

HOUSE BILL 1829

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8lr4098

By: **Delegates Bromwell, Brooks, Ebersole, Hettleman, Hill, Jalisi, Lam, Morhaim, Sydnor, and P. Young**

Rules suspended

Introduced and read first time: March 18, 2018

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore County Public Schools – Office of Inspector General – Establishment**

3 FOR the purpose of establishing the Office of the Inspector General in the Baltimore
4 County public school system; requiring the County Council of Baltimore County to
5 select and appoint the Inspector General; providing for the qualifications and term
6 of the Inspector General and the filling of a vacancy in the Office of the Inspector
7 General; authorizing the removal of the Inspector General under certain
8 circumstances; prohibiting the Inspector General from holding secondary
9 employment during the term as Inspector General; setting forth the duties of the
10 Office; authorizing the Office to conduct certain investigations, analyses, audits, and
11 reviews, provide management advisories, and utilize the assistance of certain other
12 persons; requiring the Inspector General to comply with generally accepted
13 government auditing standards under certain circumstances; requiring the
14 Inspector General to publish certain written reports on the Inspector General's
15 website; prohibiting the Inspector General from disclosing certain information that
16 is protected from disclosure; authorizing the Inspector General to make certain oral
17 reports under certain circumstances; requiring the Inspector General to establish
18 and follow procedures for safeguarding the identity of confidential sources and
19 protecting confidential information; requiring the Inspector General to publish
20 certain comments or responses with certain reports on the Inspector General's
21 website; requiring the Inspector General to report certain allegations to certain
22 persons under certain circumstances; requiring the Inspector General to coordinate
23 with the Baltimore County public school system to develop a certain work plan and
24 establish certain goals and priorities for the Office; requiring the Inspector General
25 to make the work plan available to the public, subject to certain laws; requiring
26 certain individuals to promptly provide certain information to the Inspector General
27 under certain circumstances; requiring the Inspector General to notify the
28 Baltimore County Board of Education and the Baltimore County Superintendent of
29 Schools if certain individuals fail to provide certain information; requiring the county

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



board and county superintendent to take certain action under certain circumstances; providing that a Baltimore County public school system employee should report any fraud, waste, or abuse to the Office; prohibiting a Baltimore County public school system employee, vendor, or employee of a vendor from being retaliated against, penalized, or threatened with retaliation for certain actions; prohibiting the Inspector General from disclosing the identity of a certain person under certain circumstances; authorizing the Inspector General to administer an oath or affirmation or take an affidavit from any person under certain circumstances; authorizing the Inspector General to administer an oath and take a deposition and other testimony for certain purposes; authorizing the Inspector General to subpoena any person or evidence for a certain purpose; authorizing a court of competent jurisdiction to compel compliance with a certain order or subpoena or compel testimony or the production of evidence; requiring the Inspector General to submit to the county board a certain budget proposal each year; requiring the county board to include in its annual budget proposal certain amounts for the Office; defining certain terms; transferring the functions, powers, and duties of the Office of Internal Audit of the Baltimore County public school system to the Office of the Inspector General on a certain date; requiring that certain employees who are transferred to the Office of the Inspector General be transferred without any diminution of their rights; and generally relating to the establishment of the Office of the Inspector General in the Baltimore County public school system.

BY adding to

Article – Education

Section 4–3A–01 to be under the new subtitle “Subtitle 3A. Baltimore County”

Annotated Code of Maryland

(2018 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Education

SUBTITLE 3A. BALTIMORE COUNTY.

4–3A–01.

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

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

1. INVOLVING PROPERTY OR FUNDS OF THE LOCAL SCHOOL SYSTEM THAT IS IMPROPER OR DEFICIENT WHEN COMPARED TO CONDUCT

1 A PRUDENT PERSON WOULD CONSIDER REASONABLE UNDER THE SAME FACTS AND
2 CIRCUMSTANCES; OR

3 2. FOR THE PURPOSE OF FURTHERING IMPROPERLY
4 THE PRIVATE INTERESTS OF THE EMPLOYEE, A FAMILY MEMBER, OR A CLOSE
5 PERSONAL OR BUSINESS ASSOCIATE.

