

Initial Statement of Reasons

SECTIONS 19810 and the 2017-18 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting (July 1, 2017) incorporated by reference.

Specific Purpose of the Regulations

The regulation to be amended, Education Code Section 19810, is that which incorporates the Audit Guide by reference. The Audit Guide defines terms and specifies 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 (EAAP) 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 the Audit Guide for fiscal year 2017-18, based on certain amendments of the language used in the 2016-17 Audit Guide (as revised, effective March 1, 2017). EAAP proposes to amend Ed. Code section 19810 and adopt the incorporated by reference 2017-18 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting.

Necessity/Rationale

These amendments are necessary to implement Education Code sections 14502.1, 14503, 41020, 47612 and 47634.2. The rationale for each amendment is provided below, the overall purpose being to guide the conduct of audits and the content of audit reports consistent with Legislative intent and the Controller's proposals.

Problem to be Addressed in this Rulemaking

The proposed regulatory changes will make clarifying revisions and specify 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 that affected conditions of apportionment.

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~~2017-18 Guide for Annual Audits for K-12 Local Education Agencies and State Compliance Reporting," (~~March 1, 2017~~)(July 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: Education Code Sections 14502.1, 47612; 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; Education Code Sections 8482.3(c)(5), 2574(b)(3)(C), 14501, 14502.1, 14503, 15286, 41020, 42238.02(b)(3)(B), 47612.5, and 47634.2.

Audit Guide Amendments

The proposed annual 2017-18 Audit Guide includes the following amendments to the text of the existing 2016-17 Audit Guide and the rationale for each substantive amendment:

- *Report Components, para. 4(g)* includes a technical amendment to require inclusion of each charter school number in any report involving one or more charter schools, making tracking easier and avoiding the risk of confusing charter schools with similar names.
- *Section C. Kindergarten Continuance* is amended to provide a simpler procedure consistent with Sections 48000 and 48210 of the Education Code. Section 48210 provides that, “Children under six years of age are excluded from the public schools, except as permitted by this Code.” Section 48000 has from the 2014-15 school year onward allowed children to turn five by September 1 to enroll in kindergarten, and those who will turn five later in the school year to attend “transitional kindergarten” under specified conditions. Therefore the youngest child who could have attended either kindergarten or transitional kindergarten during the 2014-15 school year will be five by the end of that school year and six by the end of the 2015-16 school year, making them ineligible for kindergarten after the 2016-17 year because of the limit in Section 46300(g) to two years total of any kindergarten. Thus the auditor will need only identify children who turned six by September 1, 2017, and then determine whether any of those pupils have attended a second year of kindergarten.
- *Section Q. Mental Health Expenditures* is deleted from the 2017-18 Audit Guide. Governing legislation, codified as Education Code Section 14509 called specifically for this item in 2016-17 audits and left it to the State Controller’s discretion whether to include it for subsequent years. After consulting the audit advisory committee, the Controller elected not to extend this requirement to fiscal year 2017-18 and to reevaluate whether to include it in the 2018-19 Audit Guide after reviewing the results from school year 2016-17 audits.
- *Section R. Educator Effectiveness* is amended to include LEAs adopting an expenditure plan for Educator Effectiveness funds in any of three years up to and including 2017-18. The legislation, enacted in 2015, requires each LEA to submit a report on or before July 1, 2018, covering this three-year program (Stats. 2015, chap. 13, section 58(b)(3)). Since 2017-18 is the last year, the section is amended to require any audit finding to include any funds disallowed.
- *Section S. California Clean Energy Jobs* is amended to update references to a document on the Department of Education’s website and to guidelines applicable to the audit year published by California Energy Commission; and further to require an audit finding if the LEA has not submitted a final project report, or for unfinished products, an Annual Progress Report, to the California Energy Commission, consistent with the guidelines. Also, reference to submission of reports to the Citizen’s Oversight Board is deleted as it was not necessary to the tested compliance.

- *Section T. After School Education and Safety Program* is reorganized and amended to authorize use of a sample of daily attendance within each of a sample of schools in the LEA, as the potential cost of fulling auditing these relatively minor expenses was believed to outweigh the value of doing so.
- *Section X. Local Control and Accountability Plan* is amended to update the names for the plan and update.
- *Section Y. Independent Study – Course Based* is enhanced by an introductory provision making the terms of the Materiality Level table inapplicable until the LEA has been audited for two consecutive years under this section. Course-based independent study differs from full-time even though many of the requirements are the same. However, experience has shown that LEAs use this option sparingly though it has been authorized since 2014. (Education Code Section 51749.5.) Auditing two consecutive years when the program is young is expected to reduce the risk of an LEA developing bad habits which would likely persist even after the program expands.
- *Section Z. Immunizations* is deleted from the 2017-18 Audit Guide. The Departments of Education and Public Health found that compliance levels were such that further testing at this time is not needed.

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. Particularly where the Legislature has ordered that specific matters be included in the Audit Guide and/or stated that compliance is a condition of apportionment, there is no alternative consistent with legislative intent.

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 2017-18 Audit Guide clarifies and revises the language used in the 2016-17 Audit Guide to conform to legislation. 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.

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. 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. In brief, any economic impact derives from the statutory audit requirement and changes in substantive law already subject to audit.

Economic Impact Assessment

Staff of EAAP performed an economic impact assessment of the proposed regulations, in compliance with Government Code section 11346.3(b).

What would the proposed regulations do?

This rulemaking adopts the Audit Guide for 2017-18, required by Section 14502.1, through incorporation by reference in a revised Education Code Section 19810. 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 by Education Code Section 41020. The guidance facilitates auditors in conducting audits and readers of audit reports by directing the manner of presenting findings.

Creation or Elimination of Jobs Within the State of California

The activities specified in the regulations, or auditor-selected alternative activities, are necessary to implement existing Education Code sections. 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 Section 19810 and 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 local education agencies, 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. As stated under the “Informative Digest/Policy Statement Overview” above, the proposed regulations will update and improve audit procedures of K-12 local education agencies, which would ultimately benefit the welfare of California residents by ensuring that local education agencies are in compliance with regulatory requirements.