

Initial Statement of Reasons

SECTIONS 19815, 19816, 19816.1, 19817.1, 19817.2, 19817.5, 19840, 19846, and 19846.1.

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 (LEAs). The Controller proposed changes in the audit guide related to professional audit standards, disaggregated reporting of attendance data for charter schools in the schedule of Average Daily Attendance, and clarification of testing for attendance reporting and enrollment priorities for the After School Education and Safety Program. Review of juvenile court school Average Daily Attendance records is added as required by Section 41 of Chapter 724 of the Statutes of 2010 (A.B. 1610, eff. Oct. 19, 2010). Conforming changes have been made in sections 19816 and 19816.1, and some audit procedures have been edited or placed in separate audit guide sections for improved clarity.

This rulemaking accomplishes the annual update of the guide for 2011-12 pursuant to Education Code Section 14502.1(a) and (b).

Necessity/Rationale

These regulations are necessary to implement Education Code sections 14501, 14502.1, 14503, and 41020, and Section 41 of Chapter 724 of the Statutes of 2010 (A.B. 1610, eff. Oct. 19, 2010).

Title 5, Division 1.5 Chapter 3. Audits of California K - 12 Local Education Agencies Article 2 Audit Reports

§ 19815. Report Components.

This section specifies the format of the LEA audits. Subparagraph (e)(3) is amended to limit its applicability to prior fiscal years, and new subparagraph (e)(4) is added for fiscal years 2011-12 and following to change the report title based on changes in audit standards and guidance by the American Institute of Certified Public Accountants (AICPA) to ensure the audit guide is consistent with audit standards. Subparagraph (e)(3) is also amended to conform to the structure of subparagraphs (e)(1), (2) and (4) – stating the report title first.

§ 19816. Definitions.

This section defines terms used in Section 19815 of these regulations that pertain to state program compliance and to federal publications referenced in Section 19815. As stated in the introductory paragraph of this section, definitions are drawn from the three publications named there,¹ or are as defined in the subparagraphs of this section.

This audit guide must be adopted before July 1 of the fiscal year to be audited, and may only be amended before March 1 of the year audited if legislation enacted in the audit year affects

¹ *Codification of Statements on Auditing Standards*, published by the AICPA, the *Codification of Governmental Accounting and Financial Reporting Standards*, published by the Governmental Accounting Standards Board (GASB), *Government Auditing Standards* published by the Comptroller General of the United States.

conditions of apportionment in the audit year. (Educ. Code § 14502.1(b).) However, the AICPA, the Governmental Accounting Standards Board (GASB), or the U.S. Comptroller General may update standards applicable to the audit year at any time. The AICPA *Codification of Statements on Auditing Standards* provides, in Section 801.17 paragraph .22,

“In instances where audit guidance by a governmental agency for the performance of compliance audits has not been updated for, or otherwise conflicts with, current GAAS² or *Government Auditing Standards*, the auditor should comply with the most current applicable GAAS or *Government Auditing Standards* instead of the outdated or conflicting guidance.”

Subparagraph (f), “Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*,” was added to this audit guide in 2009 to conform the language used in the report on internal control to then-current audit standards; it superseded the definition of the same report in subparagraph (e).

Subparagraph (f) is being amended by inserting subparts (1) to limit the applicability of the current language to fiscal years 2009-10 through 2010-11, and (2) to add a new definition of this report for fiscal years 2011-12 and following to ensure consistency with audit standards in Statement on Auditing Standards (SAS) 115. Rather than specifying some but not all required elements of the report, the auditor is referred to the guidance contained in the AICPA *Codification of Statements on Auditing Standards*, and the U.S. Comptroller General’s *Government Auditing Standards*, as applicable to the year being audited.

Subparagraph (g), “Report on State Compliance,” is amended to limit its applicability to prior fiscal years.

A new subparagraph is added, designated (h), which provides a revised definition of the “Report on State Compliance” for fiscal years 2011-12 and following, consistent with current audit standards in SAS 117. The new subparagraph (h) also includes a list of the compliance requirements for fiscal year 2011-12 and the corresponding numbers of audit procedures which are to be specified by compliance requirement in the Report on State Compliance. The word “district” is changed to “auditee” for consistency with usage in this audit guide where reference is made to more than one kind of audited LEA.

Subparagraph (h), “Report on Compliance With Requirements Applicable to Each Major Program and Internal Control Over Compliance in Accordance With OMB Circular A-133,” is redesignated as (i). It is amended by inserting subparts (1) to limit the applicability of the current language to prior fiscal years; and (2) to revise the report title (to “Report on Compliance With Requirements that Could Have a Direct and Material Effect on Each Major Program and on Internal Control Over Compliance in Accordance With OMB Circular A-133”), and update the content description to ensure the audit guide is consistent with audit standards. (Refer to the change made in Section 19815(e)(4).)

² GAAS is the acronym for “generally accepted auditing standards,” which are set out in Section 150 of the AICPA *Codification of Statements on Auditing Standards*.

