

Finding of Emergency

The Education Audit Appeals Panel (EAAP) has statutory authority to use the emergency regulations process to meet the deadlines specified for the adoption of an annual audit guide by July 1 of the fiscal year to be audited and any supplement, as authorized, before March 1 of the audit year. (Educ. Code § 14502.1(b).)

Specific Facts Showing the Need for Immediate Action

Education Code Section (Section) 41020 requires the governing board of every local education agency (LEA) that serves kindergarten or any of grades 1 through 12 (K-12) to provide for an annual audit of the agency's books and accounts. Section 41020 further requires that the audit be developed and reported using a format established by the Controller after consultation with the Superintendent of Public Instruction and Director of Finance. Section 14502.1 requires the Controller, in consultation with the Department of Finance and the State Department of Education as well as representatives of specified organizations, to propose the content of an audit guide to promote accountability for public educational funds. After review and possible amendment, EAAP is then to adopt the audit guide pursuant to the rulemaking procedures of the Administrative Procedure Act (APA) by July 1 of the fiscal year to be audited. EAAP is also authorized to adopt, before March 1 of the audit year, a supplemental audit guide to address legislative changes in the conditions of apportionment of school funding.

The Controller's Office letter of November 18, 2016, proposed changes to the 2016-17 Audit Guide arising from a meeting of stakeholders pursuant to Section 14502.1(a) and follow up communications from the Controller's Office to the meeting participants. To meet the statutory timelines and ensure the accuracy of the audit guide, Section 14502.1 authorizes use of the emergency regulations procedures of the APA to adopt the guide as regulations. Use of the emergency procedures protects EAAP's ability to meet the March 1 deadline in Section 14502.1 for supplemental audit guide changes. Further, meeting the timelines enables accounting firms to provide training to their field auditors prior to the commencement of auditing.

Authority and Reference

Authority cited: Section 14502.1, Education Code.

Reference: sections 14502.1, 14503, and 41020, Education Code.

Informative Digest

This rulemaking adopts the supplemental Audit Guide for 2016-17, required by Section 14502.1, through incorporation by reference in Section 19810. The purpose of the Audit Guide is to define terms and specify procedures to guide accountants in the conduct of statutorily required financial and compliance audits of K-12 local education agencies. This supplemental filing ensures that audits include subjects pertinent to and/or required by Legislation through January 1, 2017.

Audit Guide Amendments

The proposed supplemental 2016-17 Audit Guide includes the following changes:

- *Section S California Clean Energy Jobs Act* updates the procedures to reflect the multi-year review period, continuing requirement for final project completion reports on construction projects, and updates references to website information from the California Department of Education and the California Energy Commission. Otherwise the substance of this audit step

is unchanged. As can be seen on the Energy Commission's website, the Commission's final guidelines were revised on July 13, 2016, after the Department of Education posted the Proposition 39 K-12 Program Funding Results for fiscal year 2016-17, once those funds had been allocated.

- *Section BB Mode of Instruction* is technically amended with a change of emphasis, but not outcome, with respect to units of average daily attendance (ADA) reported as classroom instruction but not qualified as such, to make clear that they should be reported as non-classroom based instruction if they qualify for funding on that basis, i.e. by fully complying with the requirements reviewed under Section CC of the Audit Guide.

Audit Guide Addition

- *New Section Q Mental Health Expenditures* is added in compliance with the enactment of Education Code Section 14509. (Stats. 2016, ch. 835 (S.B. 884) section 1.) The new section is specific to fiscal year 2016-17, as the same legislation leaves it to the Controller to decide whether to recommend the same audit procedures in future years.

Public Benefits

EAAP does 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 the increase in openness and transparency in business and government. These regulations make technical and conforming changes to preexisting K-12 audit guide regulations to ensure the annual Audit Guide's consistency and compatibility with new and preexisting state statutes and regulations, and to improve the quality and consistency of K-12 audits.

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

No technical, theoretical, or empirical studies, reports, or documents were relied on in proposing the adoption of these regulations.

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

EAAP does not anticipate that the proposed regulations will affect the health and welfare of California residents, worker safety, the environment, the prevention of discrimination, the promotion of fairness or social equity, or openness and transparency in business and government.

Mandate on Local Agencies or School Districts

EAAP has determined that these regulations do not impose a mandate on LEAs. No reimbursement is required.

Cost Estimate

EAAP has determined that these regulations will involve no costs or savings to any State agency, no nondiscretionary costs or savings to local agencies or school districts, no reimbursable costs or savings to local agencies or school districts under Section 17561 of the Government Code, and no costs or savings in federal funding to the State.

Evaluation of Consistency/Compatibility with Existing Regulations

EAAP staff performed an evaluation and determined that the proposed regulation is not inconsistent or incompatible with existing state regulations. This evaluation was performed in compliance with Government Code section 11346.5(a)(3)(D).

Supplement to Informative Digest: Incorporation by Reference

This supplemental rulemaking would adopt by incorporation and reference the document entitled “2016-17 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting (March 1, 2017)” which supersedes the version of the same title but dated July 1, 2016. This supplemental filing ensures that audits include subjects pertinent to and/or required by Legislation through January 1, 2017. Copies of the proposed audit guide, its previous version, and the final audit guides for several previous years, are available at EAAP’s website, www.eaap.ca.gov. A hard copy of the proposed text is available on request.