

HOUSE BILL 45

F1
HB 355/18 – W&M & APP

EMERGENCY BILL

9lr0161
CF SB 92

By: **The Speaker (By Request – Administration) and Delegates Adams, Anderton, Arentz, Buckel, Cassilly, Chisholm, Ciliberti, Clark, Corderman, Cox, Ghrist, Grammer, Hartman, Hornberger, Howard, Jacobs, Kipke, Kittleman, Krebs, Long, Malone, Mautz, McComas, McKay, Metzgar, Morgan, Otto, Pippy, Reilly, Rose, Saab, Shoemaker, Szeliga, and Wivell**

Introduced and read first time: January 11, 2019

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Accountability in Education Act of 2019**

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 Inspector General of the Unit;
7 providing for the appointment, term, removal, and salary of the Inspector General;
8 establishing the Inspector General Selection and Review Commission in the Unit;
9 providing for the composition, terms of members, chair, filling of vacancies, and
10 reimbursement of members of the Commission; requiring the Commission to appoint
11 the Inspector General in accordance with certain procedures; requiring the
12 Commission to make a certain report within a certain period of time after notification
13 of a certain vacancy; authorizing the Commission to reprimand or remove the
14 Inspector General under certain circumstances; providing that certain proceedings,
15 testimony, and other evidence is confidential and privileged, subject to a certain
16 exception; authorizing the Commission to make certain proceedings, testimony, and
17 other evidence public under certain circumstances; authorizing the Commission to
18 investigate certain allegations and to conduct certain hearings and other procedures
19 under certain circumstances; requiring the Unit to investigate certain complaints;
20 authorizing the Unit to investigate certain complaints; authorizing the Unit to take
21 certain actions as part of a certain investigation; prohibiting the Unit from
22 compelling production of certain work product, court records, and documents;
23 providing for the service of a certain subpoena; authorizing the Unit to report the
24 failure to obey a certain subpoena to a certain court; requiring the Unit to report the
25 failure to obey a certain subpoena to a certain court; requiring the Unit to provide a
26 copy of a certain subpoena and service of process to a certain court; authorizing a
27 certain court to grant relief under certain circumstances; authorizing certain persons

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 to have an attorney present for certain proceedings; requiring the Unit to advise
 2 certain persons of certain rights; prohibiting certain officials from taking certain
 3 actions under certain circumstances; requiring the Unit to establish an anonymous
 4 electronic tip program; requiring the Unit to publicize the electronic tip program in
 5 a certain manner; exempting certain records and information from disclosure under
 6 the Maryland Public Information Act; requiring the Unit to make certain reports
 7 under certain circumstances; requiring certain reports to be made public under
 8 certain circumstances; requiring the Unit to work with the State Department of
 9 Education and a local school system to develop a certain plan under certain
 10 circumstances; specifying that certain expenses shall be separately identified and
 11 independent of the budget of any other unit of the Department; requiring the Unit
 12 to submit certain reports, findings, and recommendations annually to the Governor
 13 and the General Assembly on or before a certain date; specifying the terms of the
 14 initial members of the Commission; defining certain terms; making this Act an
 15 emergency measure; and generally relating to the establishment of the Education
 16 Monitoring Unit.

17 BY adding to

18 Article – Education

19 Section 2–401 through 2–410 to be under the new subtitle “Subtitle 4. Education

20 Monitoring Unit”

21 Annotated Code of Maryland

22 (2018 Replacement Volume and 2018 Supplement)

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

25 **Article – Education**

26 **SUBTITLE 4. EDUCATION MONITORING UNIT.**

27 **2–401.**

28 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
 29 INDICATED.

30 (B) “COMMISSION” MEANS THE INSPECTOR GENERAL SELECTION AND
 31 REVIEW COMMISSION IN THE EDUCATION MONITORING UNIT.

32 (C) “INSPECTOR GENERAL” MEANS THE INSPECTOR GENERAL OF THE
 33 EDUCATION MONITORING UNIT.

34 **2–402.**

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

1 **(2) THE EDUCATION MONITORING UNIT IS AN INDEPENDENT UNIT IN**
2 **THE STATE.**

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

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

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

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

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

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

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

20 **2-403.**

21 **(A) (1) THERE IS AN INSPECTOR GENERAL IN THE EDUCATION**
22 **MONITORING UNIT.**

23 **(2) AN INDIVIDUAL IS ELIGIBLE TO BE THE INSPECTOR GENERAL**
24 **ONLY IF THE INDIVIDUAL EXECUTES AN AFFIDAVIT THAT THE INDIVIDUAL WILL NOT**
25 **ACCEPT APPOINTMENT TO, OR BE A CANDIDATE FOR, A STATE OR LOCAL OFFICE**
26 **DURING THE PERIOD OF SERVICE AS THE INSPECTOR GENERAL AND FOR AT LEAST**
27 **3 YEARS IMMEDIATELY AFTER THE INDIVIDUAL LAST SERVES AS THE INSPECTOR**
28 **GENERAL.**