6 (II) "ABUSE" INCLUDES:

7 1. THEFT OR MISAPPROPRIATION OF PROPERTY OR
8 FUNDS OF THE LOCAL SCHOOL SYSTEM; AND

9 2. DESTRUCTION OR ALTERATION OF OFFICIAL
10 RECORDS.

11 (3) (I) "FRAUD" MEANS AN INTENTIONAL ACT OR ATTEMPT TO
12 OBTAIN SOMETHING OF VALUE FROM THE LOCAL SCHOOL SYSTEM OR ANOTHER
13 PERSON THROUGH WILLFUL MISREPRESENTATION.

14 (II) "FRAUD" INCLUDES A WILLFUL FALSE REPRESENTATION
15 OF A MATERIAL FACT, WHETHER BY WORDS OR BY CONDUCT, BY FALSE OR
16 MISLEADING ALLEGATIONS, OR BY CONCEALMENT OF THAT WHICH SHOULD HAVE
17 BEEN DISCLOSED THAT CAUSES THE LOCAL SCHOOL SYSTEM TO ACT, OR FAIL TO
18 ACT, TO THE DETRIMENT OF THE INTEREST OF THE LOCAL SCHOOL SYSTEM.

19 (4) "LOCAL SCHOOL SYSTEM" MEANS THE BALTIMORE COUNTY
20 PUBLIC SCHOOL SYSTEM.

21 (5) "OFFICE" MEANS THE OFFICE OF THE INSPECTOR GENERAL IN
22 THE LOCAL SCHOOL SYSTEM.

23 (6) "VENDOR" MEANS A PARTY OBLIGATED BY CONTRACT OR
24 SUBCONTRACT TO PROVIDE GOODS, SERVICES, OR PROPERTY TO THE LOCAL
25 SCHOOL SYSTEM FOR CONSIDERATION, INCLUDING CONTRACTS AND
26 SUBCONTRACTS FOR CONSTRUCTION AND PROFESSIONAL SERVICES RELATED TO
27 CONSTRUCTION.

28 (7) (I) "WASTE" MEANS AN INAPPROPRIATE ACT OR OMISSION BY
29 AN EMPLOYEE WITH CONTROL OVER OR ACCESS TO LOCAL SCHOOL SYSTEM
30 PROPERTY OR FUNDS THAT UNREASONABLY DEPRIVES THE LOCAL SCHOOL SYSTEM
31 OF VALUE.

32 (II) "WASTE" INCLUDES MISMANAGEMENT OR OTHER
33 UNINTENTIONAL CONDUCT THAT IS DEFICIENT OR IMPROPER WHEN COMPARED TO

1 CONDUCT THAT A PRUDENT PERSON WOULD CONSIDER NECESSARY TO PRESERVE
2 THE VALUE OF PROPERTY OR FUNDS OF THE LOCAL SCHOOL SYSTEM UNDER THE
3 SAME FACTS AND CIRCUMSTANCES.

4 (B) (1) THERE IS AN OFFICE OF THE INSPECTOR GENERAL IN THE LOCAL
5 SCHOOL SYSTEM.

6 (2) (I) THE COUNTY COUNCIL OF BALTIMORE COUNTY SHALL
7 SELECT AND APPOINT THE INSPECTOR GENERAL.

8 (II) THE COUNTY COUNCIL SHALL SELECT THE INSPECTOR
9 GENERAL SOLELY ON THE BASIS OF PROFESSIONAL ABILITY AND PERSONAL
10 INTEGRITY, WITHOUT REGARD TO POLITICAL AFFILIATION.

11 (III) THE INSPECTOR GENERAL SHALL BE QUALIFIED
12 PROFESSIONALLY BY EXPERIENCE OR EDUCATION IN AUDITING, GOVERNMENT
13 OPERATIONS, OR FINANCIAL MANAGEMENT.

14 (C) (1) THE TERM OF THE INSPECTOR GENERAL IS 4 YEARS BEGINNING
15 ON THE DATE OF APPOINTMENT.

