



COMMONWEALTH OF VIRGINIA
Office of the State Inspector General

Michael C. Westfall, CPA
State Inspector General

P.O. Box 1151
Richmond, Virginia 23218

Telephone (804) 625-3255
Fax (804) 786-2341
www.osig.virginia.gov

In accordance with § 2.2-4002.1 of the Code of Virginia, this proposed guidance document conforms to the definition of a guidance document in § 2.2-4101.

PROPOSED GUIDANCE DOCUMENT
Investigative Authority of the Office of the State Inspector General

ADOPTION DATE: June 21, 2019 (*Effective upon conclusion of the public comment period required pursuant to § 2.24002.1 of the Code of Virginia*)

AMENDMENT DATE(S): N/A

I. Background

The State Inspector General and his Office are granted their authorities (as well as restrictions of those authorities) to investigate, inspect, or review specific individuals and entities via relevant provisions of the *Code of Virginia*.

II. Relevant Statutes

§ 2.2-308. Office created; appointment of State Inspector General.

A. There is hereby created the Office of the State Inspector General, which shall be headed by a State Inspector General ...

B. The State Inspector General shall exercise the powers and perform the duties conferred or imposed upon him by law.

....

§ 2.2-309. Powers and duties of State Inspector General.

A. The State Inspector General shall have power and duty to:

1. Operate and manage the Office and employ such personnel as may be required to carry out the provisions of this chapter;

...

3. Receive complaints from whatever source that allege fraud, waste, including task or program duplication, abuse, or corruption *by a state agency¹ or nonstate agency² or by any officer³ or employee⁴ of the foregoing* [emphasis added] and determine whether the complaints give reasonable cause to investigate;

4. Receive complaints under § 2.2-2832 from persons alleging retaliation by an officer or employee of a state agency for providing testimony before a committee or subcommittee of the General Assembly and determine whether the complaints give reasonable cause to investigate;

5. Investigate the management and operations *of state agencies, nonstate agencies, and independent contractors of state agencies* [emphasis added] to determine whether acts of fraud, waste, abuse, or corruption have been committed or are being committed by state officers or employees or independent contractors of a state agency or any officers or employees of a nonstate agency, including any allegations of criminal acts affecting the operations of state agencies or nonstate agencies. *However, no investigation of an elected official of the Commonwealth to determine whether a criminal violation has occurred, is occurring, or is about to occur under the provisions of § 52-8.1 shall be initiated, undertaken, or continued except upon the request of the Governor, the Attorney General, or a grand jury* [emphasis added];

....

¹ § 2.2-307. **Definitions.**

As used in this chapter, unless the context requires a different meaning:

...

"State agency" means any agency, institution, board, bureau, commission, council, or instrumentality of state government in the executive branch listed in the appropriation act. "State agency" also includes any local department of social services.

....

² § 2.2-307. **Definitions.**

As used in this chapter, unless the context requires a different meaning:

...

"Nonstate agency" means any public or private foundation, authority, institute, museum, corporation, or similar organization that is (i) not a unit of state government or a political subdivision of the Commonwealth as established by general law or special act and (ii) wholly or principally supported by state funds. "Nonstate agency" shall not include any such entity that receives state funds (a) as a subgrantee of a state agency, (b) through a state grant-in-aid program authorized by law, (c) as a result of an award of a competitive grant or a public contract for the procurement of goods, services, or construction, or (d) pursuant to a lease of real property as described in subdivision 5 of § 2.2-1149.

....

³ § 2.2-307. **Definitions.**

As used in this chapter, unless the context requires a different meaning:

...

"Officer" means any person who is elected or appointed to a public office in a state agency.

⁴ § 2.2-307. **Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Employee" means any person who is regularly employed full time on either a salaried or wage basis, whose tenure is not restricted as to temporary or provisional appointment, in the service of, and whose compensation is payable by, no more often than biweekly, in whole or in part, a state agency.

....

§ 2.2-309.1. Additional powers and duties; behavioral health and developmental services.

A. The definitions found in § 37.2-100 shall apply mutatis mutandis to the terms used in this section.

B. In addition to the duties set forth in this chapter, the State Inspector General shall have the following powers and duties to:

1. Provide inspections of and make policy and operational recommendations *for state facilities and for providers, including licensed mental health treatment units in state correctional facilities* [emphasis added], in order to prevent problems, abuses, and deficiencies in and improve the effectiveness of their programs and services. The State Inspector General shall provide oversight and conduct announced and unannounced inspections of state facilities and of providers, including licensed mental health treatment units in state correctional facilities, on an ongoing basis in response to specific complaints of abuse, neglect, or inadequate care and as a result of monitoring serious incident reports and reports of abuse, neglect, or inadequate care or other information received. The State Inspector General shall conduct unannounced inspections at each state facility at least once annually;

2. Inspect, monitor, and review the quality of services provided *in state facilities and by providers as defined in § 37.2-403, including licensed mental health treatment units in state correctional facilities* [emphasis added];

....

§ 2.2-309.2. Additional powers and duties; Tobacco Region Revitalization Commission.

The State Inspector General shall (i) review the condition of the Tobacco Region Revitalization Commission's accounting, financial, and administrative controls to ensure that the purposes set forth in Chapter 31 (§ 3.2-3100 et seq.) of Title 3.2 are lawfully achieved; (ii) investigate to resolve allegations of fraudulent, illegal, or inappropriate activities concerning (a) disbursements from the Tobacco Indemnification and Community Revitalization Endowment created pursuant to § 3.2-3104 and (b) distributions from the Tobacco Indemnification and Community Revitalization Fund created pursuant to § 3.2-3106; and (iii) detect fraud, waste, and abuse and take actions to prevent the same.

§ 2.2-309.3. Additional powers and duties; adult corrections.

A. The definitions found in § 53.1-1 shall apply mutatis mutandis to the terms used in this section.

B. In addition to the duties set forth in this chapter, the State Inspector General shall review, comment on, and make recommendations about, as appropriate, any reports prepared by the Department of Corrections and any critical incident data collected by the Department of Corrections in accordance with regulations adopted to identify issues related to quality of

care, seclusion and restraint, medication usage, abuse and neglect, staff recruitment and training, and other systemic issues.

C. Nothing in this section shall be construed to grant the Office any authority over the operation and security of local jails that is not specified in other provisions of law [emphasis added].

§ 2.2-309.4. Additional powers and duties; juvenile justice.

A. The definitions found in § 66-12 shall apply mutatis mutandis to the terms used in this section.

B. In addition to the duties set forth in this chapter, the State Inspector General shall review, comment on, and make recommendations about, as appropriate, any reports prepared by the Department of Juvenile Justice and any critical incident data collected by the Department of Juvenile Justice in accordance with regulations adopted to identify issues related to quality of care, seclusion and restraint, medication usage, abuse and neglect, staff recruitment and training, and other systemic issues.

C. Nothing in this section shall be construed to grant the Office any authority over the operation and security of detention homes that is not specified in other provisions of law [emphasis added].

The Office of the State Inspector General will be taking public comment on this proposed guidance document. A 30-day comment period will begin on August 19, 2019.

If you wish to comment on the proposed guidance document, you may do so via the Town Hall website or you may submit written comments so that they are received no later than September 18, 2019 to:

*Mark N. Courtney, OSIG Regulatory Coordinator
c/o Michael C. Westfall, CPA
State Inspector General
P.O. Box 1151
Richmond, VA 23218
Telephone: (804) 625-3255
Fax: (804) 786-2341
Mark.courtney@osig.virginia.gov*

MCW/mnc