

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. (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 letter of March 13, 2020, proposed language for the 2020-21 Audit Guide adopting modified versions of sections as compared to the 2019-20 Audit Guide, effective March 1, 2020. 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 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 enable EAAP to meet the July 1, 2020 statutory target should there be changes during the notice and public hearing period to be noticed.

Authority and Reference

Authority cited: Section 14502.1, Education Code.

Reference: sections 14502.1, 14503, 41020, and 41024, Education Code.

Informative Digest

This rulemaking adopts the annual Audit Guide for 2020-21, 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 “~~2019-20~~2020-21 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting,” (~~March 1, 2019~~July 1, 2020), 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 and Addition of Appendix C

The proposed annual 2020-21 Audit Guide includes the following amendments from the existing 2019-20 Audit Guide:

- *Section R. Comprehensive School Safety Plan* is technically amended to ensure that each school has adopted or reviews and updated by March 1 its comprehensive school safety plan as provided by Education Code section 32286. In addition, procedure 3 is amended to delete notification to the California Department of Education by October 15, as that requirement crosses into the next fiscal year; and instead refers to the requirement to obtain approval from the school district or county office of education pursuant to Education Code section 32288.
- *Section Y. Independent Study – Course Based* is amended to add a procedure to verify that no days of attendance were reported prior to the signing of the agreement with all parties, consistent with parallel provisions in Section D, procedure 3.i. and Section CC, procedure 4.h. Additional language is added in procedure 4 to clarify the amount that is subject to the statewide average rate of absence reduction pursuant to Education Code section 51749.5. Other than resulting renumbering, the remaining change is the remove the ‘(a)’ from the citation to Education Code section 51745.6, as subdivision (a) applies only to school districts and county office of education, whereas section 51745.6, applies to school districts, county offices of education, and charter schools. That change ensures like treatment of the Course Based Independent Study ratio calculations for charter schools.
- *Section Z. Immunizations* is a new requirement in 2020-21 requiring 2 doses of Varicella instead of one dose. This section includes procedures to audit immunization requirements for tetanus, diphtheria and pertussis.

- *Section AA. Attendance* is amended to account for proportional reduction of ADA if a school offered fewer than 175 instructional days – unless that number is reduced pursuant to a Form J-13A approval accounting for unavoidable school closures.
- *Section BB. Mode of Instruction* amends subparagraph 1.d. and adds new Subparagraph 1.e. consistent with Education Code section 7600(s) which includes an alternative way to satisfy the requirement that 80 percent of instructional time offered shall be at the school site, requirement for pupils taking classes at a community college pursuant to a College and Career Access Pathway Agreement. New procedure 1.e. requires audit of a sample of such pupils to ensure that their schedules follow this alternative or those for Early or Middle College High Schools.
- *Appendix B. School Facility Program Bond Fund Audits* is revised to specify the manner and timing for required filing of these audit reports with the State Controller’s Office; requires that the report note the state bond fund providing funding for the audited project; and in various places removes directions to locate certain details on the Office of Public School Construction (OPSC) web page and instead instructs auditors to contact the OPSC for that information.
- *Appendix C. Full-Day Kindergarten Program Audits* is entirely new. It specifies audit procedures for construction projects (new or by retrofit) done to facilitate the move to universal Full-Day Kindergarten.

Document incorporated by reference: 2020-21 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting (July 1, 2020). Over the past few years 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 2019-20 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).