

**Minutes of the
Education Audit Appeals Panel**
Monday, August 19, 2013
915 L Street, Cedar Room
Sacramento

Call to Order and Roll Call

Chair David Botelho called the meeting to order at 1:35 p.m.
Panel members present: David Botelho, designee of the Director of the Department of Finance;
Joel Montero, Chief Executive Officer of the Fiscal Crisis and Management Assistance Team;
and Jeannie Oropeza, designee of the Superintendent of Public Instruction.

Review of Agenda

Mr. Botelho read out the agenda items.

Approval of Minutes

Action: The Panel approved the minutes of the May 20, 2013 meeting after correcting a typo.

Item 1	Report of the Executive Officer 1. Summary of appeal activities 2. Apportionment significant findings: audit reports and RDAs 3. Other items of interest	Information
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Executive Officer Mary Kelly reported that since the last meeting, eight summary review requests were filed and four of those were withdrawn. The remaining four summary reviews are: Hope ESD, Reed Union, West Side Union, and San Carlos Charter Learning Center. Ms. Kelly stated that no determinations had been made. She added that there were four new formal appeals since the last meeting: Perris Union, South Monterey, Vallejo City, and Oakland, noting that there was a potential jurisdictional issue with part of the Oakland case.

Ms. Kelly stated that EAAP's new website had gone live on July 1. Staff had received very positive feedback from users, and it was much easier to update.

Ms. Kelly reported that she and Staff Attorney Tim Morgan had begun having preliminary discussions with staff from the State Controller's Office, Office of Administrative Law, and with auditors regarding the structure of the audit guide. She said they are looking into ways to make the audit guide less cumbersome and more functional, and added that this was the first time that the audit guide format had been revisited since EAAP was formed. Ms. Oropeza asked that the staff from the Department of Education be kept in the loop as they were working on a similar situation considering the new local control/local funding formula. Ms. Kelly replied that she would include CDE and Department of Finance staff in the discussions.

Mr. Montero asked if it were within EAAP's role to change the structure of the audit guide, and if so, could the audit guide be written in a more common form of language. Ms. Kelly stated that

it was SCO's role to submit content for the audit guide, and it was EAAP's role to shepherd the audit guide through the rulemaking process, and therefore, the answer is yes, it is EAAP's role.

Ms. Kelly reiterated that the focus was to make the audit guide easier to use and more functional for the people who actually use it. Considering that the next audit guide would not be published until approximately next July, it would be a long and thoughtful process that included the Panel and those that use the guide itself.

Item 2	<p>Public Participation This time is reserved for any person to address the Panel. If the subject is on the Public Session Agenda, individuals may comment now or at the time the item is considered. If the subject is not on the Public Session Agenda, the Panel is not empowered to take action on it. Public comment is limited to 3 minutes per speaker; the Panel may extend the limit by a uniform amount per speaker.</p> <p>No comment will be taken on matters at issue in items on the Closed Session Agenda, or on any pending adjudicatory proceeding.</p>	Information
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There were no comments from the public.

Item 3	<p>Legislation Report Discussion and action as appropriate regarding any legislation that may affect EAAP</p>	Information Action
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Ms. Kelly reported that there will be a significant number of changes needed in the audit guide in response to legislation passed in 2012-13, as well as the budget bill and trailer bill language. Ms. Kelly added that EAAP staff would be attending a meeting coordinated by CDE and including DOF and the State Controller's Office in order to review requirements and identify areas where audit guide adjustments will be required; however, no decisions will be made this early as to audit guides changes for 2013-14 or 2014-15.

Ms. Kelly reported that SB 584 would amend Education Code Section 14502.1 to add a requirement that on or before January 1, 2015, SCO, in consultation with the State Allocation Board, DOF, and CDE will submit content to EAAP for inclusion in the audit guide related to school facilities projects. This bill passed out of both houses and was enrolled on August 13. Ms. Oropeza asked if this would be applied retroactively to existing school facilities projects, or would begin with new bond monies. She noted that this bill shifts the costs of audits to the LEAs, and reiterated that the language was not clear as to how it would be applied. Ms. Kelly replied that she would try to get more information to bring to the Panel.

