

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 supplement to the audit guide to address legislative changes in the conditions of apportionment of school funding and any legislative direction for new audit guide content.

The Controller's Office letter of November 30, 2017, proposed changes to the 2017-18 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 2017-18, 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, 2018.

Audit Guide Amendments

The proposed supplemental 2017-18 Audit Guide includes the following changes:

- *Section N* adds reference to Education Code 46160(a)(2). This new code section allows governing boards to schedule early and middle college high school students for at least 900 minutes over a 5 school day period or 1,800 minutes over a 10 school day period. This

change is necessary to ensure the audit guide accurately reflects procedures currently allowed.

- *Section S California Clean Energy Jobs Act* changes include correcting a typographical error in procedure 1; adding “pursuant to 1 and 2” in procedure 3 to reference the specific law; to remove the reference to the Public Resources Code and eliminate tests included in a-g, in procedure 4, because such elements are not specifically required in the plans; and to remove procedure 7 because the California Energy Commission already performs this review.
- *Section T After School Education and Safety Program* is technically amended to use the defined term “LEA” consistently, replacing “local education agency.” In addition, the words “middle or junior high” are deleted and language is added to reflect the priority given to homeless youth and those in foster care, as stated in Education Code 8483.1(d)(1) and 8483(c)(1). Also, the title to this section is changed as a technical amendment to reflect the inclusion of both programs in section T.
- *Section U Proper Expenditure of Education Protection Account Funds* is technically amended to refer to the constitutional provision governing the expenditure of those funds.
- The following sections are amended for a technical change to ensure that the term “LEA” is used consistently throughout the audit guide, rather than the words “Local Education Agency.” Sections C, T and Y reflect these technical changes.

Audit Guide Addition

- *Section Q Apprenticeship: Related and Supplemental Instruction* is a new audit step included to address Legislative directive included in Assembly Bill 1731, which stated that the Chancellor’s Office of the California Community Colleges has the authority to conduct audits of the K–12 local educational agencies’ oversight of apprenticeship training funds.

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 “2017-18 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting (March 1, 2018)” which supersedes the version of the same title but dated July 1, 2017. This supplemental filing ensures that audits include subjects pertinent to and/or required by Legislation through January 1, 2018. 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.