

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 5437

(SENATE AUTHORS: KUNESH)

DATE
04/15/2024

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13898

Introduction and first reading
Referred to Judiciary and Public Safety

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to education; expanding authority of the Department of Education Office
1.3 of the Inspector General; amending Minnesota Statutes 2023 Supplement, section
1.4 127A.21, subdivision 2, by adding subdivisions.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2023 Supplement, section 127A.21, subdivision 2, is
1.7 amended to read:

1.8 Subd. 2. ~~**Data practices; Hiring; reporting.** The Office of the Inspector General has~~
1.9 ~~access to all program data, regardless of classification under chapter 13, held by the~~
1.10 ~~department, school districts or charter schools, grantees, and any other recipient of funds~~
1.11 ~~from the department.~~ The commissioner, or the commissioner's designee, must hire an
1.12 inspector general to lead the Office of the Inspector General. The inspector general must
1.13 hire a deputy inspector general and, at the discretion of the inspector general, sufficient
1.14 assistant inspectors general to carry out the duties of the office. In a form and manner
1.15 determined by the inspector general, the Office of the Inspector General must develop a
1.16 public platform for the public to report instances of potential fraud, waste, or abuse of public
1.17 funds administered by the department.

1.18 Sec. 2. Minnesota Statutes 2023 Supplement, section 127A.21, is amended by adding a
1.19 subdivision to read:

1.20 Subd. 3. **Subpoenas.** (a) For the purpose of any audit, investigation, proceeding, or
1.21 inquiry related to the duties and responsibilities of the inspector general, the inspector general
1.22 or a designee may administer oaths and affirmations, subpoena witnesses, compel attendance,
1.23 take evidence, and issue subpoenas duces tecum to require the production of books, papers,

2.1 correspondence, memoranda, agreements, financial records, or other documents or records
2.2 that the inspector general considers relevant to an audit or investigation.

2.3 (b) A subpoena issued pursuant to this subdivision must state that the subpoena recipient
2.4 may not disclose the fact that the subpoena was issued or the fact that the requested records
2.5 have been given to the inspector general, or their staff, except:

2.6 (1) in so far as the disclosure is necessary to find and disclose the records; or

2.7 (2) pursuant to court order.

2.8 (c) The fees for service of a subpoena must be paid in the same manner as prescribed
2.9 by law for a service of process issued by a district court.

2.10 (d) The subpoena issued under this subdivision shall be enforceable through the district
2.11 court in the district where the subpoena is issued.

2.12 Sec. 3. Minnesota Statutes 2023 Supplement, section 127A.21, is amended by adding a
2.13 subdivision to read:

2.14 Subd. 4. **Access to records.** (a) For purposes of a fraud, waste, or abuse investigation,
2.15 the Office of the Inspector General shall have the authority to receive from other state
2.16 agencies routing and account numbers to which the Department of Education's public funding
2.17 has been disbursed, provided that a subpoena has been issued by the inspector general under
2.18 this section.

2.19 (b) For purposes of detecting fraud, waste, or abuse, the Office of the Inspector General
2.20 shall have access to all books, accounts, documents, data, and property related to programs
2.21 funded by the Department of Education that are held by the department, state agencies,
2.22 school districts, or charter schools. The program and financial data shall be provided in a
2.23 format and time frame prescribed by the inspector general. The department may enter into
2.24 specific agreements with other agencies related to each request.

2.25 (c) For purposes of detecting fraud, waste, or abuse, the Office of the Inspector General
2.26 shall have access to all books, accounts, documents, data, and property related to programs
2.27 funded by the Department of Education that are held by entities, corporations, firms, or
2.28 individuals that receive, disburse, or have custody of program funds disbursed by the
2.29 department. Requested records shall be made available at a time and place requested by the
2.30 Office of the Inspector General. The information shall be provided in a format and time
2.31 frame prescribed by the inspector general.

3.1 Sec. 4. Minnesota Statutes 2023 Supplement, section 127A.21, is amended by adding a
3.2 subdivision to read:

3.3 Subd. 5. **Recommended actions.** (a) If a criminal conviction or guilty plea results from
3.4 a fraud, waste, or abuse investigation related to a department program, the inspector general
3.5 may recommend to the commissioner that sanctions, including ending program participation,
3.6 stopping funds disbursement, or ending, denying, or declining all department contracts with
3.7 the impacted entity, may be imposed. The commissioner has the authority to implement
3.8 recommendations from Office of the Inspector General investigations.

