

HOUSE BILL 194

F3
HB 184/18 – W&M

9lr0469

By: **Prince George's County Delegation**
Introduced and read first time: January 23, 2019
Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County Public Schools – Office of Accountability and**
3 **Compliance – Establishment**

4 **PG 508–19**

5 FOR the purpose of establishing the Office of Accountability and Compliance in the Prince
6 George's County public school system; requiring the County Council of Prince
7 George's County to select and appoint the Accountability and Compliance Officer;
8 providing for the qualifications and term of the Accountability and Compliance
9 Officer and the filling of a vacancy in the Office of Accountability and Compliance;
10 authorizing the removal of the Accountability and Compliance Officer under certain
11 circumstances; prohibiting the Accountability and Compliance Officer from holding
12 secondary employment during a term as Accountability and Compliance Officer;
13 setting forth the duties of the Office; authorizing the Office to conduct certain
14 investigations, analyses, audits, and reviews, provide management advisories, and
15 utilize the assistance of certain other persons; requiring the Accountability and
16 Compliance Officer to comply with generally accepted government auditing
17 standards under certain circumstances; requiring the Accountability and
18 Compliance Officer to publish certain written reports on the Accountability and
19 Compliance Officer's website; prohibiting the Accountability and Compliance Officer
20 from disclosing certain information that is protected from disclosure; authorizing the
21 Accountability and Compliance Officer to make certain oral reports under certain
22 circumstances; requiring the Accountability and Compliance Officer to establish and
23 follow procedures for safeguarding the identity of confidential sources and protecting
24 confidential information; requiring the Accountability and Compliance Officer to
25 publish certain comments or responses with certain reports on the Accountability
26 and Compliance Officer's website; requiring the Accountability and Compliance
27 Officer to report certain allegations to certain persons under certain circumstances;
28 requiring the Accountability and Compliance Officer to coordinate with the Prince
29 George's County public school system to develop a certain work plan and establish
30 certain goals and priorities for the Office; requiring the Accountability and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Compliance Officer to make the work plan available to the public, subject to certain
 2 laws; requiring certain individuals to promptly provide certain information to the
 3 Accountability and Compliance Officer under certain circumstances; requiring the
 4 Accountability and Compliance Officer to notify the county board, the Chief
 5 Executive Officer, and the local school system if certain individuals fail to provide
 6 certain information; requiring the county board and Chief Executive Officer to take
 7 certain action under certain circumstances; providing that a Prince George's County
 8 public school system employee should report any fraud, waste, or abuse to the Office;
 9 prohibiting a Prince George's County public school system employee, vendor, or
 10 employee of a vendor from being retaliated against, penalized, or threatened with
 11 retaliation for certain actions; prohibiting the Accountability and Compliance Officer
 12 from disclosing the identity of a certain person under certain circumstances;
 13 authorizing the Accountability and Compliance Officer to administer an oath or
 14 affirmation or take an affidavit from any person under certain circumstances;
 15 authorizing the Accountability and Compliance Officer to administer an oath and
 16 take a deposition and other testimony for certain purposes; authorizing the
 17 Accountability and Compliance Officer to subpoena any person or evidence for a
 18 certain purpose; authorizing a court of competent jurisdiction to compel compliance
 19 with a certain order or subpoena or compel testimony or the production of evidence;
 20 requiring the Accountability and Compliance Officer to submit to the Prince George's
 21 County Board of Education a certain budget proposal each year; requiring the county
 22 board to include in its annual budget proposal certain amounts for the Office;
 23 defining certain terms; providing for the application of this Act; transferring the
 24 functions, powers, and duties of the Office of Internal Audit of the Prince George's
 25 County public school system to the Office of Accountability and Compliance on a
 26 certain date; requiring that certain employees who are transferred to the Office of
 27 Accountability and Compliance be transferred without any diminution of their
 28 rights; and generally relating to the establishment of the Office of Accountability and
 29 Compliance in the Prince George's County public school system.

