

TITLE 5. Education
Education Audit Appeals Panel

Notice of Proposed Rulemaking

Audits of K-12 Local Education Agencies
Fiscal Year 2020-21

The Education Audit Appeals Panel (EAAP) proposes to adopt an Audit Guide for Fiscal Year 2020-21 using the Guide's incorporating regulation, 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 **Monday, September 14, 2020**. EAAP will consider only written comments received by that time. Written comments for EAAP's consideration should be directed to:

Mary Kelly, Executive Officer
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: Sections 14501, 14502.1, 14503 and 41024, 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: 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, 41024, 42238.02(b)(3)(B), 47612.5, 47634.2 and 48000, 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 2020-21 which makes clarifying revisions and addresses legislative changes in 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. 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 changes from the previous year's audit guide to be reflected in the 2020-21 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

§ 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 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.

- *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 an 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 the various provisions in Appendix C are 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.

Name of document incorporated by reference: 2020-21 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting (July 1, 2020). The changes described above are already 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 IV, 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.