3.9 (b) If, during the course of an investigation by the Office of the Inspector General, there
3.10 are credible indicia of fraud, waste, or abuse, the inspector general may recommend to the
3.11 commissioner that temporary sanctions, including temporary stop payment, be imposed.
3.12 The commissioner has the authority to implement recommendations from Office of the
3.13 Inspector General investigations.

3.14 (c) If a fraud, waste, or abuse investigation conducted by the Office of the Inspector
3.15 General results in a finding of fraud, waste, or abuse by a preponderance of the evidence, the
3.16 inspector general may recommend to the commissioner that sanctions, including ending
3.17 program participation, stopping funds disbursement, or ending, denying, or declining all
3.18 department contracts with the impacted entity, may be imposed. The commissioner has the
3.19 authority to implement recommendations from the Office of the Inspector General
3.20 investigations.

3.21 (d) If an entity, provider, vendor, or individual enrolled or otherwise receiving funds
3.22 under any contract or registered in any program administered by a Minnesota state or federal
3.23 agency is excluded from that program, the Office of the Inspector General may recommend
3.24 that the commissioner:

3.25 (1) prohibit the excluded provider, vendor, individual, or any associated entities or
3.26 associated individuals from enrolling, receiving grant funds, or registering in any program
3.27 administered by the commissioner; and

3.28 (2) disenroll, disqualify, or debar the excluded provider, vendor, individual, or any
3.29 associated entities or associated individuals in any program administered by the
3.30 commissioner.

3.31 The duration of a prohibition, disenrollment, disqualification, or debarment may last until
3.32 up to the longest applicable sanction or disqualifying period in effect for the entity, provider,
3.33 vendor, individual, associated entity, or associated individual as permitted by state or federal
3.34 law.

4.1 (e) The commissioner must send notice of a sanction under paragraph (a), (b), or (c)
4.2 within seven business days of taking such action unless requested in writing by a law
4.3 enforcement agency to temporarily delay issuing the notice to prevent disruption of an
4.4 ongoing law enforcement agency investigation. The notice must state: (1) the action being
4.5 taken; (2) the general allegations that form the basis for the sanction; (3) except in the case
4.6 of a conviction for conduct described in paragraph (a), state the duration of the exclusion,
4.7 suspension, or termination; (4) identify the programs to which the sanction applies; and (5)
4.8 provide notice of the right to request reconsideration.

4.9 (f) Upon receipt of a notice under paragraph (e), a provider, vendor, individual, associated
4.10 individual, or associated entity may request a contested case hearing, as defined in section
4.11 14.02, subdivision 3, by filing with the Office of the Inspector General a written request of
4.12 appeal. The scope of any contested case hearing is solely limited to action taken under this
4.13 section. The Office of the Inspector General must receive the appeal request no later than
4.14 30 days after the date the notice was mailed to the provider, vendor, individual, associated
4.15 individual, or associated entity. The appeal request must specify:

4.16 (1) each disputed item and the reason for the dispute;

4.17 (2) the authority in statute or rule upon which the provider, vendor, individual, associated
4.18 individual, or associated entity relies for each disputed item;

4.19 (3) the name and address of the person or entity with whom contacts may be made
4.20 regarding the appeal; and

4.21 (4) any other information required by the Office of the Inspector General.

4.22 (g) The commissioner shall stop withholding payments if the Office of the Inspector
4.23 General determines there is insufficient evidence of fraud by the entity, provider, vendor,
4.24 individual, associated individual, or associated entity or when legal proceedings relating to
4.25 the alleged fraud are completed.

4.26 (h) For the purposes of this subdivision, fraud, waste, or abuse includes any of the
4.27 following, but is not limited to:

4.28 (1) a pattern of presentment of false or duplicate information or claims;

4.29 (2) a pattern of making false statements of material facts for the purpose of obtaining
4.30 greater compensation than that to which the individual or entity is legally entitled;

4.31 (3) suspension or termination as a vendor, provider, or contractor with any other state
4.32 agency;

5.1 (4) refusal to provide access to records as required by subdivision 4; or

5.2 (5) failure to correct errors in the maintenance of records after a request by the
5.3 commissioner or the department.

5.4 Sec. 5. Minnesota Statutes 2023 Supplement, section 127A.21, is amended by adding a
5.5 subdivision to read:

5.6 Subd. 6. **Data practices.** (a) It is not a violation of rights conferred by chapter 13 or any
5.7 other statute related to the confidentiality of government data for a government entity as
5.8 defined in section 13.02 to provide data or information under this section.

5.9 (b) The inspector general is subject to the Government Data Practices Act, chapter 13,
5.10 and shall protect from unlawful disclosure data classified as not public.