

Date of Hearing: June 12, 2024

ASSEMBLY COMMITTEE ON EDUCATION  
Al Muratsuchi, Chair  
SB 991 (Gonzalez) – As Amended April 4, 2024

**SENATE VOTE:** 31-8

**SUBJECT:** School districts: Los Angeles Unified School District: inspector general

**SUMMARY:** Removes the sunset on the Los Angeles Unified School District (LAUSD)'s Office of the Inspector General (OIG). Specifically, **this bill:**

- 1) Permanently establishes the LAUSD's Office of the OIG, and authorizes the Inspector General (IG) to conduct audits and investigations.
- 2) Requires the IG be appointed by the Board of Education of the LAUSD for a term of three years, subject to the terms of the IG's employment contract.
- 3) Requires audits, investigations, inspections, and reviews conducted by the Office of the IG to conform to the Principles and Standards for Offices of IG, published by the Association of IG.
- 4) Requires the IG to submit to the Legislature, on or before July 1 of each year, an annual report on all of the following:
  - a) The use and effectiveness of the authorized subpoena power in the successful completion of the IG's duties;
  - b) Any use of the subpoena power in which the issued subpoena was quashed, including the basis for the court's order; and
  - c) Any referral to the local district attorney or the Attorney General (AG) where the district attorney or AG declined to investigate the matter further or declined to prosecute.

**EXISTING LAW:**

- 1) Authorizes the LAUSD's IG of the OIG to conduct audits and investigations. Authorizes the IG to subpoena witnesses, administer oaths or affirmations, take testimony, and compel the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence deemed material and relevant and that reasonably relate to the inquiry or investigation undertaken by the inspector general when he or she has a reasonable suspicion that a law, regulation, rule, or school district policy has been violated or is being violated. (Education Code (EC) 35400)
- 2) Defines "reasonable suspicion" to mean that the circumstances known or apparent to the IG include specific and articulable facts causing him or her to suspect that a material violation of law, regulation, rule, or school district policy has occurred or is occurring, and that the facts would cause a reasonable officer in a like position to suspect that a material violation of a law, regulation, rule, or school district policy has occurred or is occurring. (EC 35400)

- 3) Requires subpoenas to be served in the manner provided by law for service of summons. Authorizes a subpoena issued by the IG to be subject to challenge pursuant to Chapter 2 (commencing with Section 1985) of Title 3 of Part 4 of the Code of Civil Procedure. (EC 35400)
- 4) Requires, for purposes of Section 35400 of the EC, Sections 11184, 11185, 11186, 11187, 11188, 11189, 11190, and 11191 of the Government Code (GOV) to apply to the subpoenaing of witnesses and documents, reports, answers, records, accounts, papers, and other data and documentary evidence as if the investigation were being conducted by a state department head, except that the applicable court for resolving motions to compel or motions to quash shall be the Superior Court for the County of Los Angeles. (EC 35400)
- 5) Requires, notwithstanding any other law, a person who, after the administration of an oath or affirmation, states or affirms as true any material matter that he or she knows to be false is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed six months or by a fine not to exceed \$5,000, or by both that fine and imprisonment for the first offense. Requires any subsequent violation to be punishable by imprisonment in a county jail not to exceed one year or by a fine not to exceed \$10,000, or by both that fine and imprisonment. (EC 35400)
- 6) Requires the IG to submit to the Legislature an annual interim report by July 1 of each year, and a final cumulative report by December 1, 2024, on all of the following:
  - a) The use and effectiveness of the subpoena power authorized in the successful completion of the IG's duties;
  - b) Any use of the subpoena power in which the issued subpoena was quashed, including the basis for the court's order; and
  - c) Any referral to the local district attorney or the AG where the district attorney or AG declined to investigate the matter further or declined to prosecute.
- 7) Requires the report to be submitted to the Legislature to be submitted in compliance with Section 9795 of the GOV.
- 8) Authorizes the LAUSD IG and OIG to remain in effect only until January 1, 2025, and as of that date repeals the authorization, unless a later enacted statute, that is enacted before January 1, 2025, deletes or extends that date.

**FISCAL EFFECT:** According to the Senate Appropriations Committee:

This bill would have no direct fiscal impact to the state. However, to the extent that the LAUSD chooses to continue and fund the Office of the Inspector General, there would be continued local costs to the district. The Office of the Inspector General currently has a budget of approximately \$10 million from several fund sources. In addition, this bill could potentially result in local savings to the extent that investigations and recoveries are successful or deter waste, fraud, and abuse.

