

HOUSE BILL 184

F3

8lr0777

By: **Prince George's County Delegation**

Introduced and read first time: January 18, 2018

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 13, 2018

CHAPTER _____

1 AN ACT concerning

2 **Prince George's County Public Schools – Office of Inspector General –**
3 **Establishment**

4 **PG 508–18**

5 FOR the purpose of establishing the Office of the Inspector General in the Prince George's
6 County public school system; requiring the County Council of Prince George's County
7 to select and appoint the Inspector General; providing for the qualifications and term
8 of the Inspector General and the filling of a vacancy in the Office of the Inspector
9 General; authorizing the removal of the Inspector General under certain
10 circumstances; prohibiting the Inspector General from holding secondary
11 employment during the term as Inspector General; setting forth the duties of the
12 Office; authorizing the Office to conduct certain investigations, analyses, audits, and
13 reviews, provide management advisories, and utilize the assistance of certain other
14 persons; requiring the Inspector General to comply with generally accepted
15 government auditing standards under certain circumstances; requiring the
16 Inspector General to ~~submit~~ publish certain written reports ~~to the County Council~~
17 ~~for publication on the County Council's~~ Inspector General's website; prohibiting the
18 Inspector General from disclosing certain information that is protected from
19 disclosure; authorizing the Inspector General to make certain oral reports under
20 certain circumstances; requiring the Inspector General to establish and follow
21 procedures for safeguarding the identity of confidential sources and protecting
22 confidential information; requiring the ~~County Council~~ Inspector General to publish
23 certain comments or responses with certain reports on the ~~County Council's~~
24 Inspector General's website; requiring the Inspector General to report certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 allegations to certain persons under certain circumstances; requiring the Inspector
 2 General to coordinate with the Prince George's County public school system to
 3 develop a certain work plan and establish certain goals and priorities for the Office;
 4 requiring the Inspector General to make the work plan available to the public,
 5 subject to certain laws; requiring certain individuals to promptly provide certain
 6 information to the Inspector General under certain circumstances; requiring the
 7 Inspector General to notify the ~~County Council and the Prince George's County~~
 8 ~~public school system~~ county board and Chief Executive Officer if certain individuals
 9 fail to provide certain information; requiring the ~~County Council~~ county board and
 10 Chief Executive Officer to take certain action under certain circumstances; providing
 11 that a Prince George's County public school system employee should report any
 12 fraud, waste, or abuse to the Office; prohibiting a Prince George's County public
 13 school system employee, vendor, or employee of a vendor from being retaliated
 14 against, penalized, or threatened with retaliation for certain actions; prohibiting the
 15 Inspector General from disclosing the identity of a certain person under certain
 16 circumstances; authorizing the Inspector General to administer an oath or
 17 affirmation or take an affidavit from any person under certain circumstances;
 18 authorizing the Inspector General to administer an oath and take a deposition and
 19 other testimony for certain purposes; authorizing the Inspector General to subpoena
 20 any person or evidence for a certain purpose; authorizing a court of competent
 21 jurisdiction to compel compliance with a certain order or subpoena or compel
 22 testimony or the production of evidence; requiring the Inspector General to submit
 23 to the Prince George's County Board of Education a certain budget proposal each
 24 year; requiring the county board to include in its annual budget proposal certain
 25 amounts for the Office; defining certain terms; providing for the application of this
 26 Act; transferring the functions, powers, and duties of the Office of Internal Audit of
 27 the Prince George's County school system to the Office of the Inspector General on a
 28 certain date; requiring that certain employees who are transferred to the Office of
 29 the Inspector General be transferred without any diminution of their rights; and
 30 generally relating to the establishment of the Office of the Inspector General in the
 31 Prince George's County public school system.

