

## **Initial Statement of Reasons**

**SECTIONS 19810** and the 2020-21 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting (July 1, 2020) incorporated by reference.

### **Specific Purpose of the Regulations**

The regulation to be amended, Section 19810, is that which incorporates the Audit Guide by reference. The Audit Guide defines terms and specifies procedures to guide accountants in the conduct of statutorily required financial and compliance audits of local education agencies (LEAs). (Ed. Code §§ 14502.1, 14503, 41020, 41024.) The Education Audit Appeals Panel (EAAP) must adopt the Audit Guide by July 1 of the fiscal year to be audited, and must adopt any supplement to address legislative changes to the conditions of apportionment before March 1 of the audit year. (Ed. Code § 14502.1(b)).

The Controller, pursuant to Education Code Section 14502.1, proposed by letter dated March 13, 2020, amending and supplementing the Audit Guide for fiscal year 2020-2. After review and some amendment, EAAP proposes to amend Section 19810 and the 2020-21 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting.

### **Necessity/Rationale**

These amendments are necessary to implement Education Code Sections 14502.1, 14503, 41020, 47612 and 47634.2. The rationale for each amendment is provided below, the overall purpose being to guide the conduct of audits and the content of audit reports consistent with Legislative intent and the Controller's proposals.

### **Problem to be Addressed in this Rulemaking**

The proposed regulatory changes will make clarifying revisions and specify audit procedures to guide accountants in the conduct of the statutorily required financial and compliance audits of K-12 LEAs to address issues resulting from new legislation that affects conditions of apportionment.

## **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](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), 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.

*Document incorporated by reference:* 2020-21 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting (July 1, 2020).

### **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 has reviewed 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 to 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, 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, to accord with current OPSC procedures.
- *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. Appendix C fulfills the legislative mandate in Education Code Section 41024 for a LEA that receives funds pursuant to the Full Day Kindergarten Facilities Grant Program. The grant program allows school districts that lack the facilities to provide full-day kindergarten to apply for one-time grants to construct new school facilities or retrofit existing school facilities for the purpose of providing full-day kindergarten classrooms. The necessity for each of the various provisions in Appendix C is derived from and cited in the reference notes included in Appendix C. For audit guide steps, EAAP relied upon the expert opinion of the audit guide workgroup, led by the State Controller's Office, and including representatives of the Department of Finance, Department of Education, Office of Public School Construction, and stakeholders, including school districts, Certified Public Accounts and education associations. Appendix C, as submitted by the State Controller's Office was not changed in any substantive way by EAAP.

NOTE: The changes described above are already in effect on an emergency basis.

### **Technical, Theoretical, or Empirical Studies, Reports, or Documents**

EAAP relied upon the Controller's Office letter of March 13, 2020, which proposed changes to the 2020-21 Audit Guide.

### **Reasonable Alternatives to the Regulations, Including Alternatives that Would Lessen Any Adverse Impact on Small Business, and the Agency's Reasons for Rejecting Those Alternatives.**

The Audit Guide regulations are applicable only to certified public accountants and public accountants who audit LEAs, and indirectly to the LEAs themselves. No alternatives to these amendments have been proposed which would reduce any impact on small business; in any case, no adverse impact on small business has been identified. No other alternatives were presented to or considered by EAAP. Particularly where the Legislature has ordered that specific matters be included in the Audit Guide and/or stated that compliance is a condition of apportionment, there is no alternative consistent with legislative intent.

### **Alternatives Proposed as Less Burdensome and Equally Effective in Achieving the Purposes.**

No other alternatives were presented to or considered by EAAP.

### **Prescribed Audit Procedures.**

The proposed 2020-21 Audit Guide clarifies and revises the language used in the 2019-20 Audit Guide to conform to legislation. These audits must be performed by licensed public accountants who must conduct the audits in accordance with generally accepted auditing standards. (Ed. Code §§ 14501, 14503, and 41020; Title 5, §§ 19811 and “Audit Standards” paragraph of the Audit Guide’s General Provisions.) The Audit Guide includes provisions that authorize an auditor to use alternative procedures if, in the exercise of professional judgment, the auditor determines other procedures are more appropriate in particular circumstances. (Audit Guide General Provisions, “Scope/Auditor Judgement.”)

### **Evidence Supporting Finding of No Significant Adverse Economic Impact on Any Business.**

EAAP has prepared the following Economic Impact Assessment pursuant to Government Code Section 11346.3(b) and has made an initial determination that adoption of the proposed regulations would not have a significant adverse economic impact on any business in the State of California. The regulations direct accountants to perform the steps necessary for the annual audits required by Education Code Section 41020. Education Code Section 14503 requires the use of this Audit Guide in the performance of those audits of LEAs. In brief, any economic impact derives from the statutory audit requirement and changes in substantive law already subject to audit.

#### **Economic Impact Assessment**

Staff of EAAP performed an economic impact assessment of the proposed regulations, in compliance with Government Code section 11346.3(b).

#### **What would the proposed regulations do?**

This rulemaking adopts the Audit Guide for 2020-21, effective July 1, 2020, as “required by Section 14502.1, through incorporation by reference in a revised Education Code Section 19810. The Audit Guide provides guidance, through definitions of terms and specification of procedures, to auditors in the conduct of the annual financial and compliance audits required of K-12 local education agencies required by Education Code Section 41020. The guidance facilitates auditors in conducting audits, and readers of audit reports, by directing the manner of presenting findings.

#### **Creation or Elimination of Jobs Within the State of California**

The activities specified in the regulations, or auditor-selected alternative activities, are necessary to ensure adequate review of LEA compliance with new or revised Education Code sections. There will be no jobs created or eliminated as a result of these proposed regulations.

#### **Creation of New or Elimination of Existing Businesses Within the State of California**

These regulations will make only technical and conforming changes to Section 19810 and the K-12 Audit Guide. There will be no businesses created or eliminated as a result of these regulations.

#### **Expansion of Businesses or Elimination of Existing Businesses Within the State of California**

The proposed regulations will not expand or eliminate business. Education Code Section 41020 requires that these audits be conducted by professional accounting firms under contract to

local education agencies, and requires that those firms use the standards and procedures developed pursuant to Section 14500 and following.

### **Benefits of the Regulation to the Health and Welfare of California Residents**

These regulations make technical and conforming changes to the K-12 Audit Guide to ensure its compliance with existing statutes. 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. 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.