

**Board of Education Meeting Date:** 4/25/2019

**Action under consideration**

WHEREAS, the Board of Education ("BOE") possesses all necessary powers and authority under the Public School Code to establish, equip, furnish, operate and maintain the public schools of the School District of Philadelphia ("District"), and responsibility for the proper exercise of its authority over and oversight of District operations;

WHEREAS, the BOE's powers include powers to audit and conduct analyses, evaluate and supervise, and delegate or enter into agreements for such authority, pursuant to, among other applicable laws, the Public School Code of 1949, Article XII Education Supplement to the Philadelphia Home Rule Charters, and in accordance with District policies and administrative procedures;[1]

WHEREAS, an Office of the Inspector General, responsible for conducting independent investigations into referrals and complaints concerning corruption, fraud, criminal activity, waste, abuse, mismanagement, abuse of office, misconduct, and/or conflicts of interest (collectively referred to herein as "improper conduct"), plays an essential role in ensuring good stewardship of public resources and the integrity of the District and its operations, and is consistent with District Policies and related administrative procedures;

WHEREAS, the District has historically had an Office of Inspector General ("OIG"), which office was previously re-confirmed and re-established under a now expired December 1, 2014 Memorandum of Understanding with the City of Philadelphia Office of Inspector General; and

WHEREAS, the BOE, recognizing the continued importance of the mission of the OIG, desires to further establish and confirm the purpose and scope of the OIG through this Resolution;

NOW THEREFORE, the BOE resolves to confer powers and authority on the OIG in accordance with the parameters set forth herein.

**Section 1. ORGANIZATION AND MISSION**

The OIG is established as an operationally independent Office within the District, which reports directly to the BOE, including the Superintendent as a non-voting member of the BOE. The OIG shall be headed by an Inspector General for the School District appointed by the BOE.

The mission of the OIG is to promote integrity within the District, and to assist the District and the BOE in ensuring oversight of use of taxpayer funds, by establishing and implementing mechanisms for reporting, investigating, making recommendations regarding, and resolving instances or patterns of improper conduct related to operation of the District, entities receiving funds from the District, and those who transact business with or provide services to the District or use funds supplied by the District.

**Section 2. APPLICABLE LAW**

All provisions of this Resolution are intended to be read and interpreted in accordance with all applicable law, including but not limited to the rights of individuals pursuant to the Pennsylvania and United States Constitutions.

**Section 3. TYPE AND SUBJECT OF MATTERS INVESTIGATED BY THE OIG**

The OIG shall have the authority, based on the receipt of referrals, complaints or information, or on its own initiative, to investigate potential improper conduct in or affecting the District or involving funds provided by the District. To this end:

a. This authority extends to investigations concerning all offices, departments, divisions, units, schools, programs, and agencies of the District and Intermediate Unit 26; current and former employees; other educational entities that receive District funds; contractors, subcontractors, and others that earn or otherwise receive funds or other benefit from the District, directly or indirectly; grantors and donors to the District; contractors, concessionaires, lessees and lessors, licensees and licensors, anyone using District facilities, or any person or entity involved in transactions, partnering, or providing services for or with the District, whether or not involving the exchange of money.

b. Such authority may involve District affairs, funds, matters, or transactions in relation to, by way of example, potential or actual:

- violation of BOE policies, District procedures, law, or applicable ethical or professional responsibility rules, regulations, or codes
- breaches of agreements with the District and activities that may constitute cause for contract termination or the termination of District funding
- irregular billing or payment practices
- inappropriate disclosure or sharing of confidential or protected information, such as student or employee data or information, competitive procurement processes, privileged communications, and security information

- irregular recordkeeping, reporting, and accounting practices respecting District funds, and funds or other donations given to or raised to support or for the benefit of the District, schools, or students
- activities and violations of applicable law, agreements, or District policies involving schools, programs, services, or other entities receiving District funds on account of students who reside in the City of Philadelphia
- irregular and unethical practices in connection with representation of students, families, employees, or others, including practices involving fee shifting statutes and regulations
- tuition and enrollment or attendance at any District, charter, or other school or program in Philadelphia by children not residing in the City of Philadelphia
- activity that may be cause for employment discipline or termination
- such other matters as may be requested by the BOE, its President, or the Superintendent

#### **Section 4. COORDINATION WITH OTHER AUTHORITIES**

The OIG is authorized to coordinate with other authorities as follows:

- a. The OIG may work with federal, state, and local law enforcement and regulatory agencies to ensure efficiency and appropriate cooperation and coordination of investigatory activities.
- b. The OIG may, consistent with law, refer evidence of improper conduct or illegality directly to an appropriate law enforcement or regulatory agency, which referral may include agreement to conduct a joint investigation.
- c. The OIG may coordinate with the District Office of General Counsel, Office of Talent, and other District offices to ensure efficiency of investigatory activities unless the OIG, in its discretion, determines that such coordination otherwise impedes an investigation or OIG independence.