16 (2) AN INDIVIDUAL MAY NOT SERVE AS INSPECTOR GENERAL FOR
17 MORE THAN THREE TERMS.

18 (3) THE INSPECTOR GENERAL CONTINUES TO SERVE UNTIL A
19 SUCCESSOR IS APPOINTED.

20 (4) IF A VACANCY OCCURS IN THE OFFICE OF THE INSPECTOR
21 GENERAL, THE COUNTY COUNCIL SHALL APPOINT AN INTERIM INSPECTOR
22 GENERAL TO SERVE FOR THE REMAINDER OF THE UNEXPIRED TERM.

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

26 (6) THE INSPECTOR GENERAL SHALL DISCHARGE THE DUTIES OF
27 OFFICE ON A FULL-TIME BASIS AND WITH NO SECONDARY EMPLOYMENT OF ANY
28 NATURE DURING THE INSPECTOR GENERAL'S TERM.

29 (D) (1) THE OFFICE OF THE INSPECTOR GENERAL SHALL:

30 (I) ASSIST THE COUNTY COUNCIL AND THE LOCAL SCHOOL
31 SYSTEM BY PROVIDING INDEPENDENT EVALUATION AND RECOMMENDATIONS
32 REGARDING OPPORTUNITIES TO:

1 1. **PRESERVE THE LOCAL SCHOOL SYSTEM'S**
2 **REPUTATION; AND**

3 2. **IMPROVE THE EFFECTIVENESS, PRODUCTIVITY, OR**
4 **EFFICIENCY OF LOCAL SCHOOL SYSTEM PROGRAMS, POLICIES, PRACTICES, AND**
5 **OPERATIONS;**

6 (ii) **ENSURE PUBLIC ACCOUNTABILITY BY PREVENTING,**
7 **INVESTIGATING, AND REPORTING INSTANCES OF FRAUD, WASTE, AND ABUSE OF**
8 **PROPERTY OR FUNDS OF THE LOCAL SCHOOL SYSTEM;**

9 (iii) **EXAMINE, EVALUATE, AND REPORT ON THE ADEQUACY AND**
10 **EFFECTIVENESS OF THE SYSTEMS OF INTERNAL CONTROLS AND THEIR RELATED**
11 **ACCOUNTING, FINANCIAL, TECHNOLOGY, AND OPERATIONAL POLICIES; AND**

12 (iv) **REPORT NONCOMPLIANCE WITH AND PROPOSE WAYS TO**
13 **IMPROVE EMPLOYEE COMPLIANCE WITH APPLICABLE LAW, POLICY, AND ETHICAL**
14 **STANDARDS OF CONDUCT.**

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

16 (i) **CONDUCT ADMINISTRATIVE INVESTIGATIONS, BUDGETARY**
17 **ANALYSES, AND FINANCIAL, MANAGEMENT, OR PERFORMANCE AUDITS AND SIMILAR**
18 **REVIEWS;**

19 (ii) **PROVIDE MANAGEMENT ADVISORIES; AND**

20 (iii) **UTILIZE THE ASSISTANCE FROM ANY OTHER GOVERNMENT**
21 **AGENCY OR PRIVATE PARTY TO COMPLETE A PROJECT INITIATED BY THE OFFICE.**

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

24 (4) (i) **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
25 **PARAGRAPH, THE INSPECTOR GENERAL SHALL PUBLISH ON THE OFFICE'S**
26 **WEBSITE, IN A READILY AVAILABLE LOCATION:**

27 1. **PERIODIC REPORTS THAT SUMMARIZE THE**
28 **ACTIVITIES, FINDINGS, RECOMMENDATIONS, AND ACCOMPLISHMENTS OF THE**
29 **OFFICE; AND**

1 **2. ANY OFFICIAL WRITTEN COMMENTS OR RESPONSES**
2 **OFFERED BY THE LOCAL SCHOOL SYSTEM ADMINISTRATION WITH ANY REPORT**
3 **PUBLISHED BY THE OFFICE.**