**COMMENTS:**

***Need for the bill.*** According to the author, “LAUSD is the second largest school district in the nation; serving over 540,000 students in a district that covers 710 square miles and serves portions of 25 cities. For close to 25 years, the LAUSD OIG has demonstrated its efficacy as an auditing and oversight tool for the district, and has shown that its unique authority can deter fraud and save the district millions of dollars annually. Unfortunately, the OIG’s authority to investigate, audit, and subpoena witnesses is set to sunset on January 1, 2025. SB 991 (Gonzalez) will remove the 2025 sunset date, and allow the LAUSD OIG to continue its transparent oversight responsibilities and protect the programs and funding of California’s largest school district.”

***LAUSD OIG.*** The LAUSD OIG was initially established by SB 1260 (Hayden), Chapter 295, Statutes of 1999, at the request of the school district. At that time, the district's Internal Audits and Special Investigation Unit had been in existence for one year, but its director reported that it was difficult or impossible to conduct investigations, especially those that involve an outside party, such as a contractor, and that the unit had no authority to compel to provide documents or other types of information.

According to the LAUSD OIG website, “The OIG is comprised of auditors, investigators and other professional staff who have the authority to examine all functions within the LAUSD and those of private entities that do business with the LAUSD, including conducting audits and evaluations of LAUSD programs, processes, and functions, and investigates allegations of improper or illegal activities by LAUSD employees, contractors or other entities doing business with the LAUSD. The OIG also performs due diligence reviews to help reduce the risk of doing business, improve contract and employment decisions, and to promote greater accountability and effectiveness.”

Existing law grants the OIG statutory authority to conduct audits and investigations and report matters to the local district attorney or the AG for further action. Further, the OIG is granted the power to subpoena witnesses, administer oaths or affirmations, take testimony, and compel the production of all information and documentary evidence deemed material and relevant. Existing law provides confidentiality of every investigation, including all investigative files and work-product and the identity of the individual or individuals involved. Penalties are imposed for any disclosure of information by the IG or the OIG that was acquired pursuant to a subpoena, and any person that, after the administration of an oath or affirmation, states or affirms as true any material matter that they know to be false.

***LAUSD OIG statutory authorization dates.*** SB 1260 had a sunset date of January 1, 2001. The sunset date was subsequently extended by SB 1360 (Hayden), Chapter 750, Statutes of 2000, and AB 2425 (Richman), Chapter 462, Statutes of 2002, which extended the sunset date to January 1, 2015.

***LAUSD Annual Reports.*** The OIG's “Annual Report to the Board of Education” for the 2023 fiscal year reports that the work of the office issued 51 reports on completed contract audits that resulted in a cost savings to the district of approximately \$6.5 million.

The OIG's most recent annual report to the Legislature, dated June 30, 2023, reports that, during 2012-13, three subpoenas for business or financial records were issued. The report also states that the power of subpoena “serves as a deterrent to those who may consider committing

fraudulent acts against the School District,” and that it “substantially aids in the performance of our work.”

***Independence of the OIG.*** The Association of Inspectors General has published *Principles and Standards for Offices of Inspector General*. The general standard for independence states, "The inspector general and OIG staff involved in performing or supervising any assignment should be free from personal or external impairments to independence and should constantly maintain an independent attitude and appearance." This is necessary to ensure that "OIG opinions, conclusions, judgement, and recommendations will be impartial and viewed by others as impartial." The "Principles and Standards" also identifies six conditions under which the OIG would not have complete freedom to make an independent and objective judgement. Among these conditions are:

- Interference or undue influence in the OIG's selection of what is to be examined, determination of scope and timing of work or approach to be used, the appropriate content of any resulting report, or resolution of audit findings; and
- Improper political pressures.