Ms. Kelly stated that SB 302 would require compliance audits and the audit guide to include cafeteria fund expenditures. She noted that the last two versions of the bill do not include the earlier language that exceeded EAAP's authority, and added that the bill was in the Assembly Appropriations suspense file.

Ms. Kelly stated that AB 948, which would require charter school facility grants to be subject to Education Code Section 41020 audits, was currently in the Senate Appropriations suspense file.

AB 342 would make classroom based ADA calculations available to synchronous online (independent study) programs if certain requirements were met. This bill would require modification of independent study procedures in the 2014-15 audit guide. Should this bill pass, it would make changes to independent study programs such as requiring periodic meetings with students, rather than just when a certain number of assignments had been missed. Ms. Kelly noted that Assembly rule 47.1 had been invoked, which referred the bill to the Rules Committee because the bill's author is no longer a Member.

SB 379 would require a charter school operating as an early and middle college high school meet certain requirements for calculating classroom based ADA. Ms. Kelly noted that if passed, the bill would require inclusion in the audit guide. She added that the bill had passed out of Assembly Appropriations on August 14, and was ordered to a third reading in the Assembly.

Ms. Oropeza stated that there were other bills that will impact the audit guide, including SB 73, which implements Proposition 39. It was noted that though the trailer bill language had not been discussed at this meeting, staff was aware that it will have a significant impact on the audit guide.

Item 4	Contracts EAAP staff requires authorization to execute an amendment to Contract No. 7-EAAP-17 for legal services, to increase the amount and extend the time.	Information Action
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Ms. Kelly stated that EAAP's contract with outside counsel, Mennemeier, Glassman & Stroud, representing the agency in the Perris Union High School litigation matter expired on June 30. Ms. Kelly noted that since the contract has been amended four times, staff preferred to execute a new contract that would cover the two year period through June 30, 2015, in the amount of \$250,000, to allow for the case to be concluded. She added that at this time, all briefing had been submitted and that staff were awaiting the setting of an oral argument date.

Ms. Oropeza stated her understanding that the school was now closed, and that she was not inclined to authorize such a large expenditure for a case she believed would soon be settled. It was noted that there may be outstanding invoices generated since the prior contract had expired, and that staff could execute a contract up to \$50,000 under its existing delegation in order to cover any costs incurred until the resolution of the case, and that if the case continued without settling, staff would return to the Panel to request authorization for a contract amount that would cover the costs of legal representation through the end of the case.

The Panel took no action on this item.

Item 5	<i>Permanent Regulations: Audit Guide</i> Proposed permanent regulations for fiscal year 2013-14: No comments were received during the 45-day notice period, which ended July 29, 2013; take action as appropriate to adopt or amend the proposed regulations.	Information Action
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Ms. Kelly reported that there were no comments received during the 45-day comment period which ended on July 29, 2013, and that the Panel could take action to adopt or amend the proposed regulations.

Action: The Panel adopted the Permanent Regulations for the 2013-14 Audit Guide.

Staff Attorney Tim Morgan reported that technical changes without regulatory effect had been filed with the Office of Administrative Law, in order to correct the name of the Government Accountability Office, and also, to add a reference to Education Code Section 60605.8, per the Statutes of 2012, Chapter 668, as the authority for common core academic content standards being adopted by the State Board of Education. Mr. Morgan added that the technical changes would be effective a week from today.

Item 6	Next Meeting September 23, 2013	Information Action
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The Panel's next tentatively scheduled meeting is Monday, September 23, 2013.

The Public Session recessed at 2:02 p.m.

Closed Session

The Panel met in Closed Session from approximately 2:02 p.m. until 2:08 p.m.

Call to Order: Public Session

Mr. Botelho recalled the Public Session to order at 2:09 p.m.

Closed Session Report:

Mr. Botelho reported that the Panel did not discuss the Perris litigation matter. He further reported that the Panel had approved the consolidated Foresthill Union School District settlement agreement, EAAP Case Nos. 12-15 and 13-02. The Panel also approved the settlement in the Sausalito Marin City School District matter, EAAP Case No. 11-18.

Adjournment

Mr. Botelho adjourned the meeting at 2:10 p.m.