

Initial Statement of Reasons

SECTIONS 19814, 19814.1, 19817, 19817.1, 19826, 19826.1, 19828, 19828.1, and 19837.

Specific Purpose of the Regulations.

Education Code Section 14502.1 requires the Education Audit Appeals Panel (EAAP) to review, possibly amend, and adopt the content submitted to EAAP by the Controller for inclusion in the audit guide required by that statute. Education Code Section 14502.1 requires the adoption of the audit guide no later than July 1 of the fiscal year to be audited, with any supplement necessitated by new legislation that changed conditions of apportionment of school funding to be adopted no later than March 1 of the audit year. 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, the proposed regulatory changes will provide definitions of terms and specification of audit procedures to guide accountants in the conduct of the statutorily required financial and compliance audits of K-12 LEAs to address issues resulting from new legislation in 2004 that affected conditions of apportionment. (Stats. 2004, c. 900 [SB 550], effective September 30, 2004, implementing a portion of the settlement in the *Williams* case [*Eliezer Williams, et al., vs. State of California, et al.*, a class action case filed in 2000]¹; and Education Code § 52124 as amended by Stats. 2004, c. 910 [SB 311], § 1, effective September 30, 2004.) In addition, several minor changes are made throughout the affected sections for consistency of style in the audit guide.

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) is amended to list the numbers of audit procedures for state compliance requirements applicable to fiscal year 2003-04 separately from the numbers of audit procedures applicable to fiscal year 2004-05. The numbers of audit procedures for fiscal year 2004-05 are being amended to reflect the changes proposed to address new legislation in 2004.

§ 19814.1. Applicability of Audit Procedures by Audit Year.

This section specifies which sections of the audit guide are applicable to each fiscal year. Subdivision (b) is amended to add proposed new Section 19837 to the range of sections applicable to audits of fiscal year 2004-05.

¹ Information regarding the *Williams* case and settlement is available on the California Department of Education web site: <http://www.cde.ca.gov/eo/ce/wc/index.asp>

Article 3. State Compliance Requirements.

This article lists the particular state-funded education programs that are required to be audited, and sets forth audit procedures that guide auditors in steps to determine whether an auditee was in compliance with the relevant statutory and regulatory requirements during the fiscal year 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.

Three existing sections are amended by the addition of the introductory phrase, “For fiscal year 2003-04 only, perform the following audit steps:” and some minor changes for consistency of style in the audit guide:

§ 19817 Attendance

§ 19826 Class Size Reduction

§ 19828 Instructional Materials

Additionally, the term “Instructional Materials Block Grant” is deleted from subdivisions (c) and (d) of Section 19828 because the program allowance so identified is not referred to in statute as a block grant.

Four new sections are proposed that will be applicable to fiscal year 2004-05 and thereafter, three of which add audit steps to existing sections. These additions are described below.

§ 19817.1 Attendance

A new subdivision (f) is proposed to address the requirement in Education Code Section 14501(b) to include in the audit guide verification of “(2) Teacher misassignments pursuant to Section 44258.9.” This audit requirement was added by the *Williams* case settlement (Stats. 2004, c. 900 [SB 550], § 2, eff. 9-30-04). The *Williams* settlement defined the term “misassignment” for purposes of filing complaints with LEAs and for purposes of publication of information in the School Accountability Report Card (SARC) as “the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold.” (Stats. 2004, c. 900 [SB 550], § 10 [see Education Code § 35186(h)(2)] and § 12 [see Education Code § 33126(b)(5)(B)], eff. 9-30-04.) Accordingly, proposed new Section 19817.1(f)(1) directs auditors to determine whether teachers in the selected sample were assigned to positions consistent with their credentials or other authorizations as delineated in Section 19817.1(f)(1)(B). The *Williams* settlement also required that teachers assigned to classrooms in which more than 20 percent of the pupils were English learners have specific authorization to teach English learners, and those authorizations are delineated in Section 19817.1(f)(2). (Stats. 2004, c. 900 [SB 550], § 10 [see Education Code § 35186(e), which provides that the complaint procedures are intended to address, “(2) A complaint related to teacher vacancy or misassignment as follows:...(B) A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learner pupils in the class....”], eff. 9-30-04.)

§ 19826.1 Class Size Reduction

The changes in subdivision (f) of this section address the amendment to subdivision (e) of Education Code Section 52124, providing for specified prorata reductions in funding in instances in which the LEA exceeded the 20:1 pupil-to-teacher ratio specified for the Class Size Reduction program. (Stats. 2004, c. 910 [SB 311], § 1, eff. 9-30-04.)

§ 19828.1 Instructional Materials

Changes are made to implement the requirement in Education Code Section 14501(b) to include in the audit guide verification of “(1) The reporting requirements for the sufficiency of textbooks or instructional materials, or both, as defined in Section 60119.” Further changes are proposed for consistency with the amendments to Education Code Section 60119 made pursuant to provisions of the *Williams* settlement (Stats. 2004, c. 900 [SB 550], § 18, eff. 9-30-04).

Specifically, subdivision (a) is amended to reference subdivision (d) (rather than (c)) of Education Code Section 60119.

Subdivision (b)(1) is amended to address the requirement that the hearing in which the governing board is to make a determination regarding the sufficiency of textbooks and instructional materials is to be held within 8 weeks of the first day of school. (Education Code § 60119(a)(1)(B).)

A new subdivision (b)(4) is added to include the requirement that the hearing be held at a time that would encourage attendance by the specified interested parties. (Education Code § 60119(b).)

Former subdivision (b)(4) is renumbered to (b)(5) and amended to address the requirements applicable to the resolution required to be adopted by the governing board with regard to the sufficiency of textbooks and instructional materials that are consistent with the content and cycles of the curriculum frameworks adopted by the State Board of Education in specified subjects. (Education Code § 60119(a)(1)(A).) Subdivision (b)(5) also directs the auditor to verify that information was provided to classroom teachers and the public regarding any insufficiency of textbooks or instructional materials or both. (Education Code § 60119(a)(2)(A).) Subdivision (c) is amended to reference the audit procedures in subdivision (b)(1) through (5).

Subdivisions (b)(6) and (7) are added to address the new requirement that the governing board make a written determination of the sufficiency of the textbooks and materials for the specified classes. A new subdivision (d) is added to instruct the auditor on reporting findings related to the procedures in subdivisions (b)(6) and (7). (Education Code § 60119(a)(1)(C).)

Former subdivision (d) is redesignated as (e).

§ 19837 School Accountability Report Cards

This new regulation is proposed to address the requirement in Education Code Section 14501(b) to include in the audit guide verification of “(3) The accuracy of information reported on the School Accountability Report Card required by Section 33126.” Legislation implementing provisions of the *Williams* settlement amended Education Code Section 33126, which specifies the contents of the SARC. (Stats. 2004, c. 900 [SB 550], § 10, eff. 9-30-04.) Those amendments required additional information be stated in the SARC regarding teacher misassignments (Education Code § 33126(b)(5)), textbooks and instructional materials (Education Code § 33126(b)(6)(B)), and school facilities (Education Code § 33126(b)(9)).

The auditor is directed to verify the accuracy of information stated in the SARC regarding teacher misassignments (proposed Section 19837(a)), school facilities (proposed Section 19837(b)), and textbooks and instructional materials (proposed Section 19837(c)) by comparing the information in the SARC with information from other specified records and by interviewing management regarding any inconsistencies.

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 when they are auditing K-12 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 K-12 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.