapter:

13 (1) "Division" means the division of inspector general
14 for education established under this chapter.

15 (2) "Fraud" means an intentional deception or
16 misrepresentation made by a person with the knowledge that the
17 deception or misrepresentation could result in some unauthorized
18 benefit to that person or some other person. The term includes any
19 act that constitutes fraud under applicable federal or state law.

20 (3) "Local education agency" includes a school
21 district or county system described by Subchapter G, Chapter 11,
22 Education Code.

23 Sec. 452.002. DIVISION OF INSPECTOR GENERAL FOR EDUCATION.

24 (a) The division of inspector general for education is established
25 in the office of the governor.

26 (b) The governor shall appoint an inspector general to serve
27 as director of the division. The inspector general serves until

1 removed by the governor.

2 (c) The office of the governor shall provide staff and
3 administrative resources and support services as necessary to
4 ensure that investigations and reviews authorized by this chapter
5 are conducted expeditiously.

6 (d) The commissioner shall provide the inspector general
7 full access to all data under the agency's control, including all
8 Public Education Information Management System (PEIMS) data and
9 other data pertaining to school disciplinary records.

10 SUBCHAPTER B. POWERS AND DUTIES

11 Sec. 452.051. GENERAL RESPONSIBILITIES. (a) The division
12 is responsible for:

13 (1) the investigation, prevention, and detection of
14 wrongdoing and fraud, waste, and abuse in the administration of
15 public education by school districts, open-enrollment charter
16 schools, regional education service centers, and other local
17 education agencies in this state; and

18 (2) the investigation of actions taken by school
19 districts, open-enrollment charter schools, regional education
20 service centers, and other local education agencies in this state
21 in relation to violations of school safety and security and other
22 violations of the Education Code.

23 (b) The division may investigate:

24 (1) allegations of fraud, waste, and abuse and
25 violations of the Education Code or other law;

26 (2) violations of school safety and security,
27 including audits under Section 37.108, Section 37.1081, Section

1 37.1082, and Section 37.109; and

2 (3) allegations of violations of the Education Code.

3 (c) The division may:

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

9 (2) conduct audits of the use of funds, including
10 funds used for school security, by a school district, an
11 open-enrollment charter school, a regional education service
12 center, or another local education agency;

13 (3) receive complaints from any source and investigate
14 on its own initiative;

15 (4) conduct special investigations authorized by the
16 commissioner of education under Section 39.003(a), Education Code;

17 (5) make findings of fact that a school district, an
18 open-enrollment charter school, a regional education service
19 center, or another local education agency or an employee or agent of
20 one of those entities committed an act of wrongdoing, fraud, waste,
21 or abuse in the administration of public education and take
22 appropriate action as determined by the governor in consultation
23 with the commissioner of education, regardless of any time
24 requirement relating to the action under Chapter 8, 12, or 39A,
25 Education Code;

26 (6) after finding that there has been a violation of
27 school safety and security, prescribe binding corrective or

1 disciplinary action to be taken; and

2 (7) review audits conducted under Section 37.108,
3 Section 37.1081, Section 37.1082, and Section 37.109.

4 (d) The commissioner of education may take control of the
5 management of any part of an entity described by Subsection (c)(5)
6 for which the division finds a violation of school safety and
7 security under Subsection (c)(6).

8 (e) The governor may order the division to conduct a
9 forensic audit of any school district, open-enrollment charter
10 school, regional education service center, or other local education
11 agency in this state. The entity for which the audit was ordered
12 shall pay the costs of the audit.

13 (f) The division shall perform all other duties and exercise
14 all other powers granted to the division by this chapter or other
15 law.

16 Sec. 452.052. GENERAL POWERS. (a) The division has all the
17 powers necessary or appropriate to carry out its responsibilities
18 and functions under this chapter and other law.

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

25 (1) attend any meeting or proceeding of the school
26 district, open-enrollment charter school, regional education
27 service center, or other local education agency, including a

1 meeting or proceeding that is closed to the public, except for a
2 private consultation of the entity with its attorney permitted
3 under Section 551.071; and

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

9 (c) The division's authority under Subsection (b) applies
10 only to a meeting, a proceeding, or information that is relevant to
11 the discovery of relevant information regarding an allegation of
12 wrongdoing or a violation of the Education Code or of fraud, waste,
13 or abuse in the administration of public education by a person or
14 entity described by Subsection (b). The division may not inspect a
15 record, document, or file that is a privileged communication
16 between an individual and the individual's attorney.

17 (d) The inspection or disclosure of a record, document, or
18 file for purposes of an investigation under this chapter is not a
19 voluntary disclosure under Section 552.007. A record, document, or
20 file made available to the division for purposes of an
21 investigation under this chapter is not subject to public
22 disclosure by the division.

23 (e) The inspector general may prescribe binding
24 disciplinary action and a corrective timeline for any entity
25 described by Subsection (b).

26 (f) The inspector general shall have full access to all data
27 under the agency's control, including all Public Education

1 Information Management System (PEIMS) data and other data
2 pertaining to school disciplinary records.

3 (g) The inspector general may review all audits under
4 conducted under Section 37.108, Section 37.1081, Section 37.1082,
5 and Section 37.109. The inspector general may issue binding
6 corrective timelines and disciplinary actions for emergency
7 operations plan noncompliance.

8 (h) The commissioner may appoint the inspector general as a
9 conservator under Section 37.1082.

10 Sec. 452.053. SUBPOENAS. (a) The inspector general may
11 issue a subpoena to compel the attendance of a relevant witness at a
12 hearing or deposition under this chapter or to compel the
13 production, for inspection or copying, of books, papers, records,
14 documents, or other relevant materials, including electronic data,
15 in connection with an investigation, review, hearing, or deposition
16 conducted under this chapter.

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

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

25 Sec. 452.054. COOPERATION WITH OTHER ENTITIES. The
26 division may refer matters for further civil and administrative
27 action to appropriate administrative agencies, including the

1 attorney general.

2 SECTION 3. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect on the 91st day after the last day of the
7 legislative session.