30 BY adding to

31 Article – Education

32 Section 4–404

33 Annotated Code of Maryland

34 (2018 Replacement Volume and 2018 Supplement)

35 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

36 That the Laws of Maryland read as follows:

37 **Article – Education**

38 **4–404.**

39 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 40 INDICATED.

41 (2) (I) “ABUSE” MEANS AN EMPLOYEE’S INTENTIONAL

1 MISCONDUCT OR MISUSE OF AUTHORITY OR POSITION:

2 1. INVOLVING PROPERTY OR FUNDS OF THE LOCAL
3 SCHOOL SYSTEM THAT IS IMPROPER OR DEFICIENT WHEN COMPARED TO CONDUCT
4 A PRUDENT PERSON WOULD CONSIDER REASONABLE UNDER THE SAME FACTS AND
5 CIRCUMSTANCES; OR

6 2. FOR THE PURPOSE OF FURTHERING IMPROPERLY
7 THE PRIVATE INTERESTS OF THE EMPLOYEE, A FAMILY MEMBER, OR A CLOSE
8 PERSONAL OR BUSINESS ASSOCIATE.

9 (II) "ABUSE" INCLUDES:

10 1. THEFT OR MISAPPROPRIATION OF PROPERTY OR
11 FUNDS OF THE LOCAL SCHOOL SYSTEM; AND

12 2. DESTRUCTION OR ALTERATION OF OFFICIAL
13 RECORDS.

14 (3) (I) "FRAUD" MEANS AN INTENTIONAL ACT OR ATTEMPT TO
15 OBTAIN SOMETHING OF VALUE FROM THE LOCAL SCHOOL SYSTEM OR ANOTHER
16 PERSON THROUGH WILLFUL MISREPRESENTATION.

17 (II) "FRAUD" INCLUDES A WILLFUL FALSE REPRESENTATION
18 OF A MATERIAL FACT, WHETHER BY WORDS OR BY CONDUCT, BY FALSE OR
19 MISLEADING ALLEGATIONS, OR BY CONCEALMENT OF THAT WHICH SHOULD HAVE
20 BEEN DISCLOSED, THAT CAUSES THE LOCAL SCHOOL SYSTEM TO ACT, OR FAIL TO
21 ACT, TO THE DETRIMENT OF THE INTEREST OF THE LOCAL SCHOOL SYSTEM.

22 (4) "LOCAL SCHOOL SYSTEM" MEANS THE PRINCE GEORGE'S
23 COUNTY PUBLIC SCHOOL SYSTEM.

24 (5) "OFFICE" MEANS THE OFFICE OF ACCOUNTABILITY AND
25 COMPLIANCE IN THE LOCAL SCHOOL SYSTEM.

26 (6) "VENDOR" MEANS A PARTY OBLIGATED BY CONTRACT OR
27 SUBCONTRACT TO PROVIDE GOODS, SERVICES, OR PROPERTY TO THE LOCAL
28 SCHOOL SYSTEM FOR CONSIDERATION, INCLUDING CONTRACTS AND
29 SUBCONTRACTS FOR CONSTRUCTION AND PROFESSIONAL SERVICES RELATED TO
30 CONSTRUCTION.

31 (7) (I) "WASTE" MEANS AN INAPPROPRIATE ACT OR OMISSION BY
32 AN EMPLOYEE WITH CONTROL OVER OR ACCESS TO LOCAL SCHOOL SYSTEM
33 PROPERTY OR FUNDS THAT UNREASONABLY DEPRIVES THE LOCAL SCHOOL SYSTEM

1 OF VALUE.

2 (II) "WASTE" INCLUDES MISMANAGEMENT OR OTHER
3 UNINTENTIONAL CONDUCT THAT IS DEFICIENT OR IMPROPER WHEN COMPARED TO
4 CONDUCT THAT A PRUDENT PERSON WOULD CONSIDER NECESSARY TO PRESERVE
5 THE VALUE OF PROPERTY OR FUNDS OF THE LOCAL SCHOOL SYSTEM UNDER THE
6 SAME FACTS AND CIRCUMSTANCES.

