

August 29, 2024

RATIFY RESOLUTION REGARDING ACTING INSPECTOR GENERAL AMBER NESBITT

WHEREAS, Section 34-13.1 of the Illinois School Code provides for the appointment of the Inspector General of the Board of Education of the City of Chicago (the "Board") by the Mayor of the City of Chicago;

WHEREAS, the position of Inspector General became vacant on August 23, 2024 upon the resignation of the incumbent before the expiration of his term of office which was July 1, 2022 to June 30, 2026;

WHEREAS, Section 34-13.1 of the Illinois School Code provides that the Board's Inspector General shall be under the Board's jurisdiction;

WHEREAS, the Board hereby acknowledges the appointment of Amber Nesbitt by the Mayor of the City of Chicago as the Board's Acting Inspector General effective August 23, 2024 and until such time a permanent successor is appointed;

WHEREAS, Section 34-13.1 of the Illinois School Code provides that the Inspector General shall have "authority to conduct investigations into allegations of or incidents of waste, fraud, and financial mismanagement in public education within the jurisdiction of the Board by a local school council member or an employee, contractor, or member of the Board or involving school projects managed or handled by the Public Building Commission";

WHEREAS, Section 34-13.1 of the Illinois School Code provides that, in addition to the Inspector General's express authority to conduct the specific investigations outlined in the statute, the Inspector General shall perform other duties requested by and at the direction of the Board;

WHEREAS, Board Rule 3-8 specifies that the Board may acknowledge by Board Resolution the Mayor's appointment of an individual to serve as Inspector General and specify in such Resolution any additional duties and requirements in effect during the tenure of such appointment;

WHEREAS, Board Rule 3-8 provides that the Inspector General "shall investigate allegations of fraud, waste and financial mismanagement in the District by a Local School Council member or an employee, contractor or member of the Board or involving school projects managed or handled by the Public Building Commission and shall perform other duties requested by the Board including, but not limited to, investigations into employee misconduct, including allegations of criminal activity by employees;"

WHEREAS, Section 34-13.1 of the Illinois School Code provides that the Inspector General shall be independent of the operations of the Board and "shall have access to all information and personnel necessary to perform the duties of the office" but does not provide for the retention of legal counsel to provide advice to the Inspector General;

WHEREAS, Section 34-13.1 of the Illinois School Code provides that the Inspector General "shall have the power to subpoena witnesses and compel the production of books and papers pertinent to an investigation authorized by this Code" but does not outline the mechanism for enforcement of a subpoena issued by the Inspector General; and

WHEREAS, Section 34-11 of the Illinois School Code provides that the Board "by a majority vote of its full membership shall appoint a general counsel (the "General Counsel") who shall have charge and control, subject to the approval of the Board, of the law department and of all litigation, legal questions and such other legal matters as may be referred to the department" by the Board.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF EDUCATION OF THE CITY OF CHICAGO THAT:

1. In addition to those duties conferred upon the Acting Inspector General by the Illinois School Code and Board Rules, the Acting Inspector General is hereby empowered to investigate reports of sexual misconduct by employees, vendors, or volunteers where a CPS student may be the victim. The Acting Inspector General shall carry out these duties in accordance with the following guidelines:
 - (a) The Acting Inspector General shall report to the Board on a monthly basis, including the number of reports received, the number of claims under investigation, the employees and schools involved, the nature of the allegations, and the status of any person subject of an investigation;
 - (b) The Acting Inspector General shall have sole responsibility within the Chicago Public Schools and the Board of Education for the investigation of all reported incidents described in Section 1 of this Resolution, however, the Acting Inspector General shall reasonably and appropriately cooperate with CPS staff and attorneys to ensure that employee discipline is not delayed and that information regarding the status of abuse reports and investigations are shared on a timely basis; and
 - (c) Decisions regarding discipline, including termination, shall remain solely under the purview of the Chief Executive Officer of the Chicago Public Schools (“CEO”) and the Board. The Board and the CEO, however, shall reasonably and appropriately cooperate with the OIG to ensure that criminal investigations are not unduly jeopardized by the timing of discipline or termination.
2. The Board further directs the Acting Inspector General to conduct a review of sexual misconduct cases dating back to at least the year 2000, and further if determined necessary by the Acting Inspector General or the Board President.
3. The Board commits to providing the additional funding and resources necessary so that the Acting Inspector General can perform the tasks detailed in Sections 1 and 2.
4. In performing the duties outlined in the Illinois School Code, this Resolution, and Board Rules, the Acting Inspector General shall report directly to the Board and shall provide reports to the CEO and the Title IX Officer with respect to investigations of alleged Title IX violations, except in the following circumstances:
 - (a) If the Acting Inspector General believes, in connection with a specific investigation, that the duties of the Acting Inspector General as outlined in the Illinois School Code, this Resolution, and Board Rules are in conflict with the requirement that the Acting Inspector General shall provide reports to the CEO, the Acting Inspector General shall report this matter to the Board immediately upon identifying the potential conflict. Based upon the Acting Inspector General's initial report of such a matter, the Board will then provide additional direction regarding subsequent reporting in connection with the matter.
 - (b) If the Acting Inspector General believes, in connection with a specific investigation, that the duties of the Acting Inspector General as outlined in the Illinois School Code, this Resolution, and Board Rules are in conflict with the requirement that the Acting Inspector General shall report to the Board, the Acting Inspector General shall report this matter to outside legal counsel immediately upon identifying the potential conflict and shall request that outside legal counsel prepare a legal opinion regarding whether there exists a conflict that precludes the Acting Inspector General from reporting the matter to the Board. To the extent that the legal opinion indicates that there is such a conflict, the Acting Inspector

General's outside counsel shall also advise the Acting Inspector General regarding the legal requirements of reporting the matter at issue. If the legal opinion does not indicate the existence of such a conflict, the Acting Inspector General shall report the matter to the Board as outlined above.

5. The Board also requests that the General Counsel provide legal counsel to the Acting Inspector General as required to assist the Acting Inspector General in performing the duties outlined in the Illinois School Code, this Resolution, and Board Rules, except in the following circumstances:
 - (a) If the Acting Inspector General believes, in connection with a specific investigation, that the duties of the Acting Inspector General as outlined in the Illinois School Code, this Resolution, and Board Rules are in conflict with the requirement that the General Counsel shall provide legal counsel to the Acting Inspector General as outlined herein, the Acting Inspector General shall report this matter to the Board immediately upon identifying the potential conflict. Based upon the Acting Inspector General's initial report of such a matter, the Board will then provide additional direction regarding subsequent retention of legal counsel regarding reporting of the matter.
 - (b) If the Acting Inspector General believes, in connection with a specific investigation, that the duties of the Acting Inspector General as outlined in the Illinois School Code, this Resolution, and Board Rules are in conflict with (1) the requirement that the General Counsel shall provide legal counsel to the Acting Inspector General and (2) with reporting the matter to the Board as outlined in the preceding paragraph, the Acting Inspector General shall report this matter to outside legal counsel immediately upon identifying the potential conflict and shall request that outside legal counsel prepare a legal opinion regarding whether there exists a conflict that precludes the Acting Inspector General from reporting the matter to the Board. To the extent that the legal opinion indicates that there is such a conflict, the Acting Inspector General's outside counsel shall also advise the Acting Inspector General regarding the legal requirements of reporting the matter at issue. If the legal opinion does not indicate the existence of such a conflict, the Acting Inspector General shall report the matter to the Board as outlined above.
6. The Board further requests that the General Counsel represent the Acting Inspector General in all instances in which the enforcement of a subpoena issued by the Acting Inspector General is necessary. If the Acting Inspector General believes there is conflict with the Board and/or the Chicago Public Schools, including the Law Department, outside counsel may be appointed to represent the Acting Inspector General in such enforcement issues according to the conflict provisions above.
7. The Board shall retain counsel acceptable to the Acting Inspector General to provide legal counsel in those circumstances where this Resolution authorizes the Acting Inspector General to seek the advice of outside legal counsel rather than the General Counsel.
8. This Resolution shall take effect upon the appointment date and shall remain in effect until amended or rescinded by further Board action for the tenure of the Acting Inspector General's appointment including any renewals thereof.