

Initial Statement of Reasons

SECTIONS 19814, 19814.1, 19832, 19833, 19834, 19835, 19836, and 19837.

Specific Purpose of the Regulations.

Education Code Section 14502.1 requires EAAP to review, possibly amend, and adopt the content submitted to the Education Audit Appeals Panel (EAAP) by the Controller for inclusion in the audit guide required by that statute. Local education agencies (LEAs) that serve kindergarten or any of grades 1 through 12 (K-12) are required to contract for an annual independent audit (Education Code § 41020), and the audit guide adopted by EAAP must be used in the performance of these audits (Education Code § 14503). Specifically, these regulations will provide definitions of terms and specification of audit procedures to guide accountants in the conduct of the statutorily required financial and compliance audits in six areas proposed by the Controller for inclusion in the audit guide for the 2004-05 fiscal year.

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 2 Audit Reports

§ 19814. Definitions.

Subdivision (e) of this section is amended to include reference to the state compliance requirements “that are applicable to the year audited,” and to include specification of the numbers of audit procedures proposed for inclusion in the audit guide for the 2004-05 fiscal year.

§ 19814.1. Applicability of Audit Procedures by Audit Year.

This new section specifies which sections of the audit guide are applicable to each audit year. In some years, because of decreased funding or for other reasons, certain state compliance areas may not be required to be audited. These same compliance areas may then be included again in future years. Rather than repealing and reenacting the audit procedures, inclusion of this section will specify to the accountants performing the audits which sections are to be included for each audited year.

Article 3. State Compliance Requirements.

This article lists the particular state-funded education programs that are required to be audited. Sections 19832, 19833, and 19835 through 19837 set forth audit procedures that direct auditors to the documents and reports and guide auditors in steps to determine whether an auditee was in compliance with the relevant statutory and regulatory requirements during the period audited. These sections further direct auditors to prepare schedules and include statements in the Findings and Recommendations section of the audit report displaying any instances of noncompliance, and specifying or estimating the dollar value of the noncompliance. Section 19834 directs auditors to gather and report information pertaining to the creation of alternative pension plans if any are found to exist.

§ 19832. State Funded Child Development: Attendance and Family Fees.

The Child Care and Development Services Act (Education Code Section 8200 and following) provides for a system of services that is implemented through contracts with LEAs and other providers. The contractors are reimbursed for costs, based, in part, on child days of enrollment and attendance, days of operation (Title 5, sections 18054 and 18055), and family fees (Title 5, Section 18108 and following).

§ 19833. School Construction Funds.

School districts are authorized by Section 6½ of Article IX of the California Constitution to issue bonds under such general laws as the Legislature may enact. Education Code Section 15100 and following set forth the provisions governing school district bonds for school facilities. Subdivision (a) of proposed Section 19833 directs auditors to verify that the proceeds from the sale of bonds have been deposited, expended, or transferred as required by the specified laws.

The State Allocation Board apportions funds to eligible school districts pursuant to the Leroy F. Greene School Facilities Act of 1998 (Education Code Section 17070.10 and following). Subdivision (b) of proposed Section 19833 directs auditors to verify that expenditures from the school district’s account in the county school facilities fund were made only for qualifying school facilities expenditures.

§ 19834. Alternative Pension Plans.

With few exceptions, permanent full-time employees of LEAs are required to participate in the California Public Employees Retirement System (Government Code Section 20000 and following) or the State Teachers Retirement System (Education Code Section 22000 and following). These procedures direct auditors to report the existence of any alternative pension plans that may be in place for such employees.

§ 19835. Proposition 20 Lottery Funds (Cardenas Textbook Act of 2000).

The Cardenas Textbook Act of 2000 (Government Code Section 8880.4) specifies that a certain percentage of the share of annual lottery revenues allocated to the benefit of public education be expended only for the purchase of instructional materials.

§ 19836. State Lottery Funds (California State Lottery Act of 1984).

Government Code Section 8880.5 provides for certain payments to public school districts from the California State Lottery Education Fund. Education Code sections 14600, 14700, and 14701 also address these funds. Subdivision (m) of Government Code Section 8880.5 prohibits the expenditure of these funds for certain purposes, and auditors are directed to verify that no lottery funds were expended for three of the four prohibited purposes. The Controller did not propose inclusion of the fourth prohibition, “any other noninstructional purpose,” in the audit guide.

§ 19837. California School Age Families Education (Cal-SAFE) Program.

The Cal-SAFE program, which serves pregnant and parenting teens and their children, is governed by Education Code Section 54740 and following. Proposed Section 19837 directs auditors to verify compliance with the provisions for claiming state funding for supportive services and child development services.

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 to lessen the impact.

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.