7 (B) THIS SECTION APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

8 (C) (1) THERE IS AN OFFICE OF ACCOUNTABILITY AND COMPLIANCE IN
9 THE LOCAL SCHOOL SYSTEM.

10 (2) (I) THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY
11 SHALL SELECT AND APPOINT THE ACCOUNTABILITY AND COMPLIANCE OFFICER.

12 (II) THE COUNTY COUNCIL SHALL SELECT THE
13 ACCOUNTABILITY AND COMPLIANCE OFFICER SOLELY ON THE BASIS OF
14 PROFESSIONAL ABILITY AND PERSONAL INTEGRITY, WITHOUT REGARD TO
15 POLITICAL AFFILIATION.

16 (III) THE ACCOUNTABILITY AND COMPLIANCE OFFICER SHALL
17 BE QUALIFIED PROFESSIONALLY BY EXPERIENCE OR EDUCATION IN AUDITING,
18 GOVERNMENT OPERATIONS, OR FINANCIAL MANAGEMENT.

19 (D) (1) THE TERM OF THE ACCOUNTABILITY AND COMPLIANCE OFFICER
20 IS 4 YEARS BEGINNING ON THE DATE OF APPOINTMENT.

21 (2) AN INDIVIDUAL MAY NOT SERVE AS ACCOUNTABILITY AND
22 COMPLIANCE OFFICER FOR MORE THAN THREE TERMS.

23 (3) THE ACCOUNTABILITY AND COMPLIANCE OFFICER CONTINUES
24 TO SERVE UNTIL A SUCCESSOR IS APPOINTED.

25 (4) IF A VACANCY OCCURS FOR THE ACCOUNTABILITY AND
26 COMPLIANCE OFFICER, THE COUNTY COUNCIL SHALL APPOINT AN INTERIM
27 ACCOUNTABILITY AND COMPLIANCE OFFICER TO SERVE FOR THE REMAINDER OF
28 THE UNEXPIRED TERM.

29 (5) THE COUNTY COUNCIL MAY REMOVE THE ACCOUNTABILITY AND
30 COMPLIANCE OFFICER ONLY THROUGH A MAJORITY VOTE OF THE COUNTY
31 COUNCIL FOR NEGLECT OF DUTY, MALFEASANCE, CONVICTION OF A FELONY, OR
32 OTHER GOOD CAUSE.

1 **(6) THE ACCOUNTABILITY AND COMPLIANCE OFFICER SHALL**
2 **DISCHARGE THE DUTIES OF OFFICE ON A FULL-TIME BASIS AND WITH NO**
3 **SECONDARY EMPLOYMENT OF ANY NATURE DURING THE ACCOUNTABILITY AND**
4 **COMPLIANCE OFFICER'S TERM.**

5 **(E) (1) THE OFFICE OF ACCOUNTABILITY AND COMPLIANCE SHALL:**

6 **(I) ASSIST THE COUNTY COUNCIL AND THE LOCAL SCHOOL**
7 **SYSTEM BY PROVIDING INDEPENDENT EVALUATION AND RECOMMENDATIONS**
8 **REGARDING OPPORTUNITIES TO:**

9 **1. PRESERVE THE LOCAL SCHOOL SYSTEM'S**
10 **REPUTATION; AND**

11 **2. IMPROVE THE EFFECTIVENESS, PRODUCTIVITY, OR**
12 **EFFICIENCY OF LOCAL SCHOOL SYSTEM PROGRAMS, POLICIES, PRACTICES, AND**
13 **OPERATIONS;**

14 **(II) ENSURE PUBLIC ACCOUNTABILITY BY PREVENTING,**
15 **INVESTIGATING, AND REPORTING INSTANCES OF FRAUD, WASTE, AND ABUSE OF**
16 **PROPERTY OR FUNDS OF THE LOCAL SCHOOL SYSTEM;**

17 **(III) EXAMINE, EVALUATE, AND REPORT ON THE ADEQUACY AND**
18 **EFFECTIVENESS OF THE SYSTEMS OF INTERNAL CONTROLS AND THEIR RELATED**
19 **ACCOUNTING, FINANCIAL, TECHNOLOGY, AND OPERATIONAL POLICIES; AND**