29 **(3) THE INSPECTOR GENERAL SHALL RENEW THE AFFIDAVIT EVERY**
30 **2 YEARS DURING THE PERIOD OF SERVICE.**

1 **(4) A FAILURE TO RENEW THE AFFIDAVIT UNDER THIS SUBSECTION**
2 **SHALL SUBJECT THE INSPECTOR GENERAL TO REMOVAL FROM OFFICE UNDER THIS**
3 **SECTION.**

4 **(B) (1) THE INSPECTOR GENERAL SHALL BE APPOINTED BY THE**
5 **COMMISSION.**

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

7 **(3) AT THE END OF A TERM, THE INSPECTOR GENERAL CONTINUES**
8 **TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.**

9 **(C) THE COMMISSION MAY REMOVE THE INSPECTOR GENERAL FOR:**

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

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

12 **OR**

13 **(3) CONDUCT PREJUDICIAL TO THE PROPER ADMINISTRATION OF**
14 **JUSTICE.**

15 **(D) THE INSPECTOR GENERAL IS ENTITLED TO THE SALARY PROVIDED IN**
16 **THE STATE BUDGET.**

17 **2-404.**

18 **(A) THERE IS AN INSPECTOR GENERAL SELECTION AND REVIEW**
19 **COMMISSION IN THE EDUCATION MONITORING UNIT.**

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

21 **(1) TWO INDIVIDUALS APPOINTED BY THE PRESIDENT OF THE**
22 **SENATE;**

23 **(2) TWO INDIVIDUALS APPOINTED BY THE SPEAKER OF THE HOUSE;**
24 **AND**

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

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

27 **(2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY**

1 THE TERMS PROVIDED FOR THE MEMBERS ON OCTOBER 1, 2019.

2 (3) A MEMBER SERVES UNTIL A SUCCESSOR IS APPOINTED AND
3 QUALIFIES.

4 (4) A MEMBER IS ELIGIBLE FOR REAPPOINTMENT.

5 (D) FROM AMONG THE MEMBERS, THE GOVERNOR SHALL DESIGNATE THE
6 CHAIR OF THE COMMISSION FOR THE PERIOD THAT THE GOVERNOR DETERMINES.

7 (E) A VACANCY THAT OCCURS ON THE COMMISSION SHALL BE FILLED IN
8 THE SAME MANNER AS MEMBERS ARE APPOINTED UNDER SUBSECTION (B) OF THIS
9 SECTION.

10 (F) A MEMBER OF THE COMMISSION:

11 (1) MAY NOT RECEIVE COMPENSATION FOR SERVING ON THE
12 COMMISSION; BUT

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

15 2-405.

16 (A) ON NOTIFICATION THAT A VACANCY EXISTS OR IS ABOUT TO OCCUR IN
17 THE POSITION OF INSPECTOR GENERAL, THE COMMISSION SHALL:

18 (1) SEEK AND REVIEW APPLICATIONS OF PROPOSED NOMINEES; AND

19 (2) SEEK RECOMMENDATIONS FROM MEMBERS OF THE COMMISSION
20 AND INTERESTED CITIZENS AND GROUPS.

21 (B) THE COMMISSION SHALL:

22 (1) INTERVIEW AND EVALUATE EACH ELIGIBLE APPLICANT; AND

23 (2) SELECT THE INDIVIDUAL WHOM A MAJORITY OF THE AUTHORIZED
24 MEMBERSHIP OF THE COMMISSION FINDS TO BE THE MOST LEGALLY AND
25 PROFESSIONALLY QUALIFIED.

26 (C) THE COMMISSION SHALL REPORT, IN WRITING, TO THE GOVERNOR THE
27 NAME OF THE INDIVIDUAL THE COMMISSION SELECTS WITHIN 70 DAYS AFTER
28 NOTIFICATION THAT A VACANCY EXISTS OR IS ABOUT TO OCCUR.

1 **2-406.**

2 (A) THE COMMISSION MAY REPRIMAND OR REMOVE THE INSPECTOR
3 GENERAL IF, AFTER A HEARING, THE COMMISSION FINDS THAT THE INSPECTOR
4 GENERAL IS GUILTY OF:

5 (1) MISCONDUCT IN OFFICE;

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

7 OR

8 (3) CONDUCT PREJUDICIAL TO THE PROPER ADMINISTRATION OF
9 JUSTICE.

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

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

15 (C) (1) ON COMPLAINT OR ON ITS OWN INITIATIVE, THE COMMISSION
16 MAY INVESTIGATE ALLEGATIONS AGAINST THE INSPECTOR GENERAL THAT MAY
17 WARRANT REMOVAL OR REPRIMAND.