32 BY adding to

33 Article – Education

34 Section 4–404

35 Annotated Code of Maryland

36 (2014 Replacement Volume and 2017 Supplement)

37 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

38 That the Laws of Maryland read as follows:

39 **Article – Education**

40 **4–404.**

41 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
 42 **INDICATED.**

1 **(2) (I) “ABUSE” MEANS AN EMPLOYEE’S INTENTIONAL**
2 **MISCONDUCT OR MISUSE OF AUTHORITY OR POSITION:**

3 **1. INVOLVING PROPERTY OR FUNDS OF THE LOCAL**
4 **SCHOOL SYSTEM THAT IS IMPROPER OR DEFICIENT WHEN COMPARED TO CONDUCT**
5 **A PRUDENT PERSON WOULD CONSIDER REASONABLE UNDER THE SAME FACTS AND**
6 **CIRCUMSTANCES; OR**

7 **2. FOR THE PURPOSE OF FURTHERING IMPROPERLY**
8 **THE PRIVATE INTERESTS OF THE EMPLOYEE, A FAMILY MEMBER, OR A CLOSE**
9 **PERSONAL OR BUSINESS ASSOCIATE.**

10 **(II) “ABUSE” INCLUDES:**

11 **1. THEFT OR MISAPPROPRIATION OF PROPERTY OR**
12 **FUNDS OF THE LOCAL SCHOOL SYSTEM; AND**

13 **2. DESTRUCTION OR ALTERATION OF OFFICIAL**
14 **RECORDS.**

15 **(3) (I) “FRAUD” MEANS AN INTENTIONAL ACT OR ATTEMPT TO**
16 **OBTAIN SOMETHING OF VALUE FROM THE LOCAL SCHOOL SYSTEM OR ANOTHER**
17 **PERSON THROUGH WILLFUL MISREPRESENTATION.**

18 **(II) “FRAUD” INCLUDES A WILLFUL FALSE REPRESENTATION**
19 **OF A MATERIAL FACT, WHETHER BY WORDS OR BY CONDUCT, BY FALSE OR**
20 **MISLEADING ALLEGATIONS, OR BY CONCEALMENT OF THAT WHICH SHOULD HAVE**
21 **BEEN DISCLOSED, WHICH CAUSES THE LOCAL SCHOOL SYSTEM TO ACT, OR FAIL TO**
22 **ACT, TO THE DETRIMENT OF THE INTEREST OF THE LOCAL SCHOOL SYSTEM.**

23 **(4) “LOCAL SCHOOL SYSTEM” MEANS THE PRINCE GEORGE’S**
24 **COUNTY PUBLIC SCHOOL SYSTEM.**

25 **(5) “OFFICE” MEANS THE OFFICE OF THE INSPECTOR GENERAL IN**
26 **THE LOCAL SCHOOL SYSTEM.**

27 **(6) “VENDOR” MEANS A PARTY OBLIGATED BY CONTRACT OR**
28 **SUBCONTRACT TO PROVIDE GOODS, SERVICES, OR PROPERTY TO THE LOCAL**
29 **SCHOOL SYSTEM FOR CONSIDERATION, INCLUDING CONTRACTS AND**
30 **SUBCONTRACTS FOR CONSTRUCTION AND PROFESSIONAL SERVICES RELATED TO**
31 **CONSTRUCTION.**

1 **(7) (I) “WASTE” MEANS AN INAPPROPRIATE ACT OR OMISSION BY**
2 **AN EMPLOYEE WITH CONTROL OVER OR ACCESS TO LOCAL SCHOOL SYSTEM**
3 **PROPERTY OR FUNDS THAT UNREASONABLY DEPRIVES THE LOCAL SCHOOL SYSTEM**
4 **OF VALUE.**

5 **(II) “WASTE” INCLUDES MISMANAGEMENT OR OTHER**
6 **UNINTENTIONAL CONDUCT THAT IS DEFICIENT OR IMPROPER WHEN COMPARED TO**
7 **CONDUCT THAT A PRUDENT PERSON WOULD CONSIDER NECESSARY TO PRESERVE**
8 **THE VALUE OF PROPERTY OR FUNDS OF THE LOCAL SCHOOL SYSTEM UNDER THE**
9 **SAME FACTS AND CIRCUMSTANCES.**

