

Initial Statement of Reasons

SECTIONS 19810 and 19810.5 and the 2020-21 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting (Supplemented effective March 1, 2021) incorporated by reference.

Specific Purpose of the Regulations

The 2020-21 school year saw many changes in public education, especially remote instruction, in light of the COVID-19 pandemic. This required a large number of changes to the Audit Guide, most of which are expected to stay in place for only the 2020-21 school year. 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 February 2, 2021, to amend and supplement the Audit Guide for fiscal year 2020-21. After review and some amendment, EAAP proposes to amend Section 19810, add Section 19810.5 and amend 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 1 General Provisions

§ 19810. Annual Audit Guides.

~~The Appendices A, B and C of the “2020-21 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting,” (July March 1, 2021), adopted by the Education Audit Appeals Panel, isare 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 to the 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 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.~~

~~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.~~

§ 19810.5. Annual Audit Guide 2020-21.

The “2020-21 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting,” (March 1, 2021), 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. This audit guide, excluding Appendices (A, B and C), supersedes, only for fiscal year 2020-21, the guide adopted July 1, 2020. This guide reflects legislation passed to make changes to the requirements of school districts resulting from the COVID-19 pandemic. Appendices A, B and C, were not impacted by such legislation and remain incorporated by section 19810. This audit guide, together with the applicable version of the Appendices incorporated by section 19810, is 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, 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.

Document incorporated by reference: 2020-21 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting (March 1, 2021). After a number of years’ experience, it proved cumbersome to set out the parts of the audit guide in regulations, some of which applied to different sets of fiscal years, and some applicable to past audit years. Incorporation by reference simplified 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.

Audit Guide Amendments

The proposed supplemental 2020-21 Audit Guide includes the following changes:

Materiality Levels: For 2020-21 only, the existing introductory sentence mandating use of tabulated levels of materiality is replaced with a narrower applicability for the 2020-21 year, specifically, Section Y Independent Study—Course Based. All other ADA-related sections are suspended for 2020-21, including Sections:

- D. Independent Study,
- E. Continuation Education,
- M. Juvenile Court Schools, and
- N. Middle or Early College High Schools.

The language for 2020-21 only includes that Independent Study—Course Based for LEAs other than charter schools that were classified as nonclassroom-based for 2019-20, be audited as a part of Section A. Attendance and Distance Learning. Finally, audit procedures for charter schools classified as nonclassroom-based for 2019-20 apply to programs related to Sections Y. Independent Study—Course based, CC. Nonclassroom Based Instruction/Independent Study, and DD. Determination of funding for Nonclassroom Based Instruction.

Report Components: For 2020-21 only, item 5b, Schedule of ADA, which was in the July 1, 2020 version of the Audit Guide is suspended, because ADA numbers are not to be reported, nor audited, for 2020-21. Item 5c, Schedule of Instructional Time (now item 5b), deletes the requirements to show annual instructional minutes requirements and offerings. Relatedly, item 6a, Findings and Recommendations, deletes references to ADA for the 2020-21 Audit Guide.

Local Education Agencies

A. Attendance and Distance Learning: For the 2020-21 Audit guide only, the Section A language included in the July 1, 2020 Audit Guide is replaced with language to evaluate a LEA's compliance with attendance for in person and distance learning instruction and well as distance learning record keeping requirements pursuant to Education Code sections 43500-43504. The July 1, 2020 language will be reinstated for the 2021-22 audit guide. Section A includes language to verify that the LEA accurately reported in-person learning and distance-learning, with new provisions for sampling in such reviews. In addition, the new section provides for auditing of written tiered reengagement strategies for pupils who are absent more than three schooldays or 60 percent of the days in a school week. Further, using the same samples, the auditor is to compare records to specified "snapshot" enrollment counts as reported in either the Student Information System or a designated section of the (CALPADS). Finally, the auditor is directed to review the daily engagement record policies of the LEA and determine whether the pupils in the sample maintained a completed weekly engagement record in compliance with Education Code section 46504(e); that the schools documented participation in distance learning consistent with Education Code section 46504(d); and that the schools documented as absent, days on which a pupil did not participate in distance learning. Finally, the audit report is to state in a finding the number of days out of compliance with the daily and/or weekly participation record requirements, excluding days prior to September 1, 2020, and to estimate their dollar value pursuant to Education Code section 46504(i)(2).

B. Teacher Certification and Misassignments: uses language identical to the July 1, 2020 Audit Guide, but for the 2020-21 year only, makes technical amendments in paragraphs 1, 3b and 4. The reference is now to the new Section A.1 (previously the reference was to 3(c) in the Section A).

C. Kindergarten Continuance: uses language identical to the July 1, 2020 Audit Guide, but for the 2020-21 year only, modifies prior language to identify any noncompliance with the requirement to use an approved Kindergarten Continuance Form or a signed alternative agreement, without any financial consequence.

D. Independent Study: In accordance with the information digest above, this section is suspended for 2020-21 only, but will apply to 2021-22.

E. Continuation Education: In accordance with the information digest above, this section is suspended for 2020-21 only, but will apply to 2021-22.

F. Instructional Time: is revised for the 2020-21 guide, but will revert to the original form for 2021-22. The changes accommodate distance learning and the inapplicability of ADA reporting or reports of total annual minutes of instruction. The Section is made applicable not only to school districts (as existed in the July 1, 2020 audit guide) but also to classroom-based charters and any newly operational charter schools that began instruction in the 2020-21 school year by September 30, 2020. The audit steps require the auditor to determine whether qualifying days of instruction in each grade level met the requirements of Education Code sections 43504(c) and 37700 (applicable to a small number of identified districts authorized to operate on the basis of four-day school weeks). A shortfall requires calculation of the amount of any applicable penalties.