4 **(II) THE INSPECTOR GENERAL:**

5 **1. MAY NOT DISCLOSE ANY RECORD, REPORT, OR**
6 **RELATED INFORMATION THAT IS PROTECTED FROM DISCLOSURE UNDER THE**
7 **PUBLIC INFORMATION ACT;**

8 **2. MAY PROVIDE AN ORAL REPORT IF APPROPRIATE**
9 **UNDER GENERALLY ACCEPTED GOVERNMENT AUDITING STANDARDS; AND**

10 **3. SHALL ESTABLISH AND FOLLOW PROCEDURES FOR**
11 **SAFEGUARDING THE IDENTITY OF CONFIDENTIAL SOURCES AND PROTECTING**
12 **PRIVILEGED AND CONFIDENTIAL INFORMATION.**

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

16 **(I) AN APPROPRIATE LAW ENFORCEMENT AGENCY;**

17 **(II) THE STATE ETHICS COMMISSION; OR**

18 **(III) ANY OTHER AGENCY WITH JURISDICTION TO ENFORCE THE**
19 **LAW.**

20 **(E) (1) THE INSPECTOR GENERAL SHALL COORDINATE WITH THE LOCAL**
21 **SCHOOL SYSTEM TO DEVELOP A WRITTEN WORK PLAN AND ESTABLISH PERIODIC**
22 **GOALS AND PRIORITIES FOR THE OFFICE BASED ON AN ASSESSMENT OF RELATIVE**
23 **RISKS.**

24 **(2) IN DEVELOPING THE WORK PLAN, THE INSPECTOR GENERAL**
25 **SHALL TAKE INTO CONSIDERATION REQUESTS FROM:**

26 **(I) OFFICERS, ADMINISTRATORS, AND EMPLOYEES OF THE**
27 **LOCAL SCHOOL SYSTEM;**

28 **(II) ELECTED OFFICIALS; AND**

29 **(III) MEMBERS OF THE PUBLIC.**

1 **(3) THE INSPECTOR GENERAL SHALL MAKE THE WRITTEN WORK**
2 **PLAN AVAILABLE TO THE PUBLIC, SUBJECT TO THE PUBLIC INFORMATION ACT.**

3 **(F) (1) (I) ON REQUEST FROM THE INSPECTOR GENERAL, AN**
4 **EMPLOYEE OR OFFICIAL OF THE LOCAL SCHOOL SYSTEM PROMPTLY SHALL**
5 **PROVIDE TO THE INSPECTOR GENERAL ANY AVAILABLE DOCUMENT OR OTHER**
6 **INFORMATION CONCERNING THE LOCAL SCHOOL SYSTEM'S OPERATIONS, BUDGET,**
7 **PROGRAMS, OR VENDOR CONTRACTS.**

8 **(II) 1. THE INSPECTOR GENERAL SHALL NOTIFY THE**
9 **COUNTY BOARD AND THE COUNTY SUPERINTENDENT IF ANY EMPLOYEE OR**
10 **OFFICIAL OF THE LOCAL SCHOOL SYSTEM FAILS TO PROVIDE ANY INFORMATION OR**
11 **DOCUMENT REQUESTED UNDER THIS PARAGRAPH WITH REASONABLE**
12 **PROMPTNESS.**

13 **2. THE COUNTY BOARD AND THE COUNTY**
14 **SUPERINTENDENT SHALL TAKE ADMINISTRATIVE ACTION TO PRODUCE**
15 **COMPLIANCE WITH A PENDING REQUEST FOR INFORMATION BY THE INSPECTOR**
16 **GENERAL AS WARRANTED AND APPROPRIATE.**

17 **(2) (I) A VENDOR OF THE LOCAL SCHOOL SYSTEM SHALL PROVIDE**
18 **TO THE INSPECTOR GENERAL ANY AVAILABLE DOCUMENT OR OTHER INFORMATION**
19 **CONCERNING ANY LOCAL SCHOOL SYSTEM VENDOR CONTRACT, INCLUDING**
20 **DOCUMENTS RELATED TO THE PROCUREMENT OF THE CONTRACT.**

