

June 27, 2018

RESOLUTION REGARDING INSPECTOR GENERAL NICHOLAS SCHULER

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 Honorable Rahm Emanuel, Mayor of the City of Chicago, appointed Nicholas Schuler to serve as the Board's Inspector General effective December 8, 2014, for a term ending June 30, 2018;

WHEREAS, Mayor Emanuel appointed Mr. Schuler to serve a second term as the Board's Inspector General effective July 1, 2018, for a term ending June 30, 2022;

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 renewed appointment of Nicholas Schuler as the Board's Inspector General;

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, the Board has enumerated in Board Rule 3-8 other duties that the Inspector General shall perform including, but not limited to, investigations into employee misconduct, including allegations of criminal activity by employees;

WHEREAS, on June 5, 2018, Mr. Schuler sent a letter to the Board President requesting responsibility for the investigation of allegations of sexual abuse against Chicago Public School students;

WHEREAS, on June 12, 2018, the Board President responded by expressing his intention to bring this Resolution to empower the Office of the Inspector General ("OIG") to investigate reports of sexual misconduct by employees, vendors, or volunteers where a CPS student may be the victim;

WHEREAS, the Board President further expressed his intention to task the OIG with undertaking a review of sexual misconduct cases going back to at least 2000, and further as warranted, to determine if additional actions are required and appropriate corrective action was taken;

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 Inspector General by the Illinois School Code and Board Rules, the 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 Inspector General shall carry out these duties in accordance with the following guidelines:
 - (a) The 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 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 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 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 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 Inspector General or the Board President.
3. The Board commits to providing the additional funding and resources necessary so that the 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 Inspector General shall report directly to the Board and shall provide reports to the CEO, except in the following circumstances:
 - (a) If the Inspector General believes, in connection with a specific investigation, that the duties of the Inspector General as outlined in the Illinois School Code, this Resolution, and Board Rules are in conflict with the requirement that the Inspector General shall provide reports to the CEO, the Inspector General shall report this matter to the Board immediately upon identifying the potential conflict. Based upon the 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 Inspector General believes, in connection with a specific investigation, that the duties of the Inspector General as outlined in the Illinois School Code, this Resolution, and Board Rules are in conflict with the requirement that the Inspector General shall report to the Board, the 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 Inspector General from reporting the matter to the Board. To the extent that the legal opinion indicates that there is such a conflict, the Inspector General's outside counsel shall also advise the 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 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 Inspector General as required to assist the 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 Inspector General believes, in connection with a specific investigation, that the duties of the 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 Inspector General as outlined herein, the Inspector General shall report this matter to the Board immediately upon identifying the potential conflict. Based upon the 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 Inspector General believes, in connection with a specific investigation, that the duties of the 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 Inspector General and (2) with reporting the matter to the Board as outlined in the preceding paragraph, the 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 Inspector General from reporting the matter to the Board. To the extent that the legal opinion indicates that there is such a conflict, the Inspector General's outside counsel shall also advise the 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 Inspector General shall report the matter to the Board as outlined above.
- 6. The Board further requests that the General Counsel represent the Inspector General in all instances in which the enforcement of a subpoena issued by the Inspector General is necessary. If the 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 Inspector General in such enforcement issues according to the conflict provisions above.
- 7. The Board shall retain counsel acceptable to the Inspector General to provide legal counsel in those circumstances where this Resolution authorizes the Inspector General to seek the advice of outside legal counsel rather than the General Counsel.
- 8. This Resolution shall take effect upon adoption and shall remain in effect until amended or rescinded by further Board action for the tenure of the Inspector General's appointment including any renewals thereof.