

SENATE BILL 302

F1

EMERGENCY BILL

8lr0160
CF HB 355

By: **The President (By Request – Administration) and Senators Bates, Cassilly, Eckardt, Edwards, Hershey, Hough, Jennings, Klausmeier, Norman, Ready, Reilly, Serafini, and Simonaire**

Introduced and read first time: January 22, 2018

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Accountability in Education Act of 2018**

3 FOR the purpose of establishing the Education Monitoring Unit in the State; providing that
4 the Unit is an independent unit in the State; requiring the Unit to investigate,
5 analyze, and report on certain matters, establish certain goals, and employ certain
6 staff; establishing certain qualifications for the Investigator General of the Unit;
7 providing for the appointment, term, removal, and salary of the Investigator
8 General; establishing the Investigator General Selection and Review Commission in
9 the Unit; providing for the composition, terms of members, chair, filling of vacancies,
10 and reimbursement of members of the Commission; requiring the Commission to
11 appoint the Investigator General in accordance with certain procedures; requiring
12 the Commission to make a certain report within a certain period of time after
13 notification of a certain vacancy; authorizing the Commission to reprimand or
14 remove the Investigator General under certain circumstances; providing that certain
15 proceedings, testimony, and other evidence is confidential and privileged, subject to
16 a certain exception; authorizing the Commission to make certain proceedings,
17 testimony, and other evidence public under certain circumstances; authorizing the
18 Commission to investigate certain allegations and to conduct certain hearings and
19 other procedures under certain circumstances; requiring the Unit to investigate
20 certain complaints; authorizing the Unit to investigate certain complaints;
21 authorizing the Unit to take certain actions as part of a certain investigation;
22 prohibiting the Unit from compelling production of certain work product, court
23 records, and documents; providing for the service of a certain subpoena; authorizing
24 the Unit to report the failure to obey a certain subpoena to a certain court; requiring
25 the Unit to provide a copy of a certain subpoena and service of process to a certain
26 court; authorizing a certain court to grant relief under certain circumstances;
27 authorizing certain persons to have an attorney present for certain proceedings;
28 requiring the Unit to advise certain persons of certain rights; prohibiting certain
29 officials from taking certain actions under certain circumstances; requiring the Unit

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 to establish an anonymous electronic tip program; requiring the Unit to publicize the
 2 electronic tip program in a certain manner; requiring the Unit to make certain
 3 reports under certain circumstances; requiring certain reports to be made public
 4 under certain circumstances; requiring the Unit to work with the State Department
 5 of Education and a local school system to develop a certain plan under certain
 6 circumstances; specifying that certain expenses shall be separately identified and
 7 independent of the budget of any other unit of the Department; requiring the Unit
 8 to submit certain reports, findings, and recommendations annually to the Governor
 9 and the General Assembly on or before a certain date; specifying the terms of the
 10 initial members of the Commission; defining certain terms; making this Act an
 11 emergency measure; and generally relating to the establishment of the Education
 12 Monitoring Unit.

13 BY adding to

14 Article – Education

15 Section 2–401 through 2–410 to be under the new subtitle “Subtitle 4. Education
 16 Monitoring Unit”

17 Annotated Code of Maryland

18 (2014 Replacement Volume and 2017 Supplement)

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

21 **Article – Education**

22 **SUBTITLE 4. EDUCATION MONITORING UNIT.**

23 **2–401.**

24 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
 25 INDICATED.

26 (B) “COMMISSION” MEANS THE INVESTIGATOR GENERAL SELECTION AND
 27 REVIEW COMMISSION IN THE EDUCATION MONITORING UNIT.

28 (C) “INVESTIGATOR GENERAL” MEANS THE INVESTIGATOR GENERAL OF
 29 THE EDUCATION MONITORING UNIT.

30 **2–402.**

31 (A) (1) THERE IS AN EDUCATION MONITORING UNIT IN THE STATE.

32 (2) THE EDUCATION MONITORING UNIT IS AN INDEPENDENT UNIT IN
 33 THE STATE.