10 **(B) THIS SECTION APPLIES ONLY IN PRINCE GEORGE’S COUNTY.**

11 **(C) (1) THERE IS AN OFFICE OF THE INSPECTOR GENERAL IN THE LOCAL**
12 **SCHOOL SYSTEM.**

13 **(2) (I) THE COUNTY COUNCIL OF PRINCE GEORGE’S COUNTY**
14 **SHALL SELECT AND APPOINT THE INSPECTOR GENERAL.**

15 **(II) THE COUNTY COUNCIL SHALL SELECT THE INSPECTOR**
16 **GENERAL SOLELY ON THE BASIS OF PROFESSIONAL ABILITY AND PERSONAL**
17 **INTEGRITY, WITHOUT REGARD TO POLITICAL AFFILIATION.**

18 **(III) THE INSPECTOR GENERAL SHALL BE QUALIFIED**
19 **PROFESSIONALLY BY EXPERIENCE OR EDUCATION IN AUDITING, GOVERNMENT**
20 **OPERATIONS, OR FINANCIAL MANAGEMENT.**

21 **(D) (1) THE TERM OF THE INSPECTOR GENERAL IS 4 YEARS BEGINNING**
22 **ON THE DATE OF APPOINTMENT.**

23 **(2) AN INDIVIDUAL MAY NOT SERVE AS INSPECTOR GENERAL FOR**
24 **MORE THAN THREE TERMS.**

25 **(3) THE INSPECTOR GENERAL CONTINUES TO SERVE UNTIL A**
26 **SUCCESSOR IS APPOINTED.**

27 **(4) IF A VACANCY OCCURS IN THE OFFICE OF THE INSPECTOR**
28 **GENERAL, THE COUNTY COUNCIL SHALL APPOINT AN INTERIM INSPECTOR**
29 **GENERAL TO SERVE FOR THE REMAINDER OF THE UNEXPIRED TERM.**

30 **(5) THE COUNTY COUNCIL MAY REMOVE THE INSPECTOR GENERAL**
31 **ONLY THROUGH A MAJORITY VOTE OF THE COUNTY COUNCIL FOR NEGLECT OF**
32 **DUTY, MALFEASANCE, CONVICTION OF A FELONY, OR OTHER GOOD CAUSE.**

1 **(6) THE INSPECTOR GENERAL SHALL DISCHARGE THE DUTIES OF**
2 **OFFICE ON A FULL-TIME BASIS AND WITH NO SECONDARY EMPLOYMENT OF ANY**
3 **NATURE DURING THE INSPECTOR GENERAL’S TERM.**

4 **(E) (1) THE OFFICE OF THE INSPECTOR GENERAL SHALL:**

5 **(I) ASSIST THE COUNTY COUNCIL AND THE LOCAL SCHOOL**
6 **SYSTEM BY PROVIDING INDEPENDENT EVALUATION AND RECOMMENDATIONS**
7 **REGARDING OPPORTUNITIES TO:**

8 **1. PRESERVE THE LOCAL SCHOOL SYSTEM’S**
9 **REPUTATION; AND**

10 **2. IMPROVE THE EFFECTIVENESS, PRODUCTIVITY, OR**
11 **EFFICIENCY OF LOCAL SCHOOL SYSTEM PROGRAMS, POLICIES, PRACTICES, AND**
12 **OPERATIONS;**

13 **(II) ENSURE PUBLIC ACCOUNTABILITY BY PREVENTING,**
14 **INVESTIGATING, AND REPORTING INSTANCES OF FRAUD, WASTE, AND ABUSE OF**
15 **PROPERTY OR FUNDS OF THE LOCAL SCHOOL SYSTEM;**

16 **(III) EXAMINE, EVALUATE, AND REPORT ON THE ADEQUACY AND**
17 **EFFECTIVENESS OF THE SYSTEMS OF INTERNAL CONTROLS AND THEIR RELATED**
18 **ACCOUNTING, FINANCIAL, TECHNOLOGY, AND OPERATIONAL POLICIES; AND**

