

TITLE 5. Education
Education Audit Appeals Panel

Notice of Proposed Rulemaking
Audits of K-12 Local Education Agencies
Fiscal Year 2017-18

The Education Audit Appeals Panel (EAAP) proposes to adopt an Audit Guide for Fiscal Year 2017-18 using the existing 2016-17 Guide with changes as described below, as well as 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 at **5:00 p.m. Monday, July 31, 2017**. 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: Section 14502.1, Education Code.

Reference: Sections 14501, 14502.1, 14503, and 41020 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 2017-18 which makes clarifying revisions and addresses legislative changes that will affect audit 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 changes from the previous year’s audit guide to be reflected in the 2017-18 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 “~~2016-17~~2017-18 Guide for Annual Audits for K-12 Local Education Agencies and State Compliance Reporting,” (~~March 1, 2017~~)(July 1, 2017), 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: Education Code Sections 14502.1, 47612; 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; Education Code Sections 8482.3(c)(5), 2574(b)(3)(C), 14501, 14502.1, 14503, 15286, 41020, 42238.02(b)(3)(B), 47612.5, and 47634.2.

Audit Guide Amendments

The proposed annual 2017-18 Audit Guide uses the text of existing 2016-17 Audit Guide with the following amendments:

Amendments:

- *Report Components, para. 4(g)* includes a technical amendment to require inclusion of each charter school number in any report involving one or more charter schools.
- *Section C. Kindergarten Continuance* is amended to provide a simpler procedure consistent with Section 48000 of the Education Code and its cited kindergarten cutoff date of September 1.
- *Section Q. Mental Health Expenditures* is deleted from the 2017-18 Audit Guide. Governing legislation, codified as Education Code Section 14509 called specifically for this item in 2016-17 audits and left it to the State Controller's discretion whether to include it for subsequent years. After consulting the audit advisory committee, the Controller elected not to extend this requirement to fiscal year 2017-18.
- *Section R. Educator Effectiveness* is amended to include LEAs adopting an expenditure plan for Educator Effectiveness funds in any of three years up to and including 2017-18. The legislation, enacted in 2015, requires each LEA to submit a report on or before July 1, 2018, covering this three-year program (Stats. 2015, chap. 13, section 58(b)(3)). Since 2017-18 is the last year, the section is amended to require any audit finding to include any funds disallowed.
- *Section S. California Clean Energy Jobs* is amended to update references to a document on the Department of Education's website and to guidelines applicable to the audit year published by California Energy Commission; and further to require an audit finding if the LEA has not submitted a final project report, or for unfinished products, an Annual Progress Report, to the California Energy Commission, consistent with the guidelines. Also, reference to submission of reports to the Citizen's Oversight Board is deleted as it was not necessary to the tested compliance.
- *Section T. After School Education and Safety Program* is amended to authorize use of a sample of daily attendance within each of a sample of schools in the LEA, and reorganized.
- *Section X. Local Control and Accountability Plan* is amended to update the names for the plan and update.
- *Section Y. Independent Study – Course Based* is enhanced by an introductory provision making the terms of the Materiality Level table inapplicable until the LEA has been audited for two consecutive years under this section.
- *Section Z. Immunizations* is deleted from the 2017-18 Audit Guide. The Departments of Education and Public Health found that compliance levels were such that further testing at this time is not needed.

Name of document incorporated by reference: 2017-18 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting (July 1, 2017).

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 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.