

## **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 (for this year, carried over to Monday, July 2, 2018). (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 education 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 letters of April 18 and 20, 2018, proposed language for the 2018-19 Audit Guide adding new sections, adopting modified versions of sections, and deleting sections from the preexisting 2017-18 Audit Guide, effective March 1, 2018. The proposals arose from several meetings of stakeholders pursuant to Section 14502.1(a). 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. Meeting the timelines in Section 14502.1 through use of the emergency regulations procedures affords notice to K-12 LEAs at the beginning of the fiscal year of areas of their operations that will be subjected to particular audit scrutiny. In addition, meeting the timelines enables accounting firms to provide training to their field auditors prior to the commencement of auditing. In this instance, the emergency procedures are the only way that EAAP can meet the July 2, 2018 statutory target.

### **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 annual Audit Guide for 2018-19, required by Section 14502.1, through incorporation by reference in a revised 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.

**Title 5, Division 1.5**  
**Chapter 3. Audits of California K - 12 Local Education Agencies**  
**Article 2 Audit Reports**

**§ 19810. Annual Audit Guides.**

The “~~2017-18~~ 2018-19 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting,” (July 1, 2018~~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](http://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), subparagraphs 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), 47612.5, 47634.2 and 48000, Education Code.

**Audit Guide Amendments**

The proposed annual 2018-19 Audit Guide includes the following deletions, amendments and additions:

Deletions:

- *Section R Educator Effectiveness* was funded for fiscal years 2015-16, 2016-17 and 2017-18, with LEAs to submit a final report on the use of those funds on July 1, 2018 (Assembly Bill 104, Section 58(b)(1) (Chapter 13, Statutes of 2015), as amended by Senate Bill 103, Section 8 (Chapter 324, Statutes of 2015). The Controller recommended not including this item in the audit guide for 2018-19 because the funding period was over and there were no expenditures that had not been evaluated as consistent with that program. The table of contents should also reflect the deletion.

Additions

- *Section S District of Choice* is added to verify that school districts electing to be “districts of choice” pursuant to Education Codes sections 48300-48317 acted in compliance with the statutory requirements for board resolution, specification of the number of transfer pupils to be accepted, election, registration with CDE, utilization of a neutral selection process except as to giving priority to pupils eligible for free or reduced-price meals, siblings of current pupils, and children of military personnel, and collected the data required by Education Code section 48313(a) about the district of choice procedure and results.
- *Section R* is added to ensure every public school has reviewed and revised or adopted, a comprehensive safety plan adopted by March 1, and has submitted it for approval to the school district or county office of education for approval, by verifying that the LEA has a process in place to ensure that its schools have such a plan and by checking a representative sample of schools to verify their compliance or to verify that the LEA notified the State

Department of Education by October 15 of any school not having a comprehensive safety plan.

- *New Amendment B School Facilities Bond Program Bond Funds* fulfills the Legislative mandate in Education Code Section 41024(b)(1) to revamp expenditure audits of State grants for new construction and modernization projects, with distinct provisions for Financial Hardship and Non-Financial Hardship grants, as well as construction and modernization grants for charter schools and career technical education (CTE) schools facilities projects.

Amendments:

- *General Provisions Auditing Standards* is revised to adopt a table for guidance as to the size of samples tested in audits, parallel to the standards used in federal audits and consistent with the requirements contained in Title 2 Code of Federal Regulations 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards., are effective with audits starting in fiscal year 2015. Minor and technical changes also clarify existing sampling directions in Sections A, D, E, F, M, O, and W.
- *Section D Independent Study* is revised as proposed by the Controller to add new paragraph 3(g) which requires the auditor to verify that independent study pupils meet the age requirements of Education Code sections 46300.1 and 46300.4.
- *Section W Unduplicated Local Control Funding Formula Pupil Counts* is revised to clarify that procedure 1 requires the auditor to use the certified report that excludes any transitional kindergarten pupils who had their fifth birthday after December 2, to clarify procedures 1. b. and 1.c. to facilitate identifying which pupils are eligible only under the ELAS (English Learner) designation and which are eligible under both the ELAS and NSLP (National School Lunch Program) designations. In addition, a clarification to sampling procedures authorizes the auditor to substitute a new selection for a pupil who received ELAS designation while enrolled in a different LEA, to avoid uncertainties that can result from delays in obtaining documentation from the LEA for the ELAS designation.

Document incorporated by reference: 2018-19 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting (July 1, 2019). It proved cumbersome to set out the parts of the audit guide in regulations, some of which applied to different sets of fiscal years, and some applicable to past audit years. Incorporation by reference simplified the process of adopting annual audit guides and annual supplements, by putting the guide directly in usable format. Annual audit guides, audit guide supplements, and the steps of the rulemaking progress are readily available on EAAP's website.

### **Public Benefits**

EAAP anticipates that these proposed amendments may create specific benefits for the protection of public health and safety, worker safety, the environment, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government. These additions, deletion and amendments make technical and conforming changes to preexisting 2017-18 K-12 audit guide requirements to ensure the annual Audit Guide's consistency and compatibility with new and preexisting state statutes and regulations. Additionally, 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 and by improving 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.

**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 also determined that the 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).