

# STATE OF NEW YORK

4409

2023-2024 Regular Sessions

## IN SENATE

February 8, 2023

Introduced by Sen. FERNANDEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law, in relation to the office of state inspector general

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions 1, 2 and 3 of section 52 of the executive law, as added by chapter 766 of the laws of 2005, are amended to read as follows:

1. There is hereby established the office of the state inspector general in the executive department. The head of the office shall be the state inspector general who shall be appointed by the governor and confirmed by the state senate. The state inspector general shall not have worked for any covered agency, registered lobbyist, or entity with a state contract in the last five years.

2. The state inspector general shall hold office [~~until the end of the term of the governor by whom he or she was appointed and until his or her successor is appointed and has qualified~~] for six years.

3. The state inspector general shall report to the secretary to the governor and the legislature. It shall be the duty and responsibility of the state inspector general to keep the secretary to the governor and the legislature fully and currently informed by means of reports required by section fifty-three of this article and otherwise, concerning corruption, fraud, criminal activity, conflicts of interest or abuse, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

§ 2. Subdivision 4 of section 53 of the executive law, as added by chapter 766 of the laws of 2005, is amended, subdivisions 5, 6 and 7 are renumbered subdivisions 7, 8 and 9, and four new subdivisions 5, 6, 10 and 11 are added to read as follows:

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

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4. prepare and release to the legislature and the public written reports of such investigations, as appropriate and to the extent permitted by law, subject to redaction to protect the confidentiality of witnesses. The release of all or portions of such reports may be deferred to protect the confidentiality of ongoing investigations;

5. publish within fourteen days on its publicly available website the number of complaints received in the prior month, the method of receipt, the agency or authority involved in each complaint, and classification of each complaint. Such data shall also be shared with the open data website data.ny.gov or such other successor website maintained by, or on behalf of, the state, as deemed appropriate by the New York state office of information technology services under executive order ninety-five of two thousand thirteen, or any successor agency or order.

6. report immediately to the secretary of the governor whenever the state inspector general becomes aware of particularly serious or flagrant cases of corruption, fraud, criminal activity, conflicts of interest or abuse, except in cases where doing so would interfere with an ongoing investigation. The secretary to the governor shall transmit any such report to the appropriate committees of the legislature within seven calendar days, together with a report by the secretary to the governor containing any comments such head deems appropriate;

10. (a) provide an annual report no later than December thirty-first to the legislature summarizing the activities of the office over the last year, including:

(i) aggregated data about all complaints received by the office, including but not limited to:

(1) number of complaints;

(2) number of complaints received disaggregated by type of source;

(3) alleged violations disaggregated by subject type and policies or laws violated;

(4) number of complaints dismissed without investigation;

(5) number of complaints referred by agency or entity referred to;

(6) number of complaints investigated;

(7) number of cases for which allegations are substantiated in whole or part;

(8) types of substantiated violations, disaggregated by subject type and policies or laws violated, for closed cases;

(9) number of cases settled, with settlements disaggregated by type;

(10) number of cases for which penalties are assessed;

(11) types of penalties assessed disaggregated by type;

(12) number of open cases; and

(13) the duration of cases including median, average, and percentages of cases taking particular periods of time;

(ii) a description of significant cases of corruption, fraud, criminal activity, conflicts of interest or abuse within covered agencies disclosed by such activities during the reporting period;

(iii) a description of the recommendations for corrective action made by the office during the reporting period with respect to significant cases of corruption, fraud, criminal activity, conflicts of interest or abuse identified pursuant to this paragraph;

(iv) an identification of each significant recommendation described in previous annual reports on which corrective action has not been completed;

(v) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted;

1 (vi) a report on each investigation conducted by the office involving  
2 a senior government employee where allegations of misconduct were  
3 substantiated, including the name of the senior government official, as  
4 defined by the department or agency, if already made public by the  
5 office, and a detailed description of:

6 (1) the facts and circumstances of the investigation; and

7 (2) the status and disposition of the matter, including:

8 (A) if the matter was referred to the local, state, or federal prose-  
9 cutors, the date of the referral; and

10 (B) if the agency declined the referral, the date of the declination;

11 (vii) a detailed description of any instance of whistleblower retali-  
12 ation, including information about the official found to have engaged in  
13 retaliation; and what, if any, consequences the establishment actually  
14 imposed to hold the official accountable;

15 (viii) a detailed description of any attempt by covered agencies to  
16 interfere with the independence of the office, including incidents where  
17 the agency has resisted or objected to oversight activities of the  
18 office or restricted or significantly delayed access to information,  
19 including the justification of the agency for such action;

20 (b) these reports must be made available to the public with necessary  
21 redactions within thirty days of their delivery to the legislature.

22 11. publish on its publicly accessible website information about the  
23 office's duties and responsibilities, including a public procedures  
24 manual for how an enforcement complaint is filed, opened, investigated  
25 and resolved.

26 § 3. This act shall take effect on the first of January next succeed-  
27 ing the date on which it shall have become a law.