19 **(IV) REPORT NONCOMPLIANCE WITH AND PROPOSE WAYS TO**
20 **IMPROVE EMPLOYEE COMPLIANCE WITH APPLICABLE LAW, POLICY, AND ETHICAL**
21 **STANDARDS OF CONDUCT.**

22 **(2) IN DEVELOPING RECOMMENDATIONS, THE OFFICE MAY:**

23 **(I) CONDUCT ADMINISTRATIVE INVESTIGATIONS, BUDGETARY**
24 **ANALYSES, AND FINANCIAL, MANAGEMENT, OR PERFORMANCE AUDITS AND SIMILAR**
25 **REVIEWS;**

26 **(II) PROVIDE MANAGEMENT ADVISORIES; AND**

27 **(III) UTILIZE THE ASSISTANCE FROM ANY OTHER GOVERNMENT**
28 **AGENCY OR PRIVATE PARTY TO COMPLETE A PROJECT INITIATED BY THE OFFICE.**

29 **(3) WHEN APPLICABLE, THE INSPECTOR GENERAL SHALL COMPLY**
30 **WITH GENERALLY ACCEPTED GOVERNMENT AUDITING STANDARDS.**

1 (4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
2 PARAGRAPH, THE INSPECTOR GENERAL SHALL ~~SUBMIT WRITTEN REPORTS TO THE~~
3 ~~COUNTY COUNCIL FOR PUBLICATION ON THE COUNTY COUNCIL'S WEBSITE~~
4 PUBLISH ON THE OFFICE'S WEBSITE, IN A READILY AVAILABLE LOCATION:

5 1. PERIODIC REPORTS THAT SUMMARIZE THE
6 ACTIVITIES, FINDINGS, RECOMMENDATIONS, AND ACCOMPLISHMENTS OF THE
7 OFFICE; AND

8 2. ANY OFFICIAL WRITTEN COMMENTS OR RESPONSES
9 OFFERED BY THE LOCAL SCHOOL SYSTEM ADMINISTRATION WITH ANY REPORT
10 PUBLISHED BY THE OFFICE.

11 (II) THE INSPECTOR GENERAL:

12 1. MAY NOT DISCLOSE ANY RECORD, REPORT, OR
13 RELATED INFORMATION THAT IS PROTECTED FROM DISCLOSURE UNDER THE
14 PUBLIC INFORMATION ACT;

15 2. MAY PROVIDE AN ORAL REPORT IF APPROPRIATE
16 UNDER GENERALLY ACCEPTED GOVERNMENT AUDITING STANDARDS; AND

17 3. SHALL ESTABLISH AND FOLLOW PROCEDURES FOR
18 SAFEGUARDING THE IDENTITY OF CONFIDENTIAL SOURCES AND PROTECTING
19 PRIVILEGED AND CONFIDENTIAL INFORMATION.

20 ~~(III) THE COUNTY COUNCIL SHALL PUBLISH ANY OFFICIAL~~
21 ~~WRITTEN COMMENTS OR RESPONSES OFFERED BY THE LOCAL SCHOOL SYSTEM~~
22 ~~ADMINISTRATION WITH ANY REPORT SUBMITTED BY THE INSPECTOR GENERAL.~~

23 ~~(IV) THE INSPECTOR GENERAL ALSO SHALL SUBMIT TO THE~~
24 ~~COUNTY COUNCIL FOR PUBLICATION ON THE COUNTY COUNCIL'S WEBSITE~~
25 ~~PERIODIC REPORTS THAT SUMMARIZE THE ACTIVITIES, FINDINGS,~~
26 ~~RECOMMENDATIONS, AND ACCOMPLISHMENTS OF THE OFFICE.~~

27 (5) IF REASONABLE GROUNDS EXIST TO BELIEVE THAT A SERIOUS
28 VIOLATION OF FEDERAL, STATE, OR LOCAL LAW HAS OCCURRED, THE INSPECTOR
29 GENERAL SHALL REPORT THE ALLEGATION TO:

30 (I) AN APPROPRIATE LAW ENFORCEMENT AGENCY;

31 (II) THE STATE ETHICS COMMISSION; OR

1 (III) ANY OTHER AGENCY WITH JURISDICTION TO ENFORCE THE
2 LAW.