The *Principles and Standards for Offices of Inspector General* contains quality standards for the management, operation, and conduct of OIGs. The Association states:

In accomplishing their missions, OIGs use a variety of approaches. For example, audits, investigations, inspections, evaluations, and reviews are used as a basis for evaluating agency programs and operations, for identifying and presenting for prosecution criminal and civil wrongdoing and addressing administrative misconduct. Reviews of allegations received through hotlines and other means help to identify high-risk areas and determine where internal controls should be strengthened. Some OIGs use a variety of techniques and titles, such as fraud control programs, inspections, operational surveys, contract and operational monitoring, and other special activities to focus attention on agency needs to improve operations. OIG reviews of legislation and regulations serve to strengthen controls and ensure that the public interest is protected without imposing unnecessary burdens. OIG reports to public officials, agency heads, agency management, legislative bodies, and prosecutorial authorities keep appropriate officials apprised of the results of OIG activities.

This bill would codify the LAUSD's OIG's existing use of guidance produced by the Association of Inspectors General to conduct audits, investigations, inspections, and reviews.

Specific to audits, *Principles and Standards for Offices of Inspector General* further states:

Audits performed by OIGs should be conducted in accordance with generally accepted auditing standards. The Association of Inspectors General recommends that OIGs perform audits pursuant to one of the following:

- *Generally Accepted Government Auditing Standards* issued by the Comptroller General of the United States, or
- *Standards for the Professional Practice of Internal Auditing* issued by the Institute of Internal Auditors.

Each OIG should follow the audit standards appropriate to the OIG's mission and authority.

The LAUSD states, “The LAUSD OIG has adopted the *Generally Accepted Government Auditing Standards (GAGAS)* issued by the Comptroller General of the United States. This standard is articulated in the LAUSD OIG’s operating manual. OIG operations manuals provide policies and procedures to ensure that our work, including audits, is performed in accordance with these standards. Further, these standards require periodic external peer reviews to ensure that OIG work conforms to these standards. Every peer review we have undergone, as early as 2004, has determined that we are/were in compliance with the *GAGAS* standards.”

***LAUSD OIG charter school audit of two Magnolia Charter Schools in 2014.*** According to the Assembly Education Committee’s analysis of AB 2806 (Wilk) of the 2015-16 Session:

LAUSD's OIG began performing charter school audits in 2006 at the request of the district's Charter Schools Division. The audits are performed to assist the district in fulfilling its statutory obligation to provide oversight of the charter schools it authorizes. AB 2806 resulted from the audit of two Magnolia charter schools that led to a district decision to not renew the charters. The charters were ultimately renewed after legal action was taken.

According to information provided by the author's office, the OIG overstepped its authority in these cases by acting in a manner that "is inconsistent with the Charter Schools Act, which emphasizes transparency and collaboration by authorizing the chartering district to make reasonable inquiries regarding a school's financial records (EC 47604.3) and to monitor the fiscal condition of the charter school (EC 47604.32)." This is a misstatement of the law.

Specifically, EC 47604.3 does not simply authorize authorizing districts to make reasonable inquiries of a charter school. Rather, it *requires charter schools* to respond promptly to all reasonable inquiries from its chartering authority, "including, but not limited to, inquiries regarding its financial records." In addition, EC 47604.32 requires—not simply authorizes--chartering authorities to "monitor the fiscal condition of each charter school under its authority." Accordingly, the district (through the OIG if it so chooses), not only has the authority to monitor the fiscal condition of its charter schools, but has the duty to do so.

The California Charter Schools Association (CCSA) has an oppose unless amended position for this bill, and are asking that the LAUSD OIG be required to follow the *Generally Accepted Government Auditing Standards* issued by the Comptroller General of the United States. This bill would codify the LAUSD’s OIG’s existing use of the *Principles and Standards for Offices of Inspector General* to conduct audits, investigations, inspections, and reviews. Specific to audits, the *Principles and Standards for Offices of Inspector General* states that they should be conducted in accordance with generally accepted auditing standards, including the *Generally Accepted Government Auditing Standards* issued by the Comptroller General of the United States.

***Los Angeles Unified School District overview.*** The LAUSD is the second largest school district in the nation, and in the 2021-22 school year enrolled nearly 398,000 students in kindergarten through 12th grade (this figure does not include charter school enrollment). The district covers 710 square miles and includes the City of Los Angeles as well as all or parts of 31 smaller municipalities plus several unincorporated sections of Los Angeles County.

