

TITLE 5. Education
Education Audit Appeals Panel

Notice of Proposed Rulemaking

Supplement to Audits of K-12 Local Education Agencies
Fiscal Year 2017-18 as of March 1, 2018

The Education Audit Appeals Panel (EAAP) proposes to adopt an Audit Guide for Fiscal Year 2017-18, as well as the Guide's incorporating regulation, 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 Mary Kelly.

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, April 2, 2018**. EAAP will consider only written comments received by that time. Written comments for EAAP's consideration should be directed to:

Mary Kelly
Education Audit Appeals Panel
770 L Street, Suite 1100
Sacramento, CA 95814

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

Authority and Reference:

Authority cited: Section 14502.1, Education Code.

Reference: Sections 14501, 14502.1, 14503, 42010, and 46146(h) of the Education Code.

Informative Digest/Policy Statement Overview:

This rulemaking amends title 5, California Code of Regulations, section 19810 to clarify the incorporation by reference language and make reference to the audit guide. It also adopts the Audit Guide for 2017-18, Supplemented as of March 1, 2018, which makes clarifying revisions and addresses legislative changes that will affect audit and possibly the conditions of apportionment of school funding.

This rulemaking meets the requirements of Education Code section 14502.1, which mandates that an annual audit guide be adopted by the EAAP and the additional laws and Constitutional provision listed under “Authority cited” below the proposed amended text of Section 19810 as shown below. 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 supplemental changes to the 2017-18 audit guide to be reflected in the 2017-18 audit guide. The proposed changes derive from the Controller’s proposals and also contain changes designed to clarify audit steps.

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 1 General Provisions

§ 19810. Annual Audit Guides.

The “2017-18 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting,” (~~July 1, 2017~~March 1, 2018), 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(f)(5), 2574(b)(3)(C), 14501, 14502.1, 14503, 14509, 15286, 41020, 42238.02(b)(3)(B), 46146.5(h), 47612.5, 47634.2 and 48000, Education Code.

The proposed supplemental 2017-18 Audit Guide uses the text of existing 2017-18 Audit Guide with the following amendments and addition:

Audit Guide Amendments

- *Section N Middle or Early College High Schools* updates the procedures consistent with language newly added as paragraph (a)(2) of Education Code Section 46160 which permits middle or early college high schools to satisfy minimum minutes requirements by using five- or ten-day averaging. The change is necessary because strict daily minima could suggest grounds for an audit finding which an averaging option eliminates.
- *Section P Transportation Maintenance of Effort* is technically amended for clarity and to cite to a more appropriate page of the Department of Education’s website (listing the adjusted amount of 2012-13 transportation revenues) than previously cited.
- *Section S California Clean Energy Jobs Act* eliminate tests for an LEA’s reporting of final project completion plan for Energy Expenditure Plan project completed in the 12 to 15 months before the audit year, or any prior year’s annual progress report as the Controller and its consultants believe testing such reports is not necessary because information in such reports will have already been tested and because the audit year is the last year of a three-year program. Additionally, a typographical error (missing `s’) is corrected in paragraph 1.
- *Section T After School Education and Safety Program* is technically amended to use the defined term “LEA” consistently, replacing “local education agency” in paragraph 1(e) and 2((a), (c) and (d). In addition, the words “middle or junior high” are deleted and later language added to reflect Education Code 8483.1(d)(1)(A), added effective July 1, 2017 (Stats. 2016, Ch. 470, Sec.10.2), giving priority to homeless and foster care youth.
- *Section U Proper Expenditure of Education Protection Account Funds* is technically amended to refer to the constitutional provision governing the expenditure of those fund.
- 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 V Apprenticeship: related and Supplemental Instruction* implements provisions of Stats. 2017, Ch. 23, Sec. 1 (S.B. 85), effective June 27, 2017, amending Education Code §§ 8152.5 and 79149.3.

Name of document incorporated by reference: 2017-18 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting as of March 1, 2018.

NOTE: The changes described above, with the exception of *Section P Maintenance of Effort*, are in effect on an emergency basis.

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 directly affecting 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 local education agencies, 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 the EAAP's attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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. The bill analyses are also available online at <http://leginfo.legislature.ca.gov/faces/billSearchClient.xhtml>.

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. If EAAP makes modifications that are sufficiently related 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:

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