1 **(B) THE EDUCATION MONITORING UNIT SHALL:**

2 **(1) INVESTIGATE AND DETERMINE WHETHER THE CIVIL RIGHTS OF**
3 **TEACHERS, STUDENTS, AND PARENTS ARE BEING UPHELD IN COMPLIANCE WITH**
4 **FEDERAL, STATE, AND LOCAL LAWS AND REGULATIONS;**

5 **(2) ANALYZE AND REPORT ON MATTERS INCLUDING CHILD ABUSE,**
6 **NEGLECT, SAFETY, GRADING, GRADUATION REQUIREMENTS, ASSESSMENTS,**
7 **EDUCATIONAL FACILITIES, PROCUREMENT, EQUITABLE USE OF RESOURCES AMONG**
8 **PUBLIC SCHOOLS, AND BUDGETS;**

9 **(3) REPORT ALL INSTANCES OF FRAUD, ABUSE, AND WASTE**
10 **RELATING TO PUBLIC FUNDS AND PROPERTY;**

11 **(4) REPORT EMPLOYEE VIOLATIONS OF APPLICABLE LAWS,**
12 **REGULATIONS, POLICIES, OR ETHICAL STANDARDS OF CONDUCT;**

13 **(5) ESTABLISH ITS GOALS AND PRIORITIES BASED ON A PERIODIC**
14 **ASSESSMENT OF EXISTING AND EMERGING RISKS RELATING TO PUBLIC**
15 **ELEMENTARY AND SECONDARY EDUCATION IN THE STATE; AND**

16 **(6) EMPLOY STAFF AND ENGAGE ATTORNEYS, ADVISORS, AND**
17 **CONSULTANTS IN ACCORDANCE WITH THE STATE BUDGET.**

18 **2-403.**

19 **(A) (1) THERE IS AN INVESTIGATOR GENERAL IN THE EDUCATION**
20 **MONITORING UNIT.**

21 **(2) AN INDIVIDUAL IS ELIGIBLE TO BE THE INVESTIGATOR GENERAL**
22 **ONLY IF THE INDIVIDUAL EXECUTES AN AFFIDAVIT THAT THE INDIVIDUAL WILL NOT**
23 **ACCEPT APPOINTMENT TO, OR BE A CANDIDATE FOR, A STATE OR LOCAL OFFICE**
24 **DURING THE PERIOD OF SERVICE AS THE INVESTIGATOR GENERAL AND FOR AT**
25 **LEAST 3 YEARS IMMEDIATELY AFTER THE INDIVIDUAL LAST SERVES AS THE**
26 **INVESTIGATOR GENERAL.**

27 **(3) THE INVESTIGATOR GENERAL SHALL RENEW THE AFFIDAVIT**
28 **EVERY 2 YEARS DURING THE PERIOD OF SERVICE.**

29 **(4) A FAILURE TO RENEW THE AFFIDAVIT UNDER THIS SUBSECTION**
30 **SHALL SUBJECT THE INVESTIGATOR GENERAL TO REMOVAL FROM OFFICE UNDER**
31 **THIS SECTION.**

1 **(B) (1) THE INVESTIGATOR GENERAL SHALL BE APPOINTED BY THE**
2 **COMMISSION.**

3 **(2) THE TERM OF THE INVESTIGATOR GENERAL IS 6 YEARS.**

4 **(3) AT THE END OF A TERM, THE INVESTIGATOR GENERAL**
5 **CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.**

6 **(C) THE COMMISSION MAY REMOVE THE INVESTIGATOR GENERAL FOR:**

7 **(1) MISCONDUCT IN OFFICE;**

8 **(2) PERSISTENT FAILURE TO PERFORM THE DUTIES OF THE OFFICE;**

9 **OR**

10 **(3) CONDUCT PREJUDICIAL TO THE PROPER ADMINISTRATION OF**
11 **JUSTICE.**

12 **(D) THE INVESTIGATOR GENERAL IS ENTITLED TO THE SALARY PROVIDED**
13 **IN THE STATE BUDGET.**

14 **2-404.**

15 **(A) THERE IS AN INVESTIGATOR GENERAL SELECTION AND REVIEW**
16 **COMMISSION IN THE EDUCATION MONITORING UNIT.**

17 **(B) THE COMMISSION CONSISTS OF:**

18 **(1) TWO INDIVIDUALS APPOINTED BY THE PRESIDENT OF THE**
19 **SENATE;**

20 **(2) TWO INDIVIDUALS APPOINTED BY THE SPEAKER OF THE HOUSE;**

21 **AND**

22 **(3) FIVE INDIVIDUALS APPOINTED BY THE GOVERNOR.**

23 **(C) (1) THE TERM OF A MEMBER IS 4 YEARS.**

24 **(2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY**
25 **THE TERMS PROVIDED FOR THE MEMBERS ON OCTOBER 1, 2018.**

26 **(3) A MEMBER SERVES UNTIL A SUCCESSOR IS APPOINTED AND**
27 **QUALIFIES.**

1 **(4) A MEMBER IS ELIGIBLE FOR REAPPOINTMENT.**

2 **(D) FROM AMONG THE MEMBERS, THE GOVERNOR SHALL DESIGNATE THE**
3 **CHAIR OF THE COMMISSION FOR THE PERIOD THAT THE GOVERNOR DETERMINES.**