3 (F) (1) THE INSPECTOR GENERAL SHALL COORDINATE WITH THE LOCAL
4 SCHOOL SYSTEM TO DEVELOP A WRITTEN WORK PLAN AND ESTABLISH PERIODIC
5 GOALS AND PRIORITIES FOR THE OFFICE BASED ON AN ASSESSMENT OF RELATIVE
6 RISKS.

7 (2) IN DEVELOPING THE WORK PLAN, THE INSPECTOR GENERAL
8 SHALL TAKE INTO CONSIDERATION REQUESTS FROM:

9 (I) OFFICERS, ADMINISTRATORS, AND EMPLOYEES OF THE
10 LOCAL SCHOOL SYSTEM;

11 (II) ELECTED OFFICIALS; AND

12 (III) MEMBERS OF THE PUBLIC.

13 (3) THE INSPECTOR GENERAL SHALL MAKE THE WRITTEN WORK
14 PLAN AVAILABLE TO THE PUBLIC, SUBJECT TO THE PUBLIC INFORMATION ACT.

15 (G) (1) (I) ON REQUEST FROM THE INSPECTOR GENERAL, AN
16 EMPLOYEE OR OFFICIAL OF THE LOCAL SCHOOL SYSTEM PROMPTLY SHALL
17 PROVIDE TO THE INSPECTOR GENERAL ANY AVAILABLE DOCUMENT OR OTHER
18 INFORMATION CONCERNING THE LOCAL SCHOOL SYSTEM'S OPERATIONS, BUDGET,
19 PROGRAMS, OR VENDOR CONTRACTS.

20 (II) 1. THE INSPECTOR GENERAL SHALL NOTIFY THE
21 ~~COUNTY COUNCIL AND THE LOCAL SCHOOL SYSTEM~~ COUNTY BOARD AND THE
22 CHIEF EXECUTIVE OFFICER IF ANY EMPLOYEE OR OFFICIAL OF THE LOCAL SCHOOL
23 SYSTEM FAILS TO PROVIDE ANY INFORMATION OR DOCUMENT REQUESTED UNDER
24 THIS PARAGRAPH WITH REASONABLE PROMPTNESS.

25 2. THE ~~COUNTY COUNCIL~~ COUNTY BOARD AND THE
26 CHIEF EXECUTIVE OFFICER SHALL TAKE ADMINISTRATIVE ACTION TO PRODUCE
27 COMPLIANCE WITH A PENDING REQUEST FOR INFORMATION BY THE INSPECTOR
28 GENERAL AS WARRANTED AND APPROPRIATE.

29 (2) (I) A VENDOR OF THE LOCAL SCHOOL SYSTEM SHALL PROVIDE
30 TO THE INSPECTOR GENERAL ANY AVAILABLE DOCUMENT OR OTHER INFORMATION
31 CONCERNING ANY LOCAL SCHOOL SYSTEM VENDOR CONTRACT, INCLUDING
32 DOCUMENTS RELATED TO THE PROCUREMENT OF THE CONTRACT.

1 (ii) 1. THE INSPECTOR GENERAL PROMPTLY SHALL NOTIFY
2 ~~THE COUNTY COUNCIL~~ COUNTY BOARD AND THE CHIEF EXECUTIVE OFFICER AND
3 THE LOCAL SCHOOL SYSTEM IF ANY VENDOR FAILS TO PROVIDE ANY INFORMATION
4 OR DOCUMENT REQUESTED UNDER THIS PARAGRAPH WITH REASONABLE
5 PROMPTNESS.

6 2. THE ~~COUNTY COUNCIL~~ COUNTY BOARD AND THE
7 CHIEF EXECUTIVE OFFICER SHALL TAKE APPROPRIATE ADMINISTRATIVE OR CIVIL
8 ACTION TO PRODUCE VENDOR COMPLIANCE WITH A PENDING REQUEST FOR
9 INFORMATION BY THE INSPECTOR GENERAL.

