

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 272
Ways and Means

(Delegate Atterbeary)

Public School Systems - Performance Audits - Office of the Inspector General for
Education

This bill requires, absent an agreement between a county governing body and a local school board of education, the Maryland State Department of Education (MSDE), at the request of the Maryland Office of the Inspector General for Education (OIGE), to contract for a performance audit of a local public school system to address issues raised in findings identified by OIGE through an investigation or investigative audit. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: MSDE can contract for a performance audit of a local public school system as needed using existing resources. Although the costs for the performance audit must be shared by the local governing body and local school system, MSDE may temporarily incur costs to secure an audit prior to being reimbursed by the local entities; however, the overall impact on State finances is anticipated to be minimal. Beyond reimbursement for audit expenditures by local entities, revenues are not affected.

Local Effect: Expenditures for county governing bodies and local school systems increase by an estimated \$200,000 to \$500,000 per audit in the event that OIGE requests MSDE to contract for a performance audit; these costs are shared equally between the two jurisdictions. Revenues are not affected. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Minimal.

Analysis

Current Law:

Maryland Office of the Inspector General

OIGE is an independent unit of the State. The Inspector General (IG) is responsible for examining local boards of education, local school systems, and public schools; nonpublic schools that receive State funds; MSDE; and the Interagency Commission on School Construction. The IG may employ specified staff and receive and investigate complaints or information concerning:

- fraud, waste, and abuse involving the use of public funds and property;
- violations of the civil rights of students and employees;
- whether policies and procedures governing the prevention and reporting of child abuse and neglect comply with federal and State law; and
- compliance with other federal and State law.

With the exception of certain protected, confidential, and privileged documents, the IG must have access to records, data, reports, contracts, correspondence, and other documents of the entities it may investigate. The office may serve a subpoena in the same manner as does a circuit court. The office must annually report on its goals and priorities, activities, the number and nature of incidents it reports to specified State and federal entities, and findings and recommendations related to (1) instances of fraud, waste, and abuse; (2) civil rights violations; and (3) specified policy matters.

Performance Audit

MSDE, at the request of a county government and in the absence of an agreement between a county government and local 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 and whether corrective actions for improving its performance are appropriate. MSDE must make reasonable efforts to ensure that a performance audit is completed, and the results of the audit are made available to the local board in time to be considered by the local board in preparation of its budget for the next fiscal year.

The costs of the performance audit must be shared equally between the county governing body and the local board of education.

A performance audit conducted on this condition (1) must be conducted in accordance with generally accepted government auditing standards and (2) may not include an assessment or evaluation of a local board's efforts to meet the standards of the Maryland School Performance Program. However, a local governing body and local school board may make an agreement to perform or contract for a performance audit of school board functions, including an agreement involving the scope of the performance audit or the responsibility of the funding of the performance audit.

State Fiscal Effect: Although the costs for the performance audit must be shared by the local governing body and local school system, MSDE advises it will incur costs to secure an audit prior to being reimbursed by the local entities. MSDE notes that because requests for performance audits are not typically planned, they are not included in MSDE's annual budget. As a result, MSDE has had to engage in emergency procurements to obtain prior performance audits. The Department of Legislative Services advises that the overall impact on State finances is anticipated to be minimal.

Local Expenditures: Current law requires the costs of these performance audits to be shared equally between the county governing body and the local board of education. Thus, in the event that OIGE requests MSDE to contract for a performance audit, expenditures for these local entities increase. MSDE advises that costs for performance audits within the past five years range from \$200,000 to \$500,000. Therefore, expenditures for each county for governing body and local board of education increase by an estimated \$100,000 to \$250,000 each per performance audit.

According to its [annual report](#) during the 2022 reporting period, OIGE received 122 complaints: 105 were closed; 14 were elevated to an investigation; and 3 were assigned for an investigative audit. The report also includes investigative summaries. Actual costs will depend on the number of performance audits requested by OIGE based on their findings found.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Office of the Inspector General for Education; Maryland State Department of Education; Department of Legislative Services

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