

Department of Legislative Services
 Maryland General Assembly
 2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 92 (The President, *et al.*) (By Request - Administration)
 Education, Health, and Environmental Affairs

Accountability in Education Act of 2019

This emergency Administration bill establishes the Education Monitoring Unit as an independent unit in the State to investigate, analyze, and report on upholding of teacher, student, and parent civil rights; on fraud, abuse, and waste regarding public funds and property; on child abuse, neglect, and safety; and on a range of specified matters relating to public schools and public school facilities. The unit must also establish and publicize an anonymous electronic tip program. The bill establishes an inspector general position as well as an inspector general selection and review commission within the unit.

Fiscal Summary

State Effect: General fund expenditures increase by \$689,100 in FY 2020 and by \$846,900 by FY 2024. Revenues are not affected. The Governor’s proposed FY 2020 budget includes sufficient funds for these purposes in FY 2020.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	689,100	767,200	792,600	819,300	846,900
Net Effect	(\$689,100)	(\$767,200)	(\$792,600)	(\$819,300)	(\$846,900)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local school system costs may increase as a result of an investigation.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Bill Summary:

Education Monitoring Unit Responsibilities and Authority

The Education Monitoring Unit must investigate complaints of unethical, unprofessional, or illegal conduct of individuals or entities associated with the provision of public educational facilities, products, or services to the Maryland State Department of Education (MSDE), a local board of education, or a public school in the State. The unit may make inquiries and obtain information, hold hearings, and (with exceptions) have access to records of MSDE and local boards of education and local school systems. The unit may serve a subpoena in the same manner as does a circuit court.

Inspector General Selection and Review Commission

The Inspector General Selection and Review Commission consists of nine appointed members who serve for four-year terms. Commission members are unpaid but are entitled to reimbursement for expenses. The commissioners must seek and review applications of proposed nominees for the inspector general position (when that office is vacant), seek recommendations, interview and evaluate eligible applicants, and report to the Governor on the selection within 70 days after notification that a vacancy exists or is about to occur.

Terms of Service and Removal from Office

The inspector general of the unit serves for a six-year term and receives a salary as provided in the State budget. The inspector general must by affidavit commit to not holding or seeking a State or local office both during and for three years following the term; the affidavit must be renewed every two years during the period of service.

Following a hearing, the commission may remove the inspector general for misconduct, persistent failure to perform duties of the office, or conduct prejudicial to proper administration of justice.

Reporting Requirements

At the conclusion of an investigation, the Education Monitoring Unit must make a report of its findings and any recommendations for prosecution or administrative action to:

- the person who requested the investigation;
- the relevant county State's Attorney (if criminal law is found to be violated);

- the State Superintendent and the State Board of Education;
- the Governor;
- the Senate President and the House Speaker; and
- the public, upon request of the person investigated.

The unit must also annually report on its goals and priorities, activities, findings, and recommendations and on its specific findings and recommendations related to (1) any allegation regarding care, supervision, and treatment of children in school and (2) investigations of disciplinary actions, grievances, incident reports, and alleged cases of fraud, waste, and abuse, or unethical conduct.

Current Law:

State and Local Authorities

The State Board of Education determines the elementary and secondary educational policies of the State and may institute legal proceedings to enforce its statutory authority and the bylaws, rules, and regulations adopted by the State board. The State Superintendent is also responsible for enforcement. If an educational institution or local school board violates any provision of law within the State Superintendent's jurisdiction, the State Superintendent may require the State Comptroller to withhold from that institution or local board all or any part of an appropriation made by the General Assembly and/or payment from funds budgeted by the State.

The State Superintendent must also receive and examine each report required under the bylaws, rules, and regulations of the State board; and examine the expenditures, business methods, and accounts of each county board and advise each county board about them.

A local board of education must carry out relevant State law and State board bylaws, rules, and regulations, and also determine the educational policies of the local school system. Among other duties, each local superintendent of schools must decide all controversies and disputes that involve the rules and regulations of the local board and the proper administration of the county public school system.

School System Audits

Each local board of education must provide for an annual audit of its financial transactions and accounts. Also, MSDE, at the request of a county government and in the absence of an agreement between a county government and a school board, must contract for a performance audit of a county school system. A performance audit covers an assessment

of a school system's practices to determine whether the school system or a school program is operating economically and efficiently.

Furthermore, the Office of Legislative Audits (OLA) must, at least once every six years, subject to certain waivers, conduct an audit of each local school system to evaluate the effectiveness and efficiency of the financial management practices of the local school system.