Subparagraph (i), “Schedule of Average Daily Attendance,” is redesignated as (j), and is amended by inserting three numbered subparts to specify the language applicable to different fiscal years. Subpart (1) consists of the definition applicable to fiscal years 2003-04 through 2008-09, and strikes the language that was added in 2009-10 to expand the definition beginning that year. Subpart (2) is applicable to fiscal years 2009-10 through 2010-11 and consists of the current language without distinguishing the 2009-10 amendment. Subpart (3) is proposed for fiscal years 2011-12 and following – it modifies the current definition by specifying that charter school Average Daily Attendance data is to be reported for each charter school separately, not in the aggregate. The proposed revision will provide transparency.

Subparagraphs (j) through (o) are redesignated as (k) through (p). No other changes are made in these subparagraphs.

§ 19816.1. Applicability of Audit Procedures by Audit Year.

This section specifies which sections of the audit guide are applicable to each audit year. The sections that are applicable to audits of fiscal year 2011-12 are listed in new subparagraph (a)(9) for Article 3, new subparagraph (b)(9) for Article 3.1, and new subparagraph (c)(7) for Article 4.

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

§ 19817.1. Regular and Special Day Classes

This section addresses attendance reporting related to general procedures, including validity of teacher credentials, whereas specific programs (such as kindergarten, independent study, and so forth) are addressed separately. It also addresses teacher misassignments.

Section 19817.1 is amended to limit its application to fiscal years 2004-05 to 2010-11.

§ 19817.2. Attendance Reporting.

A new Section 19817.2, titled “Attendance Reporting,” is added for fiscal years 2011-12 and following to apply these audit procedures to reports of Average Daily Attendance if there are no program-specific audit procedures.

Education Code Section 41020(c) requires that the annual audit include an audit of pupil attendance procedures. There is a concern that because of the title of Section 19817.1, and because of the parenthetical statement in subparagraph (b) of that section, some auditors have limited attendance testing pursuant to these procedures to regular and special day classes only. As a result, attendance for other programs such as opportunity schools and county community schools has not been audited.

Subparagraphs (a) and (c) include new instructions to ensure that all programs for which attendance is reported are audited, subject to the materiality thresholds specified in Section 19813 of these regulations. Subparagraphs (e) and (f) of Section 19817.1 are omitted from new Section 19817.2.

§ 19817.5. Teacher Certification and Misassignments.

Subparagraphs (e) and (f) of Section 19817.1 are moved to this separate audit section and redesignated subparagraphs (a) through (e).

Subparagraphs (a) and (b) of this section direct the auditor to determine whether the teachers included in the selected sample possess valid certification documents, and if not, to calculate and report the appropriate penalties.

Subparagraphs (c) through (e) address the verification of teacher misassignments pursuant to Section 44258.9. These procedures were added to the audit guide in the supplement for 2004-05 as required by Education Code Section 14501(b). They direct the auditor to determine whether teachers in the selected sample were assigned to positions consistent with their credentials or other authorizations, and to report any discrepancies.

§ 19840. Juvenile Court Schools.

This new section is added to the audit guide pursuant to Section 41 of Chapter 724 of the Statutes of 2010 (A.B. 1610, eff. Oct. 19, 2010). That provision requires that Average Daily Attendance records for juvenile court schools operated by a county superintendent of schools be included in the annual audit guide.

Juvenile court schools are governed by Education Code sections 48645 and following. Section 48645.3 addresses attendance credit and computation. Computation of attendance credit in juvenile court schools was also addressed in EAAP’s precedential decision *In the Matter of the Statement of Issues Against: Fresno County Office of Education*, (2001) EAAP Case No. 00-03; OAH Case No. N2000050273, pp. 8-12, which is available on the Appeals page of the EAAP web site (<http://www.eaap.ca.gov>).

Auditors are instructed to include a statement in the Findings and Recommendations section of the audit report of any inappropriately reported units of Average Daily Attendance and an estimate of their dollar value.

**Article 3.1 State Compliance Procedures:
School Districts and Charter Schools**

§ 19846. After School Education and Safety Programs.

This section directs the auditor to check for compliance with the requirements of the After School Education and Safety Program. (Educ. Code § 8482 and following.) Charter schools are included in the definition of LEAs as eligible applicants for this program (Educ. Code § 8482.3(e)(1)). All applicants are required to agree to follow all fiscal reporting and auditing standards required by the California Department of Education (Educ. Code § 8482.3(e)(5)). Subparagraph (a) addresses the after school component; subparagraph (b) addresses the before school component; subparagraph (c) addresses general requirements applicable whether the local education agency operates either or both program components. This section is amended to limit its applicability to fiscal years 2007-08 through 2010-11.

§ 19846.1. After School Education and Safety Programs.