4 **(E) A VACANCY THAT OCCURS ON THE COMMISSION SHALL BE FILLED IN**
5 **THE SAME MANNER AS MEMBERS ARE APPOINTED UNDER SUBSECTION (B) OF THIS**
6 **SECTION.**

7 **(F) A MEMBER OF THE COMMISSION:**

8 **(1) MAY NOT RECEIVE COMPENSATION FOR SERVING ON THE**
9 **COMMISSION; BUT**

10 **(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE**
11 **STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.**

12 **2-405.**

13 **(A) ON NOTIFICATION THAT A VACANCY EXISTS OR IS ABOUT TO OCCUR IN**
14 **THE POSITION OF INVESTIGATOR GENERAL, THE COMMISSION SHALL:**

15 **(1) SEEK AND REVIEW APPLICATIONS OF PROPOSED NOMINEES; AND**

16 **(2) SEEK RECOMMENDATIONS FROM MEMBERS OF THE COMMISSION**
17 **AND INTERESTED CITIZENS AND GROUPS.**

18 **(B) THE COMMISSION SHALL:**

19 **(1) INTERVIEW AND EVALUATE EACH ELIGIBLE APPLICANT; AND**

20 **(2) SELECT THE INDIVIDUAL WHOM A MAJORITY OF THE AUTHORIZED**
21 **MEMBERSHIP OF THE COMMISSION FINDS TO BE THE MOST LEGALLY AND**
22 **PROFESSIONALLY QUALIFIED.**

23 **(C) THE COMMISSION SHALL REPORT, IN WRITING, TO THE GOVERNOR THE**
24 **NAME OF THE INDIVIDUAL IT SELECTS WITHIN 70 DAYS AFTER NOTIFICATION THAT**
25 **A VACANCY EXISTS OR IS ABOUT TO OCCUR.**

26 **2-406.**

27 **(A) THE COMMISSION MAY REPRIMAND OR REMOVE THE INVESTIGATOR**

1 **GENERAL IF, AFTER A HEARING, THE COMMISSION FINDS THAT THE INVESTIGATOR**
2 **GENERAL IS GUILTY OF:**

3 (1) **MISCONDUCT IN OFFICE;**

4 (2) **PERSISTENT FAILURE TO PERFORM THE DUTIES OF THE OFFICE;**

5 **OR**

6 (3) **CONDUCT PREJUDICIAL TO THE PROPER ADMINISTRATION OF**
7 **JUSTICE.**

8 (B) (1) **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,**
9 **THE PROCEEDINGS, TESTIMONY, AND OTHER EVIDENCE BEFORE THE COMMISSION**
10 **ARE CONFIDENTIAL AND PRIVILEGED.**

11 (2) **ON TAKING FINAL ACTION, THE COMMISSION MAY MAKE ITS**
12 **ORDER AND THE PROCEEDINGS, TESTIMONY, AND OTHER EVIDENCE PUBLIC.**

13 (C) (1) **ON COMPLAINT OR ON ITS OWN INITIATIVE, THE COMMISSION**
14 **MAY INVESTIGATE ALLEGATIONS AGAINST THE INVESTIGATOR GENERAL THAT MAY**
15 **WARRANT REMOVAL OR REPRIMAND.**

16 (2) **THE COMMISSION MAY:**

17 (I) **CONDUCT HEARINGS;**

18 (II) **ADMINISTER OATHS AND AFFIRMATIONS;**

19 (III) **ISSUE PROCESS TO COMPEL THE ATTENDANCE OF**
20 **WITNESSES AND THE PRODUCTION OF EVIDENCE; AND**

21 (IV) **REQUIRE A PERSON TO TESTIFY AND PRODUCE EVIDENCE**
22 **BY GRANTING THE PERSON IMMUNITY FROM PROSECUTION, PENALTY, OR**
23 **FORFEITURE.**

24 **2-407.**

25 (A) **THE EDUCATION MONITORING UNIT SHALL INVESTIGATE COMPLAINTS**
26 **OF UNETHICAL, UNPROFESSIONAL, OR ILLEGAL CONDUCT OF:**

27 (1) **INDIVIDUALS EMPLOYED BY THE DEPARTMENT OR A COUNTY**
28 **BOARD;**

1 **(2) AN APPOINTED OR ELECTED MEMBER OF A COUNTY BOARD; OR**

2 **(3) ANY OTHER PERSON OR ENTITY ASSOCIATED WITH THE**
3 **PROVISION OF EDUCATIONAL FACILITIES, PRODUCTS, OR SERVICES TO THE**
4 **DEPARTMENT, A COUNTY BOARD, OR A PUBLIC SCHOOL.**