2021-22 LAUSD Enrollment by Subgroup for Charter and Non-Charter Schools

| Subgroup                        | Charter School Enrollment | Non-Charter School Enrollment | Total Enrollment |
|---------------------------------|---------------------------|-------------------------------|------------------|
| English Learners                | 26,657                    | 90,273                        | 116,930          |
| Foster Youth                    | 682                       | 3,125                         | 3,807            |
| Homeless Youth                  | 2,401                     | 5,113                         | 7,514            |
| Migrant Education               | 12                        | 760                           | 772              |
| Students with Disabilities      | 18,689                    | 55,746                        | 74,435           |
| Socioeconomically Disadvantaged | 106,545                   | 339,667                       | 446,212          |
| <b>All Students</b>             | <b>150,755</b>            | <b>397,583</b>                | <b>548,338</b>   |

Source: California Department of Education, DataQuest

2021-22 Enrollment by Ethnicity for Charter and Non-Charter Schools

| Ethnicity                        | Charter School Enrollment | Non-Charter School Enrollment | Total Enrollment |
|----------------------------------|---------------------------|-------------------------------|------------------|
| African American                 | 10,759                    | 29,522                        | 40,281           |
| American Indian or Alaska Native | 384                       | 376                           | 760              |
| Asian                            | 6,255                     | 12,905                        | 19,160           |
| Filipino                         | 2,496                     | 7,318                         | 9,814            |
| Hispanic or Latino               | 100,765                   | 307,937                       | 408,702          |
| Not Reported                     | 2,458                     | 3,133                         | 5,591            |
| Pacific Islander                 | 171                       | 904                           | 1,075            |
| Two or More Races                | 3,640                     | 5,879                         | 9,519            |
| White                            | 23,827                    | 29,609                        | 53,436           |
| <b>Total</b>                     | <b>150,755</b>            | <b>397,583</b>                | <b>548,338</b>   |

Source: California Department of Education, DataQuest

**Recommended Committee Amendments.** *Staff recommends that the bill be amended as follows:*

- Require the LAUSD OIG to conform to the *Principles and Standards for Offices of Inspector General*, published by the Association of IG. Require audits performed by the LAUSD OIG to be conducted in accordance with generally accepted auditing standards, including either the *Generally Accepted Government Auditing Standards* issued by the Comptroller General of the United States, or the *Standards for the Professional Practice of Internal Auditing* issued by the Institute of Internal Auditors.

This amendment will highlight the requirement for the LAUSD OIG to conduct audits in accordance with generally accepted auditing standards. The LAUSD has already adopted the *Generally Accepted Government Auditing Standards* issued by the Comptroller General of the United States.

**Related legislation.** AB 2806 (Wilk) of the 2015-16 Session would have established conditions under which the LAUSD IG would be authorized to audit or investigate a charter school, if

directed by the governing board to an evaluation of the school. This bill was held in the Assembly Education Committee.

AB 1825 (Nazarian), Chapter 208, Statutes 2014, extends the sunset date of the LAUSD's OIG by 10 years, from January 1, 2015, to January 1, 2025.

AB 2425 (Richman), Chapter 462, Statutes of 2002, extended the sunset date to January 1, 2015.

SB 1360 (Hayden), Chapter 750, Statutes of 2000, extended the sunset date to January 1, 2005.

SB 1260 (Hayden), Chapter 295, Statutes of 1999, established the LAUSD OIG at the request of the school district, with a sunset date of January 1, 2001.

***Arguments in support.*** The LAUSD writes, "Due to the unique nature of Los Angeles Unified's size and budget, the Legislature passed SB 1260 (Hayden) in 1999, granting the District the authority to conduct audits and investigations. Without opposition, the Legislature extended the OIG's authority multiple times since the OIG's creation, most recently in 2014. After 25 years of protecting the students and taxpayers from potential waste, fraud or abuse, the OIG consistently upholds the integrity of Los Angeles Unified."

***Arguments in opposition.*** The California Charter Schools Association writes, "We do not take issue with the OIG's ability to investigate or audit LAUSD or its charter public schools. Where we do have concerns is with the transparency of those investigations or audits when relied upon by LAUSD and its Board to take formal action in relation to charter school renewals or revocations. In 2014, LAUSD attempted to close at first two, then three Magnolia charter schools based on information from an OIG report that was in draft form and was not public information. The charter school was forced to sue and received a preliminary injunction that blocked LAUSD from closing their schools...If the LAUSD OIG is to be permanently authorized, then they must be held to a higher standard of transparency, and protections must be added to ensure an incident like this will not happen again in the future."

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Los Angeles Unified School District

### **Opposition**

California Charter Schools Association

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