10 (H) (1) EACH LOCAL SCHOOL SYSTEM EMPLOYEE SHOULD REPORT ANY
11 FRAUD, WASTE, OR ABUSE TO THE OFFICE.

12 (2) A LOCAL SCHOOL SYSTEM EMPLOYEE, VENDOR, OR EMPLOYEE OF
13 ANY VENDOR MAY NOT BE RETALIATED AGAINST OR PENALIZED, OR THREATENED
14 WITH RETALIATION OR PENALTY, FOR PROVIDING INFORMATION TO, COOPERATING
15 WITH, OR IN ANY WAY ASSISTING THE INSPECTOR GENERAL IN CONNECTION WITH
16 ANY ACTIVITY AUTHORIZED BY THIS SECTION.

17 (3) THE INSPECTOR GENERAL MAY NOT DISCLOSE THE IDENTITY OF
18 A PERSON THAT REPORTS AN ALLEGATION OF FRAUD, WASTE, OR ABUSE UNLESS:

19 (i) THE REPORTING PERSON CONSENTS TO DISCLOSURE OF
20 THE PERSON'S IDENTITY;

21 (ii) DISCLOSURE IS REASONABLY NECESSARY TO COMPLETE AN
22 AUDIT OR INVESTIGATION; OR

23 (iii) ANOTHER PERSON IS LEGALLY ENTITLED TO DISCLOSURE
24 OF THE IDENTITY OF THE REPORTING PERSON.

25 (i) (1) THE INSPECTOR GENERAL MAY ADMINISTER AN OATH OR
26 AFFIRMATION OR TAKE AN AFFIDAVIT FROM ANY PERSON IF NECESSARY TO
27 PERFORM THE DUTIES UNDER THIS SECTION.

28 (2) THE INSPECTOR GENERAL MAY ADMINISTER AN OATH AND TAKE
29 A DEPOSITION AND OTHER TESTIMONY FOR THE PURPOSE OF INVESTIGATING
30 FRAUD, WASTE, OR ABUSE WITHIN THE LOCAL SCHOOL SYSTEM.

31 (3) THE INSPECTOR GENERAL MAY SUBPOENA ANY PERSON OR
32 EVIDENCE FOR THE PURPOSE OF INVESTIGATING FRAUD, WASTE, OR ABUSE WITHIN
33 THE LOCAL SCHOOL SYSTEM.

1 (4) IF A PERSON FAILS TO COMPLY WITH A LAWFUL ORDER OR
2 SUBPOENA ISSUED UNDER THIS SUBSECTION, ON PETITION OF THE INSPECTOR
3 GENERAL, A COURT OF COMPETENT JURISDICTION MAY COMPEL:

4 (I) COMPLIANCE WITH THE ORDER OR SUBPOENA; OR

5 (II) TESTIMONY OR THE PRODUCTION OF EVIDENCE.

6 (J) (1) EACH YEAR THE INSPECTOR GENERAL SHALL SUBMIT TO THE
7 COUNTY BOARD A PROJECTED BUDGET FOR THE OFFICE FOR THE UPCOMING
8 FISCAL YEAR.

9 (2) THE COUNTY BOARD SHALL INCLUDE IN THE COUNTY BOARD'S
10 ANNUAL OPERATING BUDGET PROPOSAL THE AMOUNTS RECOMMENDED BY THE
11 INSPECTOR GENERAL FOR THE OFFICE FOR THE UPCOMING FISCAL YEAR.

12 SECTION 2. AND BE IT FURTHER ENACTED, That the functions, powers, and
13 duties of the Office of Internal Audit of the Prince George's County school system shall be
14 transferred to the Office of the Inspector General of the school system on the effective date
15 of this Act.

16 SECTION 3. AND BE IT FURTHER ENACTED, That all employees who are
17 transferred to the Office of the Inspector General of the Prince George's County school
18 system as a result of this Act shall be transferred on the effective date of this Act without
19 any diminution of their rights, including collective bargaining rights, benefits, or
20 employment or retirement status.

21 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 July 1, 2018.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.