5 **(B) THE EDUCATION MONITORING UNIT MAY INVESTIGATE COMPLAINTS**
6 **RECEIVED FROM ANY SOURCE, INCLUDING COMPLAINTS MADE ANONYMOUSLY.**

7 **(C) IN AN INVESTIGATION, THE EDUCATION MONITORING UNIT MAY:**

8 **(1) MAKE INQUIRIES AND OBTAIN INFORMATION;**

9 **(2) HOLD HEARINGS;**

10 **(3) EXCEPT AS NOTED IN SUBSECTION (D) OF THIS SECTION, HAVE**
11 **ACCESS TO ALL RECORDS OF THE DEPARTMENT, A COUNTY BOARD, AND A LOCAL**
12 **SCHOOL SYSTEM; AND**

13 **(4) EXCEPT AS NOTED IN SUBSECTION (D) OF THIS SECTION, ISSUE**
14 **SUBPOENAS NECESSARY TO COMPEL THE PRODUCTION OF DOCUMENTS AND**
15 **RECORDS AND THE ATTENDANCE AND TESTIMONY OF WITNESSES AT HEARINGS.**

16 **(D) THE EDUCATION MONITORING UNIT MAY NOT COMPEL THE**
17 **PRODUCTION OF:**

18 **(1) ATTORNEY WORK PRODUCT AND COMMUNICATIONS THAT ARE**
19 **PROTECTED UNDER THE ATTORNEY-CLIENT PRIVILEGE;**

20 **(2) SEALED COURT RECORDS WITHOUT A SUBPOENA; OR**

21 **(3) DOCUMENTS THAT ARE CONFIDENTIAL OR PRIVILEGED UNDER**
22 **APPLICABLE PROVISIONS OF FEDERAL OR STATE LAW.**

23 **(E) (1) A SUBPOENA MAY BE SERVED IN THE SAME MANNER AS ONE**
24 **ISSUED BY A CIRCUIT COURT.**

25 **(2) THE EDUCATION MONITORING UNIT IMMEDIATELY MAY REPORT**
26 **THE FAILURE OF A PERSON TO OBEY A LAWFULLY SERVED SUBPOENA TO THE**
27 **CIRCUIT COURT OF THE COUNTY HAVING JURISDICTION.**

28 **(3) THE EDUCATION MONITORING UNIT SHALL PROVIDE A COPY OF**
29 **THE SUBPOENA AND PROOF OF SERVICE TO THE CIRCUIT COURT.**

1 **(4) AFTER CONDUCTING A HEARING AT WHICH THE PERSON WHO**
2 **ALLEGEDLY FAILED TO COMPLY WITH A SUBPOENA HAS AN OPPORTUNITY TO BE**
3 **HEARD AND REPRESENTED BY COUNSEL, THE COURT MAY GRANT APPROPRIATE**
4 **RELIEF.**

5 **(F) (1) A PERSON MAY HAVE AN ATTORNEY PRESENT DURING ANY**
6 **CONTACT WITH THE EDUCATION MONITORING UNIT.**

7 **(2) THE EDUCATION MONITORING UNIT SHALL ADVISE A PERSON OF**
8 **THE RIGHT TO COUNSEL WHEN THE SUBPOENA IS SERVED.**

9 **(G) IN ACCORDANCE WITH TITLE 6, SUBTITLE 9 OF THIS ARTICLE, A STATE**
10 **OR LOCAL AGENCY OR PUBLIC OFFICIAL MAY NOT TAKE ADVERSE ACTION AGAINST**
11 **AN INDIVIDUAL IN RETALIATION BECAUSE THE INDIVIDUAL COOPERATED WITH OR**
12 **PROVIDED INFORMATION TO THE EDUCATION MONITORING UNIT.**

13 **(H) (1) THE EDUCATION MONITORING UNIT SHALL ESTABLISH AN**
14 **ANONYMOUS ELECTRONIC TIP PROGRAM TO ALLOW THE REPORTING OF**
15 **VIOLATIONS OF THIS SUBTITLE.**

16 **(2) THE EDUCATION MONITORING UNIT SHALL PUBLICIZE THE**
17 **ANONYMOUS ELECTRONIC TIP PROGRAM IN STUDENT HANDBOOKS, SCHOOL SYSTEM**
18 **WEBSITES, AND OTHER LOCATIONS THAT THE EDUCATION MONITORING UNIT**
19 **DETERMINES ARE NECESSARY OR APPROPRIATE.**