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).

H. Ratio of Administrative Employees to Teachers: retains the language of the July 1, 2020 audit guide.

I. Classroom Teacher Salaries: retains the language of the July 1, 2020 audit guide.

J. Early Retirement Incentive: retains the language of the July 1, 2020 audit guide.

K. Gann Limit Calculation: retains the language of the July 1, 2020 audit guide.

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.”

M. Juvenile Court Schools: In accordance with the information digest above, this section is suspended for 2020-21 only, but will apply to 2021-22.

N. Middle or Early College High Schools: In accordance with the information digest above, this section is suspended for 2020-21 only, but will apply to 2021-22.

O. K-3 Grade Span Adjustment: retains the language of the July 1, 2020 audit guide, with an amendment for 2020-21 only to refer to school districts that “received funding for K-3 Grade Span Adjustment,” rather than “reported ADA,” because LEAs will not report ADA in 2020-21.

P. Requirements for Transportation Maintenance of Effort: In accordance with the information digest above, this section is suspended for 2020-21 only, but will apply to 2021-22.

Q. Apprenticeship: retains the language of the July 1, 2020 audit guide.

R. Comprehensive School Safety Plan: retains the language of the July 1, 2020 audit guide.

S. District of Choice: retains the language of the July 1, 2020 audit guide.

School Districts, County Offices of Education, and Charter Schools

T. California Clean Energy Jobs Act: retains the language of the July 1, 2020 audit guide.

U. After/Before School Education and Safety Program[s]: In accordance with the information digest above, this section is suspended for 2020-21 only, but will apply to 2021-22.

V. Proper Expenditure of Education Protection Account Funds: retains the language of the July 1, 2020 audit guide.

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: In accordance with the information digest above, this section is suspended for 2020-21 only, but will apply to 2021-22.

Z. Immunizations: In accordance with the information digest above, this section is suspended for 2020-21 only, but will apply to 2021-22.

Charter Schools

Y. Independent Study-Course Based: retains the language of the July 1, 2020 audit guide, but suspends this section for 2020-21 only, for school districts and county offices of education. This section is moved to the Charter School portion of the audit guide. This section is amended to remove LEAs and add nonclassroom-based charter schools, and to include a link to a listing of such. The amendments also delete references to ADA, the financial impact of disallowed ADA, and the Independent Study Ratio, as there is no ADA being reported for 2020-21.

AA. Attendance: For the 2020-21 year only, this section is amended to eliminate provisions relating to reported ADA, since LEAs will not report ADA for 2020-21. It calls for reporting the number of attendance days inappropriately reported, but with such findings having no financial impact. For 2020-21 only, the verification of the annual days is moved to Section CC, since charters will not report the number of days offered in 2020-21.

BB. Mode of Instruction: For the 2020-21 year only, this section is amended to determine whether the charter school was classified as a nonclassroom-based charter for 2019-20. If so, the auditor is referred to Section CC and DD. If not, the auditor is referred to Section A.

CC. Nonclassroom-Based Instruction/Independent Study: For the 2020-21 year only, this section is amended to determine whether the charter school was classified as a nonclassroom-based charter for 2019-20. If so, the auditors will follow audit procedures similar to the July 1, 2020 version of the audit guide, with the addition of verification of annual days, which was moved from Section AA.

DD. Determination of Funding for Nonclassroom-Based Instruction: For the 2020-21 year only, this section is amended to determine whether the charter school was classified as a nonclassroom-based charter for 2019-20. If so, the auditors will follow audit procedures similar to the July 1, 2020 version of the audit guide, with the addition of language added to procedure 2 to report any inappropriately reported 2019-20 ADA by grade span and to estimate their dollar value.

EE. Annual Instructional Minutes-Classroom Based: In accordance with the information digest above, this section is suspended for 2020-21, but will apply to 2021-22.

FF. Charter School Facility Grant Program: retains the language of the July 1, 2020 audit guide.

Appendices

Appendix A. Local School Construction Bond Audits: retains the language of the July 1, 2020 audit guide.

Appendix B School Facility Program Bond Fund Audits and Appendix C Full Day Kindergarten Program Audits: addition of two sentences to various steps in Appendix B and Appendix C to clarify the audit steps. The added information currently resides in regulations, specifically Form SAB 50-06.

Specificity about audit hard costs less than 60 percent is added to:

Appendix B, Procedures II.A.10, III.A.11, and V.A.11

Appendix C, Procedure II.A.11

Detail, which clarifies non-compliance related to matching funds and the potential for loss of funding, is added to:

Appendix B, Procedures II.A.2, II.B.3, III.A.2, III.B.3, IV.A.2, IV.B.2, V.A.2, and V.B.2

Appendix C, Procedures II.A.2 AND II.B.2

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 February 2, 2021, 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 Supplemental 2020-21 Audit Guide clarifies and revises the language used in the original 2020-21 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 the Education Audit Appeals Panel (EAAP) have performed an economic impact assessment of the proposed regulations to revise the Audit Guide that is incorporated by reference. This assessment was performed in compliance with Government Code section 11346.3(b).

What would the proposed regulations do?

This rulemaking adopts the supplemental Audit Guide for 2020-21, required by Section 14502.1, through incorporation by reference in 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 by Education Code sections 41020 and 41024.

Creation or Elimination of Jobs Within the State of California

The activities specified in the regulations, or auditor-selected alternative activities, are necessary to implement existing 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 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 and 41024 requires annual audits 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.