

Initial Statement of Reasons

SECTIONS 19816, 19816.1, and 19839.

Specific Purpose of the Regulations

The regulations to be amended are among those which determine the content of the annual audit guides. Those guides define terms and specify procedures to guide accountants in the conduct of statutorily required financial and compliance audits of local education agencies (LEAs). (Ed. Code §§ 14502.1, 14503, 41020.) The Education Audit Appeals Panel must adopt the audit guide by July 1 of the fiscal year to be audited, and must adopt any supplement to address legislative changes to the conditions of apportionment before March 1 of the audit year. (Ed. Code § 14502.1(b).)

The Controller, pursuant to Education Code Section 14502.1, has proposed amending the audit guide for fiscal year 2012-13. The proposal would make audit steps related to the public hearing requirements of Education Code section 42605 inapplicable for audit year 2012-13. Conforming changes to definitional sections are also made.

Necessity/Rationale

These regulations are necessary to implement Education Code sections 14502.1, 14503, 41020, and 47634.2. The rationale for each amendment or new regulation is provided below.

Problem to be Addressed in this Rulemaking

Education Code section 19839 was not updated to include certain changes to Education Code section 42605 enacted in 2011. The statutory changes to the public hearing requirements are unclear (e.g., how much “prior to” the budget hearing must the flexibility hearing take place; and is a program not being funded being “closed” even though it has not existed since 2009?). Until those requirements are clarified by further statutory amendment or by substantive regulations by the Department of Education (which are not within the scope of the audit guide), the Controller has suggested removing this one audit step from the audit guide for fiscal year 2012-13.

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

§ 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.

In this rulemaking, changes are made in Section 19816(h) to reflect the numbers of audit procedures for the compliance requirements included in the revised audit guide.

¹ *Codification of Statements on Auditing Standards*, published by the American Institute of Certified Public Accountants, 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.

§ 19816.1. Applicability of Audit Procedures by Audit Year.

This section specifies which sections of the audit guide are applicable to each audit year. In this rulemaking, conforming changes are made in subparagraph (a)(10).

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

§ 19839. Public Hearing Requirement – Receipt of Funds

This section directs the auditor to determine whether school districts and county offices of education complied with the public hearing requirements that Education Code Section 42605 makes a condition for receipt of funds. The section was not previously amended to reflect changes to those public hearing requirements effective March 24, 2011 (Stats. 2011, c. 7 (S.B. 70) and January 1, 2012 (Stats. 2011 c, 606 (A.B. 189)). This rulemaking would make section 19839 inapplicable to the 2012-13 Audit Guide.

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

In preparing the proposed regulations, EAAP did not rely on any technical, theoretical, or empirical studies or reports.

Reasonable Alternatives to the Regulations, Including Alternatives that Would Lessen Any Adverse Impact on Small Business, and the Agency’s Reasons for Rejecting Those Alternatives.

The audit guide regulations are applicable only to certified public accountants and public accountants who audit LEAs, and indirectly to the LEAs themselves. No alternatives to these amendments have been proposed which would reduce any impact on small business; in any case, no adverse impact on small business has been identified. No other alternatives were presented to or considered by EAAP.

Alternatives Proposed as Less Burdensome and Equally Effective in Achieving the Purposes.

No other alternatives were presented to or considered by EAAP.

Prescribed Audit Procedures.

The proposed amendments make section 19839 inapplicable to the 2012-13 audit guide, by amending that section and making conforming changes to sections 19816 and 19816.1. These audits must be performed by licensed public accountants who must conduct the audits in accordance with generally accepted auditing standards. (Ed. Code §§ 14501, 14503, and 41020; Title 5, §§ 19811 and 19812.) The audit guide includes provisions that authorize an auditor to use alternative procedures if, in the exercise of professional judgment, the auditor determines other procedures are more appropriate in particular circumstances. (Title 5, §§ 19814 and 19816(h).)

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

The regulations direct accountants to perform the steps necessary for the annual audits required by Education Code Section 41020. Education Code Section 14503 requires the use of this audit guide in the performance of those audits of LEAs. EAAP has prepared the following Economic Impact Assessment pursuant to Government Code Section 11346.3(b) and has made an

initial determination that adoption of the proposed regulations would not have a significant adverse economic impact on any business in the State of California.

Economic Impact Assessment

Staff of the Education Audit Appeals Panel (EAAP) have performed an economic impact assessment of the proposed supplemental regulations amending sections 19816, 19816.1, and 19839 in Chapter 3 of Division 1.5 of Title 5, of the California Code of Regulations, relating to audits of California local education agencies (LEAs) that serve kindergarten and any of grades 1 through 12 (K-12). This assessment was performed in compliance with Government Code section 11346.3(b).

- **What would the proposed regulations do?**

These regulations will be part of the audit guide for California K-12 LEAs, as required by Education Code sections 14502.1 and 14503. The audit guide provides guidance, through definitions of terms and specification of procedures, to auditors in the conduct of the annual financial and compliance audits required of K-12 local education agencies (LEAs) by Education Code Section 41020. The proposed supplemental amendments to these regulations for the 2012-13 fiscal year are made pursuant to Education Code Section 14502.1.

Amendments are proposed to section 19816 subparagraph (h) to remove the procedure for auditing compliance with the public hearing requirements for flexed categorical program funds for the fiscal year 2012-13 audit guide. Conforming changes are proposed to section 19816.1 (a)(10). Amendments are proposed to remove from Article 3, Section 19839 Public Hearing Requirements-Receipt of Funds, the audit step from the 2012-13 audit guide.

- **Creation or Elimination of Jobs Within the State of California**

The amendments are minor and/or technical in nature. There will be no jobs created or eliminated as a result of these proposed regulations.

- **Creation of New or Elimination of Existing Businesses Within the State of California**

These regulations will make only technical and conforming changes to the K-12 audit guide. There will be no businesses created or eliminated as a result of these regulations.

- **Expansion of Businesses or Elimination of Existing Businesses Within the State of California**

The proposed regulations will not expand or eliminate business. Education Code Section 41020 requires that these audits be conducted by professional accounting firms under contract to LEAs, and requires that those firms use the standards and procedures developed pursuant to Section 14500 and following.

- **Benefits of the Regulation to the Health and Welfare of California Residents**

These regulations make technical and conforming changes to the K-12 audit guide to ensure its compliance with existing statutes. We do not anticipate that these proposed amendments would create specific benefits for the protection of public health and safety, worker safety, or the environment, the prevention of discrimination, the promotion of fairness or social equity, nor openness and transparency in business and government.