

TITLE 5. Education
Education Audit Appeals Panel

Notice of Proposed Rulemaking

Supplement to Audits of K-12 Local Education Agencies [March 1, 2017]
Fiscal Year 2016-17

The Education Audit Appeals Panel (EAAP) proposes to amend the Audit Guide regulations as described below after considering all comments, objections, and recommendations regarding the proposed action.

Public Hearing:

A public hearing regarding this proposal is not currently scheduled. Not later than 15 days prior to the close of the written comment period, any interested person, or his or her authorized representative, may make a written request for a public hearing pursuant to Government Code section 11346.8, and a public hearing will be held. Requests for a public hearing should be addressed to Timothy Morgan.

Written Comment Period:

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action. The written comment period closes at **5:00 p.m. on Monday, March 20, 2017**. EAAP will consider only written comments received by that time. Written comments for EAAP's consideration should be directed to:

Timothy Morgan
Education Audit Appeals Panel
770 L Street, Suite 1100
Sacramento, CA 95814

Fax: (916) 445-7626
e-mail: tmorgan@eaap.ca.gov

Authority and Reference:

Authority cited: Section 14502.1, Education Code.

Reference: Sections 14501, 14502.1, 14503, 14509, and 41020 of the Education Code.

Informative Digest/Policy Statement Overview:

This rulemaking, and the emergency adoption already made, amends title 5, California Code of Regulations, section 19810 to incorporate by reference the supplemental audit guide. It also adopts the supplemental audit guide for 2016-17 which makes clarifying revisions and addresses legislative changes in the conditions of apportionment of school funding. This supplemental filing ensures that audits include subjects pertinent to and/or required by Legislation through January 1, 2017.

Education Code section 14502.1, requires EAAP to develop an annual audit guide and to supplement it by March 1 for consistency with the previous year's legislation. 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. The Controller, pursuant to Education Code section 14502.1, has proposed amendments to supplement the audit guide for fiscal year 2016-17. The proposed changes derive from the Controller's proposals and also contain changes designed to clarify audit steps.

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. EAAP has determined that the proposed amendments will ultimately benefit the welfare of California residents by ensuring that local education agencies are in compliance with regulatory requirements. In developing the rulemaking, EAAP evaluated the proposed changes to regulations and determined that they are not inconsistent or incompatible with existing regulations, state or federal.

A description of proposed changes to section 19810, and a discussion of revisions to the audit guide, follow.

Title 5, Division 1.5

Chapter 3. Audits of California K - 12 Local Education Agencies

Article 2 Audit Reports

§ 19810. Annual Audit Guides.

The "2016-17 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting," (~~July 1, 2016~~March 1, 2017), adopted by the Education Audit Appeals Panel, is incorporated by reference. The guide provides the audit steps, reporting requirements, and other guidance, for the required annual financial and compliance audits, subject to auditor judgment where alternative or additional audit steps may be appropriate. The annual guide is superseded by a supplemental audit guide, if needed, adopted before March 1 of each fiscal year. Each annual guide and any applicable supplement are available on www.eaap.ca.gov/audit-guide, with paper or electronic copies available on request.

Note: Authority cited: Sections 14502.1 and 47612, Education Code; California Constitution, Article XIII, Section 36, subdiv. (e), subpara 7, and Article XIII A, Section 1, subdiv. (b), subparas 3(C) and 3(D). Reference: California Constitution Article XIII B, Section 1.5; and Sections 8482.3(e)(5), 2574(b)(3)(C), 14501, 14502.1, 14503, 14509, 15286, 41020, 42238.02(b)(3)(B), 47612.5, 47634.2 and 48000, Education Code.

Audit Guide Amendments

The proposed supplemental changes to the 2016-17 Audit Guide includes are as follows:

- *Section S California Clean Energy Jobs Act* updates the procedures to reflect the multi-year review period and the continuing requirement for final project completion reports on construction projects. It also 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.
- *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.
- *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 qualified for funding on that basis, i.e. by fully complying with the requirements reviewed under Section CC and EE of the Audit Guide.

Document Incorporated by Reference:

2016-17 Guide for Annual Audits of K-12 Local Education Agencies (LEAs) and State Compliance Reporting, rev. ~~July 1, 2016~~ March 1, 2017.

Disclosures Regarding the Proposed Action:

1. Mandate on local agencies and school districts: None
2. Cost to any local agency or school district which must be reimbursed: None
3. Cost or savings to any state agency: None
4. Other non-discretionary cost or savings imposed upon local agencies: None
5. Cost or savings in federal funding to the state: None
6. Significant effect on housing costs: None
7. Significant, statewide adverse economic impact on business including the ability of California businesses to compete with businesses in other states: None
8. Results of the Economic Impact Assessment:
 - (a) Adoption of these regulations will not:
 - create or eliminate jobs within California;
 - create new businesses or eliminate existing businesses within California; or
 - affect the expansion of businesses currently doing business within California.
 - (b) Benefit of the proposed regulation to the health and welfare of California residents, worker safety, or the State’s environment and quality of life: As stated under the “Informative Digest/Policy Statement Overview” above, the proposed

regulations will update and improve audit procedures of K-12 LEAs, which would ultimately benefit the welfare of California residents by ensuring that local education agencies are in compliance with regulatory requirements.

9. Cost impact on a representative private person or business: EAAP is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
10. Business report requirements: None
11. Effect on small businesses: The proposed regulations will have no effect on small businesses because they do not materially alter the requirements for LEA audits.

Consideration of Alternatives:

In accordance with Government Code Section 11346.5(a)(13), EAAP must determine that no reasonable alternative it has considered or that has otherwise been identified and brought to EAAP's attention would (1) be more effective in carrying out the purpose for which the action is proposed, (2) would have lesser effects or burdens on affected private persons, or (3) would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law, than the proposed action.

Contact Persons:

Inquiries concerning the substance of the proposed action, requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, and other technical information upon which the rulemaking is based, and questions on the proposed administrative action may be directed to Timothy Morgan, Staff Attorney III, at (916) 445-7745 or by e-mail: tmorgan@eaap.ca.gov, or Mary C. Kelly, Executive Officer, at (916)445-7745.

Availability of Rulemaking File:

The entire rulemaking file will be available for inspection and copying throughout the rulemaking process at EAAP's office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and the Economic Impact Assessment. A copy may be obtained by contacting Timothy Morgan at the above address.

Availability of Changed or Modified Text:

Following the comment period, a hearing, if requested, and consideration of all timely and relevant comments received, EAAP may adopt the proposed regulations substantially as described in this notice or may make any modifications that are related in substance to the originally proposed text. The modified text (with changes clearly indicated) will be available to the public for at least 15 days before EAAP adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of Timothy Morgan at the address stated above. EAAP will accept written comments on the modified regulations for 15 days after the date on which they are made available.

Availability of Documents on the Internet:

This Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikethrough any changed or modified text, and the Final Statement of Reasons will be accessible through the EAAP website: www.eaap.ca.gov.