OLA must provide information regarding the audit process to the local school system before the audit is conducted. The legislative auditor must review each local school system's response to OLA's audit and advise the local school system of the results of the review. The legislative auditor must advise the Joint Audit Committee when a local school system:

- does not make a response to a recommendation;
- does not indicate action to be taken in response to a recommendation;
- has not taken the action the local school system indicated in its response to a recommendation; or
- responds in a manner that is not considered appropriate to carry out the recommendation.

The Executive Director of the Department of Legislative Services or the Joint Audit Committee may direct the legislative auditor to undertake a review to determine the extent to which action has been taken by a local school system to implement a report recommendation. With respect to findings and recommendations made to a local school system, the Joint Audit Committee may make recommendations to the Governor, State Superintendent of Schools, the local school governing board, or local school officials after reviewing a local school system's response to a recommended action.

School Safety and Student Rights

According to State regulations, all students in State public schools, without exception and regardless of race, ethnicity, region, religion, gender, sexual orientation, language, socioeconomic status, age, or disability, have the right to educational environments that are safe; appropriate for academic achievement; and free from any form of harassment. Each local board of education has both the responsibility and authority to adopt policies designed to create safe schools. State regulations also require each local board of education to have and disseminate to all members of the school community a document on students' responsibilities and rights.

Background: The Governor’s Supplemental Budget 2 for fiscal 2019 included \$656,191 in general funds and six positions for an Education Monitoring Unit within MSDE, \$400,000 and four positions for an Office of Compliance and Oversight within MSDE, and \$1,500,000 to facilitate an independent follow-up audit of local jurisdictions. However, the fiscal 2019 budget as passed made this funding contingent on the enactment of Senate Bill 302 or House Bill 355 of 2018. Neither of these cross filed bills – which were similar to this bill and its cross file – were enacted, thus the funding described above was not provided through the fiscal 2019 budget bill (Chapter 570). However, during fiscal 2019 the Administration transferred three vacant positions from another agency to MSDE to support education and compliance oversight.

State Fiscal Effect: To operate the new Education Monitoring Unit will require the addition of six new positions: an inspector general, a deputy inspector general, and four administrator positions. The fiscal estimate includes salaries, fringe benefits, one-time start-up costs (including the purchase of four vehicles at \$20,000 each), and ongoing operating expenses. This estimate allows time for the commission to be formed and to carry out its initial selection process and assumes that the inspector general position will be filled and additional staff are hired by October 1, 2019.

Positions	6.0
Salaries and Fringe Benefits	\$566,075
Vehicle Purchases/Operations	90,909
One-time Start-up Costs	29,340
Operating Expenses	<u>2,813</u>
Total FY 2020 State Expenditures	\$689,137

Future year expenditures reflect annualization, full salaries with annual increases and employee turnover, elimination of one-time costs, and ongoing operating expenses. This estimate assumes that an assistant Attorney General can provide advice as needed to the unit. It also assumes that sufficient space for the office can be obtained in an existing State building.

The Governor’s proposed fiscal 2020 budget includes funding related to eight new education compliance and oversight positions (in addition to three transferred positions in fiscal 2019) under the Office of the State Superintendent of Schools. The Department of Budget and Management advises that of these new positions, six positions represent the positions required under this bill, which would ultimately be placed within a new agency under this bill. Thus, it is assumed that fiscal 2020 funding under the Governor’s proposed budget is sufficient to cover expenditures under the bill.

Local Fiscal Effect: Local school system costs may increase to accommodate the investigations of the newly formed unit and to cover any fines or legal fees associated with investigations and/or findings of the new unit.

Additional Information

Prior Introductions: HB 355 of 2018 received a hearing in the House Ways and Means Committee. Its cross file, SB 302 of 2018, received a hearing in the Senate Education, Health, and Environmental Affairs Committee. No further action was taken on either bill.

Cross File: HB 45 (The Speaker, *et al.*) (By Request - Administration) - Ways and Means.

Information Source(s): Anne Arundel County Public Schools; Baltimore City Public Schools; Baltimore County Public Schools; Talbot County Public Schools; Wicomico County Public Schools; Maryland State's Attorneys' Association; Office of the Attorney General; Department of Budget and Management; Governor's Office; Judiciary (Administrative Office of the Courts); Maryland State Department of Education; Department of Legislative Services

Fiscal Note History: First Reader - February 5, 2019
md/rhh

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: **Accountability in Education Act of 2019**

BILL NUMBER: HB45/SB92

PREPARED BY: Governor's Legislative Office

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS