S T A T E O F N E W Y O R K

8090

2013-2014 Regular Sessions

I N A S S E M B L Y

June 18, 2013

Introduced by M. of A. NOLAN -- read once and referred to the Committee on Education

AN ACT to amend the executive law, in relation to establishing an education inspector general

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

S Section 1. The executive law is amended by adding a new article 4-B to read as follows:

ARTICLE 4-B

OFFICE OF THE STATE INSPECTOR GENERAL FOR EDUCATION

SECTION 57. ESTABLISHMENT AND ORGANIZATION.
58. FUNCTIONS AND DUTIES.
59. POWERS.

S 57. ESTABLISHMENT AND ORGANIZATION. 1. THERE IS HEREBY ESTABLISHED THE OFFICE OF THE STATE INSPECTOR GENERAL FOR EDUCATION. THE HEAD OF THE OFFICE SHALL BE THE EDUCATION INSPECTOR GENERAL, WHO SHALL BE APPOINTED BY THE BOARD OF THE OFFICE OF THE STATE INSPECTOR GENERAL FOR EDUCATION. SUCH OFFICE SHALL BE INDEPENDENT OF THE DEPARTMENT OF EDUCATION AND OF ANY OTHER OFFICE, AGENCY, BOARD OR COMMISSION OF THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS.

2. THE EDUCATION INSPECTOR GENERAL MAY EMPLOY AND AT THEIR PLEASURE REMOVE SUCH PERSONNEL AS THEY DEEM NECESSARY FOR THE PERFORMANCE OF THE OFFICE, AND MAY FIX THEIR COMPENSATION WITH AMOUNTS AVAILABLE THEREFOR.

3. THERE IS HEREBY ESTABLISHED THE BOARD OF THE OFFICE OF THE STATE INSPECTOR GENERAL FOR EDUCATION WHICH SHALL CONSIST OF ELEVEN MEMBERS, AND SHALL HAVE AND EXERCISE THE POWERS AND DUTIES OF THE OFFICE OF THE STATE INSPECTOR GENERAL FOR EDUCATION.

4. THE BOARD MEMBERS SHALL BE APPOINTED AS FOLLOWS:

(A) THREE MEMBERS SHALL BE APPOINTED BY THE GOVERNOR, ONE OF WHOM SHALL BE DESIGNATED BY THE GOVERNOR AS THE CHAIR OF THE BOARD;

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD11554-01-3

(B) THREE MEMBERS SHALL BE APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE;
(C) THREE MEMBERS SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY;
(D) ONE MEMBER SHALL BE APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY; AND
(E) ONE MEMBER SHALL BE APPOINTED BY THE MINORITY LEADER OF THE SENATE.
5. THE BOARD MEMBERS SHALL SERVE FOR TERMS OF FIVE YEARS.
6. THE CHAIR OF THE BOARD OR ANY FIVE MEMBERS THEREOF MAY CALL A MEETING OF THE BOARD.
7. ANY VACANCY OCCURRING ON THE BOARD SHALL BE FILLED WITHIN SIXTY DAYS OF ITS OCCURRENCE, IN THE SAME MANNER AS THE MEMBER WHOSE VACANCY IS BEING FILLED WAS APPOINTED. A PERSON APPOINTED TO FILL A VACANCY OCCURRING OTHER THAN BY EXPIRATION OF A TERM OF OFFICE SHALL BE APPOINTED FOR THE UNEXPIRED TERM OF THE MEMBER HE OR SHE SUCCEEDS.
8. SIX MEMBERS OF THE BOARD SHALL CONSTITUTE A QUORUM AND THE BOARD SHALL HAVE THE POWER TO ACT BY MAJORITY VOTE OF THE TOTAL NUMBER OF MEMBERS OF THE BOARD WITHOUT VACANCY.
9. THE BOARD MEMBERS SHALL NOT RECEIVE COMPENSATION BUT SHALL BE REIMBURSED FOR REASONABLE EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES.
10. THE BOARD SHALL APPOINT AN EDUCATION INSPECTOR GENERAL WHO SHALL PERFORM THE POWERS AND DUTIES SET FORTH IN SECTIONS FIFTY-EIGHT AND FIFTY-NINE OF THIS ARTICLE, AND WHO SHALL SERVE FOR A TERM OF FIVE YEARS AND MAY ONLY BE DISMISSED FOR CAUSE OR BY A THREE-QUARTERS VOTE OF THE BOARD. THE BOARD MAY FIX THE COMPENSATION OF THE EDUCATION INSPECTOR GENERAL.
11. NO BOARD MEMBER, NOR THE EDUCATION INSPECTOR GENERAL, SHALL HOLD ANY ELECTED PUBLIC OFFICE OR OFFICE IN ANY POLITICAL PARTY, NOR SHALL ANY MEMBER BE AN EMPLOYEE OF OR UNDER THE SUPERVISION OF ANY PERSON WHO HOLDS SUCH ELECTED PUBLIC OFFICE OR OFFICE OF A POLITICAL PARTY. NO MEMBER OF THE BOARD SHALL SERVE IN ANY PUBLIC OR POLITICAL OFFICE WITHIN FIVE YEARS OF THE MEMBER'S PERIOD OF SERVICE.
12. THE EDUCATION INSPECTOR GENERAL SHALL, PRIOR TO THEIR APPOINTMENT, HAVE HAD AT LEAST TEN YEARS EXPERIENCE IN AUDITING OR LAW ENFORCEMENT OR INVESTIGATION, OR IN PROSECUTING OR AIDING IN THE PROSECUTION OF FRAUD.
13. MEMBERS OF THE BOARD SHALL, PRIOR TO THEIR APPOINTMENT, HAVE HAD AT LEAST THREE YEARS EXPERIENCE IN AUDITING OR INVESTIGATION OF GOVERNMENTAL OR SCHOOL DISTRICT OPERATIONS, OR IN THE PRACTICE OF LAW, LAW ENFORCEMENT OR IN SERVICES RELATED TO DEVELOPMENT AND MANAGEMENT OF INFORMATION TECHNOLOGY OR DATABASE CREATION AND MAINTENANCE.
S 58. FUNCTIONS AND DUTIES. THE EDUCATION INSPECTOR GENERAL SHALL HAVE THE FOLLOWING DUTIES AND RESPONSIBILITIES:
1. TO RECEIVE AND INVESTIGATE COMPLAINTS FROM ANY SOURCE, OR UPON HIS OR HER OWN INITIATIVE, CONCERNING ALLEGATIONS OF CORRUPTION, FINANCIAL IMPROPRIETIES, UNETHICAL CONDUCT, MISCONDUCT OR OTHER CRIMINAL CONDUCT WITHIN PUBLIC SCHOOL DISTRICTS OUTSIDE OF A CITY WITH A POPULATION OF ONE MILLION OR MORE;
2. TO INVESTIGATE AND REPORT ON CORRUPTION AND OTHER CRIMINAL ACTIVITY, SCHOOL BOARD ELECTION FRAUD, BIDDING IRREGULARITIES AND CONFLICTS OF INTEREST BY PUBLIC SCHOOL DISTRICT EMPLOYEES WHOSE ACTIONS RELATE TO THEIR EMPLOYMENT, PERSONS OR ENTITIES DOING BUSINESS WITH A PUBLIC SCHOOL DISTRICT CONCERNING THEIR TRANSACTIONS WITH THE SCHOOL DISTRICT, AND SCHOOL BOARD MEMBERS WHOSE ACTIONS RELATE TO THEIR OFFICE;
3. TO DETERMINE WITH RESPECT TO SUCH ALLEGATIONS WHETHER DISCIPLINARY ACTION, CIVIL OR CRIMINAL PROSECUTION, OR FURTHER INVESTIGATION BY AN

APPROPRIATE FEDERAL, STATE OR LOCAL AGENCY IS WARRANTED, AND TO ASSIST IN SUCH INVESTIGATIONS;

4. TO REVIEW AND EXAMINE PERIODICALLY THE POLICIES AND PROCEDURES OF PUBLIC SCHOOL DISTRICTS WITH REGARD TO THE PREVENTION AND DETECTION OF CORRUPTION, FINANCIAL IMPROPRIETIES, UNETHICAL CONDUCT, MISCONDUCT, OTHER CRIMINAL CONDUCT, SCHOOL BOARD ELECTION FRAUD, BIDDING IRREGULARITIES AND CONFLICTS OF INTEREST OR ABUSE;

5. TO RECOMMEND REMEDIAL ACTION TO PREVENT OR ELIMINATE CORRUPTION, FINANCIAL IMPROPRIETIES, UNETHICAL CONDUCT, MISCONDUCT, OTHER CRIMINAL CONDUCT, SCHOOL BOARD ELECTION FRAUD, BIDDING IRREGULARITIES, CONFLICTS OF INTEREST OR ABUSE BY PUBLIC SCHOOL DISTRICT OFFICIALS AND EMPLOYEES;