20 **(IV) REPORT NONCOMPLIANCE WITH AND PROPOSE WAYS TO**
21 **IMPROVE EMPLOYEE COMPLIANCE WITH APPLICABLE LAW, POLICY, AND ETHICAL**
22 **STANDARDS OF CONDUCT.**

23 **(2) IN DEVELOPING RECOMMENDATIONS, THE OFFICE MAY:**

24 **(I) CONDUCT ADMINISTRATIVE INVESTIGATIONS, BUDGETARY**
25 **ANALYSES, AND FINANCIAL, MANAGEMENT, OR PERFORMANCE AUDITS AND SIMILAR**
26 **REVIEWS;**

27 **(II) PROVIDE MANAGEMENT ADVISORIES; AND**

28 **(III) UTILIZE THE ASSISTANCE FROM ANY OTHER GOVERNMENT**
29 **AGENCY OR PRIVATE PARTY TO COMPLETE A PROJECT INITIATED BY THE OFFICE.**

30 **(3) WHEN APPLICABLE, THE ACCOUNTABILITY AND COMPLIANCE**
31 **OFFICER SHALL COMPLY WITH GENERALLY ACCEPTED GOVERNMENT AUDITING**
32 **STANDARDS.**

1 **(4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
2 **PARAGRAPH, THE ACCOUNTABILITY AND COMPLIANCE OFFICER SHALL PUBLISH**
3 **ON THE OFFICE'S WEBSITE, IN A READILY AVAILABLE LOCATION:**

4 **1. PERIODIC REPORTS THAT SUMMARIZE THE**
5 **ACTIVITIES, FINDINGS, RECOMMENDATIONS, AND ACCOMPLISHMENTS OF THE**
6 **OFFICE; AND**

7 **2. ANY OFFICIAL WRITTEN COMMENTS OR RESPONSES**
8 **OFFERED BY THE LOCAL SCHOOL SYSTEM ADMINISTRATION WITH ANY REPORT**
9 **PUBLISHED BY THE OFFICE.**

10 **(II) THE ACCOUNTABILITY AND COMPLIANCE OFFICER:**

11 **1. MAY NOT DISCLOSE ANY RECORD, REPORT, OR**
12 **RELATED INFORMATION THAT IS PROTECTED FROM DISCLOSURE UNDER THE**
13 **PUBLIC INFORMATION ACT;**

14 **2. MAY PROVIDE AN ORAL REPORT IF APPROPRIATE**
15 **UNDER GENERALLY ACCEPTED GOVERNMENT AUDITING STANDARDS; AND**

16 **3. SHALL ESTABLISH AND FOLLOW PROCEDURES FOR**
17 **SAFEGUARDING THE IDENTITY OF CONFIDENTIAL SOURCES AND PROTECTING**
18 **PRIVILEGED AND CONFIDENTIAL INFORMATION.**

19 **(5) IF REASONABLE GROUNDS EXIST TO BELIEVE THAT A SERIOUS**
20 **VIOLATION OF FEDERAL, STATE, OR LOCAL LAW HAS OCCURRED, THE**
21 **ACCOUNTABILITY AND COMPLIANCE OFFICER SHALL REPORT THE ALLEGATION TO:**

22 **(I) AN APPROPRIATE LAW ENFORCEMENT AGENCY;**

23 **(II) THE STATE ETHICS COMMISSION; OR**

24 **(III) ANY OTHER AGENCY WITH JURISDICTION TO ENFORCE THE**
25 **LAW.**

26 **(F) (1) THE ACCOUNTABILITY AND COMPLIANCE OFFICER SHALL**
27 **COORDINATE WITH THE LOCAL SCHOOL SYSTEM TO DEVELOP A WRITTEN WORK**
28 **PLAN AND ESTABLISH PERIODIC GOALS AND PRIORITIES FOR THE OFFICE BASED ON**
29 **AN ASSESSMENT OF RELATIVE RISKS.**