20 **2-408.**

21 **(A) AT THE CONCLUSION OF AN INVESTIGATION, THE EDUCATION**
22 **MONITORING UNIT SHALL MAKE A REPORT OF THE FINDINGS AND ANY**
23 **RECOMMENDATIONS FOR PROSECUTION OR ADMINISTRATIVE ACTION TO:**

24 **(1) THE PERSON WHO REQUESTED THE INVESTIGATION;**

25 **(2) IF THE EDUCATION MONITORING UNIT FINDS THERE HAS BEEN A**
26 **VIOLATION OF THE CRIMINAL LAW, THE STATE'S ATTORNEY FOR THE COUNTY IN**
27 **WHICH JURISDICTION EXISTS TO PROSECUTE THE MATTER;**

28 **(3) THE STATE SUPERINTENDENT AND THE STATE BOARD;**

29 **(4) THE GOVERNOR;**

30 **(5) THE SPEAKER OF THE HOUSE OF DELEGATES; AND**

1 **(6) THE PRESIDENT OF THE SENATE.**

2 **(B) ON REQUEST OF THE PERSON WHO WAS THE SUBJECT OF THE**
3 **INVESTIGATION, THE REPORT SHALL BE MADE AVAILABLE TO THE PUBLIC AS SOON**
4 **AS POSSIBLE.**

5 **(C) ON REQUEST OF THE STATE SUPERINTENDENT OR A COUNTY BOARD OR**
6 **AT THE DISCRETION OF THE INVESTIGATOR GENERAL, THE EDUCATION**
7 **MONITORING UNIT SHALL WORK WITH THE DEPARTMENT AND A LOCAL SCHOOL**
8 **SYSTEM TO DEVELOP A REMEDIATION PLAN WHEN VIOLATIONS OR SYSTEMIC**
9 **PROBLEMS ARE DISCOVERED.**

10 **2-409.**

11 **FOR THE PURPOSES OF THE STATE BUDGET:**

12 **(1) THE EDUCATION MONITORING UNIT IS AN INDEPENDENT UNIT**
13 **OF THE STATE; AND**

14 **(2) ALL EXPENSES RELATED TO THE ADMINISTRATION OF THE**
15 **EDUCATION MONITORING UNIT SHALL BE SEPARATELY IDENTIFIED AND**
16 **INDEPENDENT OF THE BUDGET OF ANY OTHER UNIT OF THE DEPARTMENT.**

17 **2-410.**

18 **ON OR BEFORE DECEMBER 15 EACH YEAR, THE EDUCATION MONITORING**
19 **UNIT SHALL SUBMIT TO THE STATE BOARD, THE GOVERNOR, AND, SUBJECT TO §**
20 **2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY:**

21 **(1) AN ANNUAL REPORT ON ITS GOALS AND PRIORITIES, ACTIVITIES,**
22 **FINDINGS, AND RECOMMENDATIONS;**

23 **(2) SPECIFIC FINDINGS AND RECOMMENDATIONS RELATED TO ANY**
24 **ALLEGATION REGARDING THE CARE, SUPERVISION, AND TREATMENT OF CHILDREN**
25 **IN SCHOOL;**

26 **(3) SPECIFIC FINDINGS AND RECOMMENDATIONS RELATED TO**
27 **INVESTIGATIONS OF DISCIPLINARY ACTIONS, GRIEVANCES, INCIDENT REPORTS,**
28 **AND ALLEGED CASES OF FRAUD, WASTE, AND ABUSE, OR UNETHICAL CONDUCT; AND**

29 **(4) BASED ON ITS INVESTIGATIONS, OTHER SPECIAL REPORTS WITH**
30 **RECOMMENDATIONS AS MAY BE APPROPRIATE.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial
2 members of the Investigator General Selection and Review Commission in the Education
3 Monitoring Unit shall expire as follows:

4 (1) Two members appointed by the Governor on October 1, 2019;

5 (2) Two members appointed by the Governor, one member appointed by the
6 Speaker of the House of Delegates, and one member appointed by the President of the
7 Senate on October 1, 2020; and

8 (3) One member appointed by the Governor, one member appointed by the
9 Speaker of the House of Delegates, and one member appointed by the President of the
10 Senate on October 1, 2021.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
12 measure, is necessary for the immediate preservation of the public health or safety, has
13 been passed by a ye and nay vote supported by three-fifths of all the members elected to
14 each of the two Houses of the General Assembly, and shall take effect from the date it is
15 enacted.