The After School Education and Safety Program provides funding for before and after school programs for pupils in kindergarten and grades 1 through 9. The programs must include two elements: an educational and literacy element that provides tutoring or homework assistance in language arts, mathematics, history/social science, computer training, or science, and an educational enrichment element that may include, but is not limited to, fine arts, career technical education, recreation, physical fitness, and prevention activities. To accomplish program goals, the Legislature intends that elementary pupils attend daily for the full day of the before or after school program, and that middle or junior high school pupils attend the after school program at least nine hours and three full days a week, and the before school program a minimum of six hours or three days a week. LEAs are required to have procedures to give priority for enrollment to those middle or junior high school pupils who attend daily.

Program grant amounts are based on proposed attendance levels. Semiannual attendance reporting is required. Failure to attain the targeted attendance level over time can result in funding adjustments by the California Department of Education. Attendance for less than a full day of the after school program is not countable unless consistent with the established early daily release policy. Attendance for less than one half day of the before school program is not countable, and attendance for more than one half day but less than a full day of the before school program is not countable unless consistent with the established late daily arrival policy.

Section 19846.1 will be applicable to fiscal years 2011-12 and following. The proposed revisions from the prior procedures will clarify testing before and after school program attendance and reporting discrepancies. In addition, new audit procedures are proposed to determine whether the local education agency has a process or procedure that gives enrollment priority to the pupils in middle or junior high school who attend the after school component or the before school component daily, and report if the agency does not have such a procedure.

Specifically, for the after school component, subparagraph (a)(4) directs the auditor to determine whether students reported on the report of students served attended a full day, or if less than a full day, whether that attendance was consistent with the established early release policy. Subparagraph (a)(6)(D) directs the auditor to report the portion of reported students served whose attendance was for less than a full day but was not consistent with the early release policy.

Subparagraph (a)(5) is added to direct the auditor to determine whether there is a process or procedure to give priority for enrollment to students in middle or junior high school who attend daily. Subparagraph (a)(6)(E) directs the auditor to report that the agency has no such process or procedure, if that is the case.

For the before school program, subparagraph (b)(3)(C) is added to direct the auditor to determine whether the attendance by students reported as served who attended for more than one-half day but less than a full day was consistent with the established late arrival policy. Subparagraph (b)(5)(D) directs the auditor to report the portion of students reported as served who attended for less than one-half day. Subparagraph (b)(5)(E) directs the auditor to report the portion of students reported as served who attended for more than one-half day but less than a full day whose attendance was not consistent with the late arrival policy.

Subparagraph (b)(4) directs the auditor to determine whether there is a process or procedure to give priority for enrollment to students in middle or junior high school who attend daily. Subparagraph (b)(5)(F) directs the auditor to report that the agency has no such process or procedure, if that is the case.

Reference is added to the sections of the Education Code that specify the days and hours of operation for the after school component (in subparagraph (a)(3)), and the before school component (in subparagraph (b)(3)(A)). This may be helpful to auditors who do not have this statement of reasons, which specifies the program code sections, available during their field work.

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

EAAP relied on the AICPA *Codification of Statements on Auditing Standards*³ and *Government Auditing Standards* published by the Comptroller General of the United States, and the AICPA *Audit Guide: Government Auditing Standards and Circular A-133 Audits* (May 1, 2010) in preparing the proposed regulations. No other technical, theoretical, or empirical studies, reports, or documents were relied on in proposing the adoption of these regulations.

The AICPA *Codification, Government Auditing Standards*, and OMB Circular A-133 were incorporated by reference when the audit guide was adopted for the first time pursuant to the rulemaking procedures of the Administrative Procedure Act for the 2003-04 audit year (OAL File # 04-0506-02 C).

Government Auditing Standards is readily available online at <http://www.gao.gov/yellowbook>, and OMB Circular A-133 and the current compliance supplement are available online at http://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133_revised_2007.pdf and at http://www.whitehouse.gov/omb/circulars_a133_compliance_09toc.

The current AICPA *Codification of Statements on Auditing Standards* is available for \$130.00 at http://www.cpa2biz.com/AST/Main/CPA2BIZ_Primary/AuditAttest/AuditPreparationandPlanning/PRDOVR~PC-057205/PC-057205.jsp. The AICPA *Audit Guide: Government Auditing Standards and Circular A-133 Audits* provides guidance in the conduct of audits subject to *Government Auditing Standards*, such as the LEA audits that are the subject of these regulations,⁴ as well as audits of federal programs, which may be administered by these LEAs, that are subject to OMB Circular A-133. The AICPA *Audit Guide* is available from the publisher for \$87.50 at http://www.cpa2biz.com/AST/Main/CPA2BIZ_Primary/AuditAttest/IndustryspecificGuidance/Government/PRDOVR~PC-012743/PC-012743.jsp.

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

No other alternatives were presented to or considered by EAAP.

³ SAS 115 and 117 are included in the AICPA *Codification of Statements on Auditing Standards*.

⁴ See Section 19816(a) of these regulations.

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.