#### **Section 5. OTHER DUTIES OF THE OIG**

Additional duties of the OIG include the following:

- a. Upon completion of an investigation, the OIG may share a draft of a report with the BOE or the Superintendent to afford opportunity for clarification and response to questions before the report is finalized.
- b. Subsequent to step 1, upon completion of an investigation and preparation of any final report by the OIG, the OIG shall submit the report to the BOE, the Superintendent, and the Office of General Counsel. The OIG, however, in its discretion, may withhold a final report from any person on the BOE, the Office of the Superintendent, or the Office of General Counsel, if such person is the subject of the investigation and disclosure may impede investigation by a law enforcement agency.
- c. A report may include recommendations for action, such as: (i) discipline or other employment action; (ii) review for potential legal action; (iii) changes to policy or procedures to prevent issues from recurring; (iv) imposition of fines, penalties, or other sanctions; (v) termination of a contract or funding; (vi) suspension or debarment from contracts with the District; (vii) any other action that may appropriately address issues uncovered through investigation, or (viii) reporting to federal, state, or local law enforcement or regulatory agencies.
- d. Whenever appropriate, the OIG may recommend policies and procedures designed to promote economy, efficiency, and effectiveness in the administration of the District, and policies and procedures designed to detect, prevent and resolve improper conduct. If the OIG finds indications of institutionalized process, policy, or other issues that may lead to significant patterns of improper conduct within the District, the OIG shall submit a report and include recommendations to address those matters.
- e. The OIG may review actions taken by the District pursuant to recommendations made by the OIG and issue a report on the status of its recommendations.
- f. The OIG shall submit an annual report to the BOE, Superintendent, and Office of General Counsel that generally summarizes complaints received during the course of the year, the investigations conducted, the recommendations made, and such other information as is requested by the BOE or Superintendent, or that the OIG deems appropriate.
- g. The OIG shall, on a regular basis, communicate information concerning the role of the OIG, and the responsibilities of District employees, contractors and others subject to investigation by the OIG.
- h. Aside from the disclosures expressly authorized for herein, the OIG shall keep all records of investigations confidential, including the identities of individuals who provide information in connection with an investigation, to the extent permitted by law. This provision does not include records and information shared with other authorities pursuant to Section 4 above. This provision also does not preclude the OIG from providing public notification of the conclusions of an investigation, in coordination with the BOE and the Superintendent, and consistent with law.

i. The OIG shall work with due care to ensure that information is not disclosed which would violate the Family Educational Rights and Privacy Act, illegally constitute an invasion of privacy of a District employee or other individual subject to investigation by the OIG, or that would undermine the integrity of any investigation.

#### **Section 6. DUTIES AND RESPONSIBILITIES TO COOPERATE WITH THE OIG**

- a. District employees, recipients of District funds, and all other categories of individuals or entities referenced herein, shall report promptly and directly to the OIG any knowledge or information that they reasonably believe may involve improper conduct with respect to the District, District funds, or funds or services received by or for the benefit of schools or students. If in doubt as to whether circumstances warrant referral of a matter to the OIG, the OIG should be contacted.
- b. District employees, recipients of District funds, and all other categories of individuals or entities referenced herein, shall cooperate fully with representatives of the OIG by providing complete, truthful, and accurate information as well as the necessary assistance in matters being investigated. The OIG shall have immediate, complete, and unrestricted access to all papers, books, records, documents, information, personnel, processes (including meetings), data, computer hard drives, emails, instant messages, facilities, or other assets owned, borrowed, or used by the District, which includes information regarding District contractors or any other partnership, corporation, organization or entity that may be involved with the District, as deemed necessary in performing investigative and/or audit activities and other requested information, including automated and electronic data, pertaining to the business of the BOE and the District within their custody.
- c. District employees are prohibited from taking or threatening to take any action in an attempt to prevent anyone from providing information to, or cooperating with, the OIG, and from retaliating against anyone for doing so.
- d. An employee may be subject to discipline by the District for, in bad faith, making an allegation, complaint, or referral to the OIG, meaning the employee knows or reasonably should know that the allegation, complaint, or referral is unfounded, is made to retaliate or harass, or is made for a purpose other than exposing improper conduct.
- e. District employees may not independently investigate matters involving suspected improper conduct prior to referral to the OIG. This restriction shall not apply to the Office of General Counsel.
- f. OIG reports shall be provided only to those District employees who need such access in the discharge of their duties. Employees shall maintain accountability for the reports, ensure confidentiality of reports, and refrain from releasing any report or disclosing any portion thereof, without authorization of the OIG, the District General Counsel, and the BOE, or as otherwise required by law.
- g. District employees who are responsible for taking action pursuant OIG investigations shall base decisions on the totality of the evidence and in conformity with applicable procedural rights and protections. Contents of OIG reports of investigation, or portions thereof, may constitute evidence used to support disciplinary action or other sanctions or actions, but need not constitute the totality of the evidence relevant in any proceeding or matter. Appropriate disclosure to the employee may include information contained in the OIG's report of investigation, after consultation with the OIG.
- h. The Superintendent or his designee shall, within thirty (30) days, submit a written report to the OIG detailing action taken or plans to correct violations or other response to findings and recommendations made in OIG reports of investigation.
- i. The delegation of authority to the OIG in this Resolution does not affect the authority and responsibility of the BOE, the Superintendent, and the District to otherwise exercise their designated powers and fulfill their assigned duties.
- j. The Superintendent or his designee shall communicate to District employees, contractors, and others who do business with the District, including the categories of individuals and entities referenced herein, their responsibilities pursuant to this Resolution.

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[1]See, for example, Policies 000, 002, 300, 317, 317.1, 331, 334, 336, 348, 351, 400, 403, 404, 405, 601, 607, 608, 609, 610.1, 616, 617, 618, 619, 707, 710, 717, 805.1, 815, 815.1, 824, 828, 830, 913, and 1000.

**Office Originating Request:** Board of Education