

TITLE 5. Education
Education Audit Appeals Panel

Notice of Proposed Rulemaking

Supplement to Audits of K-12 Local Education Agencies
Fiscal Year 2018-19 as of March 1, 2019

The Education Audit Appeals Panel (EAAP) proposes to adopt an Audit Guide for Fiscal Year 2018-19, 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 on **Monday, June 3, 2019**. 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 2018-19, Supplemented as of March 1, 2019, which makes technical revisions and addresses legislative changes that will affect audits 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 2018-19 audit guide to be reflected in the 2018-19 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 1 General Provisions

§ 19810. Annual Audit Guides.

The “2018-19 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting,” (~~July 1, 2018~~ March 1, 2019), 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 2574(b)(3)(C), 8482.3(f)(5), 14501, 14502.1, 14503, 14509, 15286, 41020, 41024, 42238.02(b)(3)(B), 47612.5, 47634.2 and 48000, Education Code.

Audit Guide Amendments

The proposed supplemental 2018-19 Audit Guide includes the following changes:

- *Auditing Standards Item 4, Tables 1 and 2* makes a technical change to delete “(Step 6)” from the heading of each table. This heading was used in a different document and copied to the audit guide. There is no “Step 6” that this heading refers to. To avoid confusion, a technical change should be made to remove these words.
- *Auditing Standards Item 4, Table 2* adds a note to specify that for populations between 52 and 250 items, the auditors may test a sample size of approximately 10% of the population. This is standard practice in auditing, and this technical amendment avoids confusion to assure auditors that they can continue this method of sampling.
- *Report Components Section, Item 6. Findings and Recommendations* makes a technical change to add a finding code, 43000, to the Apprenticeship audit findings. The new code categorizes the findings related to the Chancellor of the California Community Colleges.
- *Sections A Attendance, D Independent Study, E Continuation, M Juvenile Court Schools, Y Independent Study-Course Based, AA Attendance, CC NonClassroom-Based Instruction/Independent Study, DD Determination of Funding for NonClassroom-Based Instruction*, deletes reference to ungraded units of ADA, since LEAs no longer report any ungraded units of ADA. This phrase throughout the audit guide is obsolete.
- *Section D Independent Study*, deletes the reference to Education Code Section 46300.4, which applies to the old adult education program, making the reference obsolete.
- *Section P Transportation Maintenance of Effort Item 2* makes technical amendments to make clearer the steps auditors can follow to access the exhibit on California Department of Education’s website, which details revenue received by the LEA.
- *Section R Comprehensive School Safety Plan* makes a technical amendment to procedure 1 to clarify that the school safety plan was approved by the school district or county office of education, rather than the LEA.
- *Section W Unduplicated LCFF Pupil Counts* makes a technical amendment to reflect that California Department of Education transitioned from the California English Language Development Test (CELDT) to the English Language Proficiency Assessments for California (ELPAC), in 2018.

NOTE: The changes described above, with the exception of the deletion of words in Auditing Standards Item 4, Tables 1 and 2, 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. The Economic Impact Assessment found that adoption of these regulations will not:
 - create or eliminate jobs within California;
 - create new businesses or eliminate existing businesses within California;
 - affect the expansion of businesses currently doing business within California;or,
 - 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.
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.