

**TITLE 5. Education**  
**Education Audit Appeals Panel**

Notice of Proposed Rulemaking

*Supplement to Audits of K-12 Local Education Agencies*  
Fiscal Year 2019-2020 as of March 1, 2020

The Education Audit Appeals Panel (EAAP) proposes to adopt an Audit Guide for Fiscal Year 2019-20, Supplemented as of March 1, 2020, as well as the Guide's incorporating regulation, as described below, 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 on **Monday, May 18, 2020**. EAAP will consider only written comments received by that time. Written comments for EAAP's consideration should be directed to:

Mary Kelly  
Education Audit Appeals Panel  
770 L Street, Suite 1100  
Sacramento, CA 95814

Fax: (916) 445-7626  
e-mail: [mkelly@eaap.ca.gov](mailto:mkelly@eaap.ca.gov)

**Authority and Reference:**

Authority cited: Section 14502.1, Education Code.

Reference: Sections 14501, 14502.1, 14503, 42010, and 46146(h) 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 2019-20, Supplemented as of March 1, 2020, which makes technical revisions and addresses legislative changes that will affect audits 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 provisions 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, in a letter dated December 13, 2019, pursuant to Education Code section 14502.1, proposed supplemental changes to the 2019-20 audit guide to be reflected in the 2019-20 audit guide. (Later, the Department of Education proposed, and the stakeholders discussed in a January 13, 2020 meeting, changes to Sections P [Transportation Maintenance of Effort] and T [Clean Energy Jobs Act], both of which are technical changes included in this Rulemaking). 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, and that educational funds are being properly utilized, which would ultimately affect the quality of students’ educational experiences. 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 1 General Provisions**

**§ 19810. Annual Audit Guides.**

The “2019-20 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting,” (~~July 1, 2019~~March 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.

## Informative Digest

This rulemaking adopts the supplemental Audit Guide for 2019-20, as required by Section 14502.1, through incorporation by reference in 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. This supplemental filing ensures that audits include subjects pertinent to and/or required by Legislation through January 1, 2020.

### Audit Guide Amendments

The proposed supplemental 2019-20 Audit Guide includes the following changes:

- *Section E. Continuation Education*, changes to this procedure relocates procedure 6(c) to new step 7, as the requirement that no more than 10% of continuation high school ADA at P2 (excluding pupils who are pregnant or a child's primary caregiver) was generated through independent study applies to all continuation high school pupils, and not just those from whom the step 6 requires a sample, i.e., regardless of which pupils are earning work experience credit. As a result, the step requiring a finding is renumbered to Step 8.
- *Section F. Instructional Time*, recognizes the exemption from the ordinary minimum instructional days requirement for the three districts named in Ed. Code section 37700, and potentially others pursuant to subdivision (c) of that section, to operate on a four days per week schedule; and provides, in a sentence added to Step 9, that those districts are only subject to penalties for insufficient instructional days if they fail to offer the required number of educational minutes required by Ed. Code section 46208.
- *Section O. K-3 Grade Span Adjustment* deletes language applicable only to the period when some or all districts had not met their Local Control Funding Formula (LCFF) target, thus making the requirement for each schoolsite's average class enrollment no greater than 24 unless a collective bargaining agreement provides a different limit. Consequently, the reference to Education Code section 42238.02(d)(3)(B) or (C) is replaced with a reference to section 42238.02(d)(3)(D). Previously, this audit guide section referenced "maximum average class enrollment" as adjusted by section 15498.1(g) of this Title.
- *Section P. Transportation Maintenance of Effort* technically amend Item 2 to make clearer the steps auditors can follow to access the exhibit on the California Department of Education's website, which details pupil transportation revenue received by the LEA during the benchmark fiscal year of 2012-13.
- *Section T. California Clean Energy Jobs Act* takes language requiring a finding and disallowance of construction project funds when there has been no timely final completion report of expenditure from Step 6, which applies only in specific circumstances and restates that requirement to apply to all projects failing this requirement. In Step 6 a technical amendment changes "include a finding" to "report a finding," for clarity.

- *Section U. After School Education and Safety Program* is amended to provide an exception to the release time requirement (5:00 pm rather than 6:00 pm) for schools located in an area with population density of less than 11 persons per square mile, because many pupils in such areas will travel relatively greater distances after the after school program. The change implements amendments effective January 1, 2019 to Education Code section 8483(a).
- *Section W. Unduplicated LCFF Pupil Counts* makes a technical amendment to update the references to date maintained on the California Department of Education web site which reflects LEA reporting of the numbers of students applicable to the Unduplicated LCFF Pupil Count. Specifically, it defines “certified” data as data satisfying the “SELPA approved” filter, available only if both the LEA and the SELPA approved their data.

NOTE: 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. The Economic Impact Assessment found that 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.

As stated in the Informative Digest/Policy Statement Overview above, 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 that educational funds are being properly utilized, which would ultimately affect the quality of students’ educational experiences.

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](mailto: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](http://www.eaap.ca.gov).