

# SENATE BILL 92

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SB 302/18 – EHE

EMERGENCY BILL

9lr0160  
CF HB 45

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By: **The President (By Request – Administration) and Senators Bailey, Carozza, Cassilly, Eckardt, Edwards, Gallion, Hershey, Hough, Jennings, Ready, Reilly, Salling, Simonaire, and West**

Introduced and read first time: January 11, 2019

Assigned to: Education, Health, and Environmental Affairs

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## 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  
28 to have an attorney present for certain proceedings; requiring the Unit to advise  
29 certain persons of certain rights; prohibiting certain officials from taking certain

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



actions under certain circumstances; requiring the Unit to establish an anonymous electronic tip program; requiring the Unit to publicize the electronic tip program in a certain manner; exempting certain records and information from disclosure under the Maryland Public Information Act; requiring the Unit to make certain reports under certain circumstances; requiring certain reports to be made public under certain circumstances; requiring the Unit to work with the State Department of Education and a local school system to develop a certain plan under certain circumstances; specifying that certain expenses shall be separately identified and independent of the budget of any other unit of the Department; requiring the Unit to submit certain reports, findings, and recommendations annually to the Governor and the General Assembly on or before a certain date; specifying the terms of the initial members of the Commission; defining certain terms; making this Act an emergency measure; and generally relating to the establishment of the Education Monitoring Unit.

BY adding to

Article – Education

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

Annotated Code of Maryland

(2018 Replacement Volume and 2018 Supplement)

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

### Article – Education

#### SUBTITLE 4. EDUCATION MONITORING UNIT.

##### 2–401.

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

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

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

##### 2–402.

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

(2) THE EDUCATION MONITORING UNIT IS AN INDEPENDENT UNIT IN

1 THE STATE.

2 (B) THE EDUCATION MONITORING UNIT SHALL:

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

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

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

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

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

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

19 2-403.

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

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

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

30 (4) A FAILURE TO RENEW THE AFFIDAVIT UNDER THIS SUBSECTION  
31 SHALL SUBJECT THE INSPECTOR GENERAL TO REMOVAL FROM OFFICE UNDER THIS

1 SECTION.

2 (B) (1) THE INSPECTOR GENERAL SHALL BE APPOINTED BY THE  
3 COMMISSION.

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

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

7 (C) THE COMMISSION MAY REMOVE THE INSPECTOR GENERAL FOR:

8 (1) MISCONDUCT IN OFFICE;

9 (2) PERSISTENT FAILURE TO PERFORM THE DUTIES OF THE OFFICE;  
10 OR

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

13 (D) THE INSPECTOR GENERAL IS ENTITLED TO THE SALARY PROVIDED IN  
14 THE STATE BUDGET.

15 2-404.

16 (A) THERE IS AN INSPECTOR GENERAL SELECTION AND REVIEW  
17 COMMISSION IN THE EDUCATION MONITORING UNIT.

18 (B) THE COMMISSION CONSISTS OF:

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

21 (2) TWO INDIVIDUALS APPOINTED BY THE SPEAKER OF THE HOUSE;  
22 AND

23 (3) FIVE INDIVIDUALS APPOINTED BY THE GOVERNOR.

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

25 (2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY  
26 THE TERMS PROVIDED FOR THE MEMBERS ON OCTOBER 1, 2019.

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

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

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

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

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

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

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

14 **2-405.**

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

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

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

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

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

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

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

28 **2-406.**

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

4 (1) MISCONDUCT IN OFFICE;

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

6 OR

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

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

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

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

17 (2) THE COMMISSION MAY:

18 (I) CONDUCT HEARINGS;

19 (II) ADMINISTER OATHS AND AFFIRMATIONS;

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

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

25 2-407.

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

28 (1) INDIVIDUALS EMPLOYED BY THE DEPARTMENT OR A COUNTY

1 BOARD;

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

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

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

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

9 (1) MAKE INQUIRIES AND OBTAIN INFORMATION;

10 (2) HOLD HEARINGS;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 **2-408.**

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

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

31           **(2) IF THE EDUCATION MONITORING UNIT FINDS THERE HAS BEEN A**  
32 **VIOLATION OF THE CRIMINAL LAW, THE STATE'S ATTORNEY FOR THE COUNTY IN**



1 WHICH JURISDICTION EXISTS TO PROSECUTE THE MATTER;

2 (3) THE STATE SUPERINTENDENT AND THE STATE BOARD;

3 (4) THE GOVERNOR;

4 (5) THE SPEAKER OF THE HOUSE OF DELEGATES; AND

5 (6) THE PRESIDENT OF THE SENATE.

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

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

14 2-409.

15 FOR THE PURPOSES OF THE STATE BUDGET:

16 (1) THE EDUCATION MONITORING UNIT IS AN INDEPENDENT UNIT  
17 OF THE STATE; AND

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

21 2-410.

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

25 (1) AN ANNUAL REPORT ON ITS GOALS AND PRIORITIES, ACTIVITIES,  
26 FINDINGS, AND RECOMMENDATIONS;

27 (2) SPECIFIC FINDINGS AND RECOMMENDATIONS RELATED TO ANY  
28 ALLEGATION REGARDING THE CARE, SUPERVISION, AND TREATMENT OF CHILDREN  
29 IN SCHOOL;

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

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

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

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

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

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

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