

Initial Statement of Reasons

SECTIONS 19824, 19851, and 19854.

Specific Purpose of the Regulations.

The purpose of these regulations is to provide definitions of terms and specification of procedures to guide accountants in the conduct of statutorily required financial and compliance audits of local education agencies.

The proposed amendments to three sections of the audit guide will bring the regulations into conformance with legislation enacted effective July 28, 2009. (Assembly Bill 2 of the 2009-10 Fourth Extraordinary Session (ABX4 2), Chapter 2, Statutes 2009.) Subdivision (a) of Education Code Section 46201.2, which is applicable to fiscal years 2009-10 through 2012-13 provides that “a school district, county office of education, or charter school may reduce the equivalent of up to five days of instruction or the equivalent number of instructional minutes without incurring the penalties set forth in Sections 41420, 46200, 46200.5, 46201, 46201.5, 46202, and 47612.5. ...”

Necessity/Rationale

These regulations are necessary to implement Education Code sections 14501, 14502.1, 14503, and 41020.

Title 5, Division 1.5

Chapter 3. Audits of California K - 12 Local Education Agencies

Article 3. State Compliance Requirements: Local Education Agencies Other Than Charter Schools.

§ 19824. Instructional Time

This section directs the auditor to verify compliance by school districts with the minimum number of instructional days as specified in Education Code Section 41420, and compliance by participating school districts and county offices of education with the requirements of the Longer Instructional Day and Longer Year Incentive programs that are provided in Education Code sections 46200 and following, and to calculate and report applicable penalties.

Subparagraph (a) is amended by inserting reference to fiscal years 2003-04 through 2008-09, thus preserving the audit procedures applicable to school districts in that time period.

A new subparagraph (b) is added to reflect the reductions in instructional minutes and days authorized by the provisions of Education Code Section 46201.2. Subparagraph (b) is the same as subparagraph (a), except as follows:

Subparagraph (b)(2) specifies, for clarity, the reductions authorized by Education Code Section 46201.2(a). Subparagraph (b)(3) refers to the days specified in (b)(2).

Subparagraphs (b)(4) and (5) direct the application of the penalty provisions of Education Code Section 41420, with reference to reduced requirements where applicable, and direct the report of the calculation and any penalties determined.

Subparagraph (b)(6) addresses the reductions in instructional minutes for districts that receive both Longer Day and Longer Year incentives (subparagraph (b)(6)(A)), those that receive Longer Day but not Longer Year incentives (subparagraph (b)(6)(B)), those that do not receive Longer Day (and are required by Education Code Section 46202 to maintain the number of minutes offered by the district in 1982-83) but did receive Longer Year incentives (subparagraph (b)(6)(C)), and those districts that received neither Longer Day nor Longer Year incentives (subparagraph (b)(6)(D)). The appropriate calculation of the equivalent five-day reductions to the required numbers of instructional minutes at the specified grade levels is set out.

Subparagraph (b)(7) is the same as subparagraph (a)(6). Subparagraphs (b)(8) and (9) are the same as subparagraphs (a)(7) and (8) except for the addition of references to the reduced requirements that are to be included in the “Schedule of Instructional Time” (defined in Section 19816(n) of the 2009-10 audit guide). The applicable requirements and penalties for Longer Day are in Education Code Section 46201, subdivisions (a) and (d); for those districts not participating in Longer Day incentives, see Education Code Section 46202(b); and for Longer Year see Education Code Section 46200, subdivisions (a) and (c).

Subparagraph (c) is the same as former subparagraph (b) with regard to special day programs operated by county offices of education but for the insertion of reference to fiscal years 2003-04 through 2008-09, thus preserving the audit procedures applicable to that time period.

New subparagraph (d) addresses the same audit procedures as subparagraph (c), but with reference to the reduced time requirements authorized by Education Code Section 46201.2 for the Longer Day and Longer Year programs, with reference to those counties that participate in both programs (subparagraph (d)(2)), or in Longer Day but not Longer Year (subparagraph (d)(3)).