30 **(2) IN DEVELOPING THE WORK PLAN, THE ACCOUNTABILITY AND**
31 **COMPLIANCE OFFICER SHALL TAKE INTO CONSIDERATION REQUESTS FROM:**

1 **(I) OFFICERS, ADMINISTRATORS, AND EMPLOYEES OF THE**
2 **LOCAL SCHOOL SYSTEM;**

3 **(II) ELECTED OFFICIALS; AND**

4 **(III) MEMBERS OF THE PUBLIC.**

5 **(3) THE ACCOUNTABILITY AND COMPLIANCE OFFICER SHALL MAKE**
6 **THE WRITTEN WORK PLAN AVAILABLE TO THE PUBLIC, SUBJECT TO THE PUBLIC**
7 **INFORMATION ACT.**

8 **(G) (1) (I) ON REQUEST FROM THE ACCOUNTABILITY AND**
9 **COMPLIANCE OFFICER, AN EMPLOYEE OR OFFICIAL OF THE LOCAL SCHOOL SYSTEM**
10 **PROMPTLY SHALL PROVIDE TO THE ACCOUNTABILITY AND COMPLIANCE OFFICER**
11 **ANY AVAILABLE DOCUMENT OR OTHER INFORMATION CONCERNING THE LOCAL**
12 **SCHOOL SYSTEM'S OPERATIONS, BUDGET, PROGRAMS, OR VENDOR CONTRACTS.**

13 **(II) 1. THE ACCOUNTABILITY AND COMPLIANCE OFFICER**
14 **SHALL NOTIFY THE COUNTY BOARD AND THE CHIEF EXECUTIVE OFFICER IF ANY**
15 **EMPLOYEE OR OFFICIAL OF THE LOCAL SCHOOL SYSTEM FAILS TO PROVIDE ANY**
16 **INFORMATION OR DOCUMENT REQUESTED UNDER THIS PARAGRAPH WITH**
17 **REASONABLE PROMPTNESS.**

18 **2. THE COUNTY BOARD AND THE CHIEF EXECUTIVE**
19 **OFFICER SHALL TAKE ADMINISTRATIVE ACTION TO PRODUCE COMPLIANCE WITH A**
20 **PENDING REQUEST FOR INFORMATION BY THE ACCOUNTABILITY AND COMPLIANCE**
21 **OFFICER AS WARRANTED AND APPROPRIATE.**

22 **(2) (I) A VENDOR OF THE LOCAL SCHOOL SYSTEM SHALL PROVIDE**
23 **TO THE ACCOUNTABILITY AND COMPLIANCE OFFICER ANY AVAILABLE DOCUMENT**
24 **OR OTHER INFORMATION CONCERNING ANY LOCAL SCHOOL SYSTEM VENDOR**
25 **CONTRACT, INCLUDING DOCUMENTS RELATED TO THE PROCUREMENT OF THE**
26 **CONTRACT.**

27 **(II) 1. THE ACCOUNTABILITY AND COMPLIANCE OFFICER**
28 **PROMPTLY SHALL NOTIFY THE COUNTY BOARD, THE CHIEF EXECUTIVE OFFICER,**
29 **AND THE LOCAL SCHOOL SYSTEM IF ANY VENDOR FAILS TO PROVIDE ANY**
30 **INFORMATION OR DOCUMENT REQUESTED UNDER THIS PARAGRAPH WITH**
31 **REASONABLE PROMPTNESS.**

32 **2. THE COUNTY BOARD AND THE CHIEF EXECUTIVE**
33 **OFFICER SHALL TAKE APPROPRIATE ADMINISTRATIVE OR CIVIL ACTION TO**
34 **PRODUCE VENDOR COMPLIANCE WITH A PENDING REQUEST FOR INFORMATION BY**

1 THE ACCOUNTABILITY AND COMPLIANCE OFFICER.

2 (H) (1) EACH LOCAL SCHOOL SYSTEM EMPLOYEE SHOULD REPORT ANY
3 FRAUD, WASTE, OR ABUSE TO THE OFFICE.