18 (2) THE COMMISSION MAY:

19 (I) CONDUCT HEARINGS;

20 (II) ADMINISTER OATHS AND AFFIRMATIONS;

21 (III) ISSUE PROCESS TO COMPEL THE ATTENDANCE OF
22 WITNESSES AND THE PRODUCTION OF EVIDENCE; AND

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

26 **2-407.**

27 (A) THE EDUCATION MONITORING UNIT SHALL INVESTIGATE COMPLAINTS
28 OF UNETHICAL, UNPROFESSIONAL, OR ILLEGAL CONDUCT OF:

1 (1) INDIVIDUALS EMPLOYED BY THE DEPARTMENT OR A COUNTY
2 BOARD;

3 (2) AN APPOINTED OR ELECTED MEMBER OF A COUNTY BOARD; AND

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

7 (B) THE EDUCATION MONITORING UNIT MAY INVESTIGATE COMPLAINTS
8 RECEIVED FROM ANY SOURCE, INCLUDING COMPLAINTS MADE ANONYMOUSLY.

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

10 (1) MAKE INQUIRIES AND OBTAIN INFORMATION;

11 (2) HOLD HEARINGS;

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

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

18 (D) THE EDUCATION MONITORING UNIT MAY NOT COMPEL THE
19 PRODUCTION OF:

20 (1) ATTORNEY WORK PRODUCT AND COMMUNICATIONS THAT ARE
21 PROTECTED UNDER THE ATTORNEY-CLIENT PRIVILEGE;

22 (2) SEALED COURT RECORDS WITHOUT A SUBPOENA; OR

23 (3) DOCUMENTS THAT ARE CONFIDENTIAL OR PRIVILEGED UNDER
24 APPLICABLE PROVISIONS OF FEDERAL OR STATE LAW.

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

27 (2) THE EDUCATION MONITORING UNIT IMMEDIATELY MAY REPORT
28 THE FAILURE OF A PERSON TO OBEY A LAWFULLY SERVED SUBPOENA TO THE

1 CIRCUIT COURT OF THE COUNTY HAVING JURISDICTION.

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

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

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

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

12 (G) A STATE OR LOCAL AGENCY, INCLUDING A COUNTY BOARD, OR PUBLIC
13 OFFICIAL MAY NOT TAKE ADVERSE ACTION AGAINST AN INDIVIDUAL IN
14 RETALIATION BECAUSE THE INDIVIDUAL COOPERATED WITH OR PROVIDED
15 INFORMATION TO THE EDUCATION MONITORING UNIT.

16 (H) (1) THE EDUCATION MONITORING UNIT SHALL ESTABLISH AN
17 ANONYMOUS ELECTRONIC TIP PROGRAM TO ALLOW THE REPORTING OF
18 VIOLATIONS OF THIS SUBTITLE.

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

23 (3) RECORDS OR INFORMATION PROVIDED TO THE EDUCATION
24 MONITORING UNIT OR THE INSPECTOR GENERAL AS PART OF THE ANONYMOUS TIP
25 PROGRAM ESTABLISHED UNDER THIS SUBSECTION ARE NOT SUBJECT TO
26 DISCLOSURE UNDER THE MARYLAND PUBLIC INFORMATION ACT.

27 2-408.

28 (A) AT THE CONCLUSION OF AN INVESTIGATION, THE EDUCATION
29 MONITORING UNIT SHALL MAKE A REPORT OF THE FINDINGS AND ANY
30 RECOMMENDATIONS FOR PROSECUTION OR ADMINISTRATIVE ACTION TO:

31 (1) THE PERSON WHO REQUESTED THE INVESTIGATION;

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

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

5 **(4) THE GOVERNOR;**

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

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

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

11 **(C) ON REQUEST OF THE STATE SUPERINTENDENT OR A COUNTY BOARD OR**
12 **AT THE DISCRETION OF THE INSPECTOR GENERAL, THE EDUCATION MONITORING**
13 **UNIT SHALL WORK WITH THE DEPARTMENT AND A LOCAL SCHOOL SYSTEM TO**
14 **DEVELOP A REMEDIATION PLAN WHEN VIOLATIONS OR SYSTEMIC PROBLEMS ARE**
15 **DISCOVERED.**

16 **2-409.**

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

18 **(1) THE EDUCATION MONITORING UNIT IS AN INDEPENDENT UNIT**
19 **OF THE STATE; AND**

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

23 **2-410.**

24 **ON OR BEFORE DECEMBER 15 EACH YEAR, THE EDUCATION MONITORING**
25 **UNIT SHALL SUBMIT TO THE STATE BOARD, THE GOVERNOR, AND, SUBJECT TO §**
26 **2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY:**

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

29 **(2) SPECIFIC FINDINGS AND RECOMMENDATIONS RELATED TO ANY**

1 ALLEGATION REGARDING THE CARE, SUPERVISION, AND TREATMENT OF CHILDREN
2 IN SCHOOL;

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

6 (4) BASED ON ITS INVESTIGATIONS, OTHER SPECIAL REPORTS WITH
7 RECOMMENDATIONS AS MAY BE APPROPRIATE.

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

11 (1) two members appointed by the Governor on October 1, 2020;

12 (2) two members appointed by the Governor, one member appointed by the
13 Speaker of the House of Delegates, and one member appointed by the President of the
14 Senate on October 1, 2021; and

15 (3) one member appointed by the Governor, one member appointed by the
16 Speaker of the House of Delegates, and one member appointed by the President of the
17 Senate on October 1, 2022.

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