6. TO ESTABLISH PROGRAMS FOR TRAINING PUBLIC SCHOOL OFFICIALS AND EMPLOYEES REGARDING THE PREVENTION AND ELIMINATION OF CORRUPTION, FINANCIAL IMPROPRIETIES, UNETHICAL CONDUCT, MISCONDUCT, OTHER CRIMINAL CONDUCT, SCHOOL BOARD ELECTION FRAUD, BIDDING IRREGULARITIES AND CONFLICTS OF INTEREST OR ABUSE;

7. TO PREPARE AN ANNUAL REPORT THAT PROVIDES THE RESULTS OF THE EDUCATION INSPECTOR GENERAL'S FINDINGS WITH RESPECT TO ALL INVESTIGATIONS AND DETAILED ANALYSIS OF THE CURRENT FINANCIAL STATUS OF THOSE SCHOOL DISTRICTS THAT HAVE BEEN REVIEWED;

8. TO INCLUDE IN SUCH REPORT ANY FINDINGS REGARDING THE FINANCIAL PRACTICES OF THE SCHOOL DISTRICT THAT THE EDUCATION INSPECTOR GENERAL BELIEVES VIOLATED, OR COULD POTENTIALLY VIOLATE, EXISTING STATE RULES OR REGULATIONS OR MAY BE OF CONCERN IN THAT INCOMPETENCE OR LACK OF TRAINING MAY RESULT IN FINANCIAL PRACTICES THAT VIOLATE STATE RULES AND REGULATIONS;

9. TO ISSUE THE REPORT TO THE LEGISLATURE, THE COMPTROLLER AND THE DEPARTMENT OF EDUCATION WITH EACH ANNUAL REPORT POSTED ON A PUBLIC INTERNET WEBSITE FOR AT LEAST FIVE YEARS FROM THE DATE OF ISSUANCE.

S 59. POWERS. THE EDUCATION INSPECTOR GENERAL SHALL HAVE THE POWER TO:

1. SUBPOENA AND ENFORCE THE ATTENDANCE OF WITNESSES, INCLUDING THE POWER TO SUBPOENA DOCUMENTS AND RECORDS NECESSARY TO ANY INVESTIGATION FROM ANY PUBLIC SCHOOL DISTRICT OUTSIDE OF A CITY WITH A POPULATION OF ONE MILLION OR MORE AND FROM VENDORS WHO DO BUSINESS WITH SUCH PUBLIC SCHOOL DISTRICTS;

2. ADMINISTER OATHS OR AFFIRMATIONS AND EXAMINE WITNESSES UNDER OATH;

3. REQUIRE THE PRODUCTION OF ANY BOOKS AND PAPERS DEEMED RELEVANT OR MATERIAL TO ANY INVESTIGATION, EXAMINATION OR REVIEW;

4. NOTWITHSTANDING ANY LAW TO THE CONTRARY, EXAMINE AND COPY OR REMOVE DOCUMENTS OR RECORDS OF ANY KIND PREPARED, MAINTAINED OR HELD BY ANY PUBLIC SCHOOL DISTRICT COVERED BY THIS ARTICLE;

5. REQUIRE ANY PUBLIC SCHOOL DISTRICT EMPLOYEE TO ANSWER QUESTIONS CONCERNING ANY MATTER RELATED TO THE PERFORMANCE OF HIS OR HER OFFICIAL DUTIES. NO STATEMENT OR OTHER EVIDENCE DERIVED THEREFROM MAY BE USED AGAINST SUCH OFFICER OR EMPLOYEE IN ANY SUBSEQUENT CRIMINAL PROSECUTION OTHER THAN FOR PERJURY OR CONTEMPT ARISING FROM SUCH TESTIMONY. THE REFUSAL OF ANY OFFICER OR EMPLOYEE TO ANSWER QUESTIONS SHALL BE CAUSE FOR REMOVAL FROM OFFICE OR EMPLOYMENT OR OTHER APPROPRIATE PENALTY;

6. MONITOR THE IMPLEMENTATION BY PUBLIC SCHOOL DISTRICTS OF ANY RECOMMENDATIONS MADE BY THE EDUCATION INSPECTOR GENERAL;

7. PERFORM ANY OTHER FUNCTIONS THAT ARE NECESSARY OR APPROPRIATE TO FULFILL THE DUTIES AND RESPONSIBILITIES OF THE OFFICE.

S 2. This act shall take effect immediately.