4 (2) A LOCAL SCHOOL SYSTEM EMPLOYEE, VENDOR, OR EMPLOYEE OF
5 ANY VENDOR MAY NOT BE RETALIATED AGAINST OR PENALIZED, OR THREATENED
6 WITH RETALIATION OR PENALTY, FOR PROVIDING INFORMATION TO, COOPERATING
7 WITH, OR IN ANY WAY ASSISTING THE ACCOUNTABILITY AND COMPLIANCE OFFICER
8 IN CONNECTION WITH ANY ACTIVITY AUTHORIZED BY THIS SECTION.

9 (3) THE ACCOUNTABILITY AND COMPLIANCE OFFICER MAY NOT
10 DISCLOSE THE IDENTITY OF A PERSON THAT REPORTS AN ALLEGATION OF FRAUD,
11 WASTE, OR ABUSE UNLESS:

12 (I) THE REPORTING PERSON CONSENTS TO DISCLOSURE OF
13 THE PERSON'S IDENTITY;

14 (II) DISCLOSURE IS REASONABLY NECESSARY TO COMPLETE AN
15 AUDIT OR INVESTIGATION; OR

16 (III) ANOTHER PERSON IS LEGALLY ENTITLED TO DISCLOSURE
17 OF THE IDENTITY OF THE REPORTING PERSON.

18 (I) (1) THE ACCOUNTABILITY AND COMPLIANCE OFFICER MAY
19 ADMINISTER AN OATH OR AFFIRMATION OR TAKE AN AFFIDAVIT FROM ANY PERSON
20 IF NECESSARY TO PERFORM THE DUTIES UNDER THIS SECTION.

21 (2) THE ACCOUNTABILITY AND COMPLIANCE OFFICER MAY
22 ADMINISTER AN OATH AND TAKE A DEPOSITION AND OTHER TESTIMONY FOR THE
23 PURPOSE OF INVESTIGATING FRAUD, WASTE, OR ABUSE WITHIN THE LOCAL SCHOOL
24 SYSTEM.

25 (3) THE ACCOUNTABILITY AND COMPLIANCE OFFICER MAY
26 SUBPOENA ANY PERSON OR EVIDENCE FOR THE PURPOSE OF INVESTIGATING
27 FRAUD, WASTE, OR ABUSE WITHIN THE LOCAL SCHOOL SYSTEM.

28 (4) IF A PERSON FAILS TO COMPLY WITH A LAWFUL ORDER OR
29 SUBPOENA ISSUED UNDER THIS SUBSECTION, ON PETITION OF THE
30 ACCOUNTABILITY AND COMPLIANCE OFFICER, A COURT OF COMPETENT
31 JURISDICTION MAY COMPEL:

32 (I) COMPLIANCE WITH THE ORDER OR SUBPOENA; OR

1 **(II) TESTIMONY OR THE PRODUCTION OF EVIDENCE.**

2 **(J) (1) EACH YEAR THE ACCOUNTABILITY AND COMPLIANCE OFFICER**
3 **SHALL SUBMIT TO THE COUNTY BOARD A PROJECTED BUDGET FOR THE OFFICE FOR**
4 **THE UPCOMING FISCAL YEAR.**

5 **(2) THE COUNTY BOARD SHALL INCLUDE IN THE COUNTY BOARD'S**
6 **ANNUAL OPERATING BUDGET PROPOSAL THE AMOUNTS RECOMMENDED BY THE**
7 **ACCOUNTABILITY AND COMPLIANCE OFFICER FOR THE OFFICE FOR THE**
8 **UPCOMING FISCAL YEAR.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That the functions, powers, duties,
10 and employees of the Office of Internal Audit of the Prince George's County public school
11 system shall be transferred to the Office of Accountability and Compliance of the public
12 school system on the effective date of this Act.

13 SECTION 3. AND BE IT FURTHER ENACTED, That all employees who are
14 transferred to the Office of Accountability and Compliance of the Prince George's County
15 public school system as a result of this Act shall be transferred on the effective date of this
16 Act without any diminution of their rights, including collective bargaining rights, benefits,
17 or employment or retirement status.

18 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July
19 1, 2019.