

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 February 2, 2021, proposed language for the 2021-22 Audit Guide adopting modified versions of sections as compared to the 2020-21 Audit Guide, effective July 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 in this instance, the emergency procedures enable EAAP to meet the July 1, 2021 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 2021-22, 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 1 General Provisions

§ 19810. Annual Audit Guides.

~~Appendices A, B and C of the “2020-21 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting,” (March July 1, 2021), adopted by the Education Audit Appeals Panel, is~~ incorporated by reference. The guide ~~itself, which~~ provides the audit steps, reporting requirements, and other guidance, for the required annual financial and compliance audits, ~~is incorporated by reference in Section 19810.5 (rather than this section) for the 2020-21 audit year only.~~ subject to auditor judgment where alternative or additional audit steps may be appropriate. The ~~appendices to the annual guide is~~ are superseded by a supplemental ~~appendices~~ audit guide, if needed, adopted before March 1 of each fiscal year. Each annual guide, including Appendices A, B and C 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 41024, Education Code.~~

~~Reference: California Constitution Article XIII B, Section 1.5; and Education Code Sections 14501, 14502.1, 14503, 15286, 17070.63, 17076.10, 17375, 41020, and 41024.~~

~~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, 14501, 14502.1, 14503, 37700, 41020, 42238.02, 43500, 43501, 43502, 43504, 43505, 43509, 44258.9, 45037, 46300, 47612.5, 47634.2 and 48000, Education Code.~~

Audit Guide Amendments

The proposed annual 2021-22 Audit Guide includes the following amendments from the July 1, 2020 version of the Audit Guide

General Provisions: The provision on materiality thresholds adds a sentence indicating that those standards apply to sections D. Independent Study, E. Continuation Education, and Y. Independent Study – Course Based.

G. Instructional Materials: retains the language of the July 1, 2020 audit guide, but makes two technical changes. This rulemaking eliminates references to Education Code sections 60605 and 60605.8 which no longer appear in reference to content standards referred to in section 60119(a)(1)(A); and change the phrase “foreign language” to “world language in accordance with the change in section 60619(a)(1)(C).

L. School Accountability Report Card: retains the language of the July 1, 2020 audit guide, with a technical change of “teacher misassignment” to the plural “teacher misassignments.”

R. Comprehensive School Safety Plan is technically amended to clarify adoption by school and approval by school district or county office of education.

W. Unduplicated Local Control Funding Formula Pupil Counts: retains the language of the July 1, 2020 audit guide, with changes to distinguish between EL (English Learner) and the new designation of “ADEL” (Adult English Learner) and to add a requirement that the auditor verify that the LEA has documentation stating the student is an ADEL.

X. Local Control and Accountability Plan is amended to make the audit guide consistent with the template developed by the California State Board of Education and required to be used by LEAs in developing, adopting and updating their LCAP.

Z. Immunizations is amended to include first and eighth graders in the audit year, in order to include those in kindergarten or seventh grade during 2020-21, the pandemic year when this section was suspended. Language is also included to ensure that any ADA disallowances would be limited to the current audit year.

Document incorporated by reference: 2021-22 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting (July 1, 2021). Incorporation by reference simplifies 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 process 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 2021-22 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' 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).