Subparagraphs (d)(4) and (5) are the same as subparagraphs (c)(3) and (4) except for the addition of references to the reduced requirements that are to be included in the “Schedule of Instructional Time” (defined in Section 19816(n) of the 2009-10 audit guide). The applicable requirements and penalties for Longer Day are in Education Code Section 46200.5, subdivisions (a) and (c); and for Longer Year they are in Education Code Section 46201.5, subdivisions (a) and (e).

Article 4. State Compliance Procedures: Charter Schools

§ 19851. Mode of Instruction.

“Nonclassroom-based instruction” offered by charter schools is defined as instruction that does not meet the requirements specified as a condition of apportionment for “classroom-based instruction.” (Educ. Code § 47612.5(e)(1), (2).) This regulation directs the auditor to determine whether the Average Daily Attendance (ADA) reported as having been generated through classroom-based instruction met the statutory requirements for that classification, and if not, to proceed to evaluate the ADA for compliance with requirements for nonclassroom-based

instruction (Section 19852), and include a statement of the number of any ADA inappropriately reported for apportionment.

Subparagraph (a)(4) is amended to preserve the audit procedures and minimum instructional times applicable to fiscal years 2005-06 (when charter school provisions were first added to the audit guide) through 2008-09, and to add procedures applicable to fiscal years 2009-10 through 2012-13 in accordance with Education Code Section 46201.2. For clarity, the second table displays the reduced minimum pupil attendance requirements for classroom-based instruction in conformance with the reduction of the minimum instructional time required to be offered pursuant to subdivision (a)(1) of Education Code Section 47612.5. (Educ. Code § 47612.5(e)(1).)

§ 19854. Annual Instructional Minutes – Classroom Based.

This section directs the auditor to determine whether the charter school offered the required numbers of instructional minutes as required by Education Code Section 47612.5(a)(1). The proposed amendment brings the requirement into conformance with the provisions of Education Code Section 46201.2.

Subparagraph (b) is amended to preserve the audit procedures and minimum instructional times applicable to fiscal years 2005-06 (when charter school provisions were first added to the audit guide) through 2008-09, and to add procedures applicable to fiscal years 2009-10 through 2012-13 in accordance with Education Code Section 46201.2. Charter schools may reduce the number of instructional minutes specified in Education Code Section 47612.5(a) by the equivalent of 5 days of instruction without incurring the penalty specified in subdivision (c) of that statute. The second table inserted in the regulation displays the reductions which were calculated by dividing the number of minutes at each grade level by 175 (number of days in the school year) and then multiplying by 5.

Subparagraph (d) is amended to reflect a statutory amendment that should have been incorporated earlier: Education Code Section 47612.5(a)(1) was amended to specify the minimum instructional minutes instead of making reference to the minutes as set out in Education Code Section 46201(a)(3) (Stats. 2005, c. 543 (AB 1610), § 5).

Subparagraph (d) is further amended to direct the inclusion of the reduced requirements in the “Schedule of Instructional Time” (defined in Section 19816(n) of the 2009-10 audit guide).

Technical, Theoretical, or Empirical Studies, Reports, or Documents.

EAAP did not rely on any technical, theoretical, or empirical studies, reports, or documents in proposing the adoption of these regulations.

Reasonable Alternatives to the Regulations and the Agency’s Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by EAAP.

Reasonable Alternatives to the Regulatory Action that Would Lessen Any Adverse Impact on Any Business.

These regulations are applicable only to certified public accountants and public accountants who audit LEAs, and indirectly to the LEAs themselves. As no adverse impact on small business has been identified, there is no need to examine reasonable alternatives.

Evidence Supporting Finding of No Significant Adverse Economic Impact on Any Business.

EAAP has determined that adoption of the proposed regulations would not have a significant impact on any business in the State of California. The regulations direct accountants to conduct the steps required for audit of state-funded education programs and Education Code Section 14503 requires the use this audit guide in the performance of audits of LEAs, and provides that, if auditors do not follow the prescribed procedures, they are to state in their audit reports what other procedures were followed.