21 **(II) 1. THE INSPECTOR GENERAL PROMPTLY SHALL NOTIFY**
22 **THE COUNTY BOARD, THE COUNTY SUPERINTENDENT, AND THE LOCAL SCHOOL**
23 **SYSTEM IF ANY VENDOR FAILS TO PROVIDE ANY INFORMATION OR DOCUMENT**
24 **REQUESTED UNDER THIS PARAGRAPH WITH REASONABLE PROMPTNESS.**

25 **2. THE COUNTY BOARD AND THE COUNTY**
26 **SUPERINTENDENT SHALL TAKE APPROPRIATE ADMINISTRATIVE OR CIVIL ACTION**
27 **TO PRODUCE VENDOR COMPLIANCE WITH A PENDING REQUEST FOR INFORMATION**
28 **BY THE INSPECTOR GENERAL.**

29 **(G) (1) EACH LOCAL SCHOOL SYSTEM EMPLOYEE SHOULD REPORT ANY**
30 **FRAUD, WASTE, OR ABUSE TO THE OFFICE.**

31 **(2) A LOCAL SCHOOL SYSTEM EMPLOYEE, VENDOR, OR EMPLOYEE OF**
32 **ANY VENDOR MAY NOT BE RETALIATED AGAINST OR PENALIZED, OR THREATENED**
33 **WITH RETALIATION OR PENALTY, FOR PROVIDING INFORMATION TO, COOPERATING**
34 **WITH, OR IN ANY WAY ASSISTING THE INSPECTOR GENERAL IN CONNECTION WITH**
35 **ANY ACTIVITY AUTHORIZED BY THIS SECTION.**

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

3 **(I) THE REPORTING PERSON CONSENTS TO DISCLOSURE OF**
4 **THE PERSON'S IDENTITY;**

5 **(II) DISCLOSURE IS REASONABLY NECESSARY TO COMPLETE AN**
6 **AUDIT OR INVESTIGATION; OR**

7 **(III) ANOTHER PERSON IS LEGALLY ENTITLED TO DISCLOSURE**
8 **OF THE IDENTITY OF THE REPORTING PERSON.**

9 **(H) (1) THE INSPECTOR GENERAL MAY ADMINISTER AN OATH OR**
10 **AFFIRMATION OR TAKE AN AFFIDAVIT FROM ANY PERSON IF NECESSARY TO**
11 **PERFORM THE DUTIES UNDER THIS SECTION.**

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

15 **(3) THE INSPECTOR GENERAL MAY SUBPOENA ANY PERSON OR**
16 **EVIDENCE FOR THE PURPOSE OF INVESTIGATING FRAUD, WASTE, OR ABUSE WITHIN**
17 **THE LOCAL SCHOOL SYSTEM.**

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

21 **(I) COMPLIANCE WITH THE ORDER OR SUBPOENA; OR**

22 **(II) TESTIMONY OR THE PRODUCTION OF EVIDENCE.**

23 **(I) (1) EACH YEAR THE INSPECTOR GENERAL SHALL SUBMIT TO THE**
24 **COUNTY BOARD A PROJECTED BUDGET FOR THE OFFICE FOR THE UPCOMING**
25 **FISCAL YEAR.**

26 **(2) THE COUNTY BOARD SHALL INCLUDE IN THE COUNTY BOARD'S**
27 **ANNUAL OPERATING BUDGET PROPOSAL THE AMOUNTS RECOMMENDED BY THE**
28 **INSPECTOR GENERAL FOR THE OFFICE FOR THE UPCOMING FISCAL YEAR.**

29 SECTION 2. AND BE IT FURTHER ENACTED, That the functions, powers, and
30 duties of the Office of Internal Audit of the Baltimore County school system shall be
31 transferred to the Office of the Inspector General of the school system on the effective date
32 of this Act.

1 SECTION 3. AND BE IT FURTHER ENACTED, That all employees who are
2 transferred to the Office of the Inspector General of the Baltimore County school system as
3 a result of this Act shall be transferred on the effective date of this Act without any
4 diminution of their rights, including collective bargaining rights, benefits, or employment
5 or retirement status.

6 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July
7 1, 2018.