

Initial Statement of Reasons

SECTIONS 19810 and the 2021-22 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting (Supplemented effective March 1, 2022) incorporated by reference.

Specific Purpose of the Regulations

The regulation to be amended, Section 19810, is that which incorporates the Audit Guide by reference. 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 and by letter dated January 31, 2022, proposed amending and supplementing the Audit Guide for fiscal year 2021-22. After review and some amendment, EAAP proposes to amend Section 19810 and the 2021-22 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 "2021-22 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting," (~~July~~March 1, 2024), 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 The annual guide is superseded by a supplemental audit guide, if needed, adopted before March 1 of each fiscal year.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, including Appendices A, B and C and any applicable supplement, is available on www.eaap.ca.gov/audit-guide, with paper or electronic copies available on request.

Note: Authority cited: Article XIII, Section 36 and Article XIII A, Section 1, California Constitution; and Sections 14502.1 and 47612, Education Code. Reference: Article XIII B, Section 1.5, California Constitution; and Sections 2574, 14501, 14502.1, 14503, 37700, 41020, 41480, 42238.02, 43500, 43501, 43502, 43504, 43505, 43509, 43520, 43521, 43522, 44258.9, 45037, 46146, 46300, 47605, 47612.5, 47614, 47634.2 and 48000, 48206, 48306, 48313, 51747, 51749, 52060, 53071, 56026, 56340 and 76004, Education Code.

Document incorporated by reference: 2021-22 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting (March 1, 2022). Annual audit guides, audit guide supplements, and the steps of the rulemaking progress are available on EAAP's website.

Audit Guide Amendments

The proposed supplemental 2021-22 Audit Guide includes the following changes:

- *Section B, Teacher Certification and Misassignments*, implements Executive Order N-3-22 dated January 11, 2022, by adding Procedure 1.a, to incorporate temporary flexibilities regarding administrative process and other requirements. Such flexibilities, including the hiring of staff without valid certification documents, allow the LEA to maintain in-person services for students despite staffing shortages caused by the rise in Covid-19 cases with the appearance of the Omicron Variant of the virus.
- *Section D, Independent Study*, implements new provisions in Education Code section 51747. Changes update the independent study pupil to teacher ratio calculation to exclude short-term and intermittent independent study. The amendments and new subdivision (g) amend the audit procedures regarding adoption and implementation of independent study policies regarding satisfactory educational progress, educational content, tiered reengagement strategies for pupils with gaps in attendance, communication with a pupil's parent or guardian regarding a pupil's academic progress, ensuring access to sufficient connectivity and devices, detailing supports to be provided for pupils not performing at grade level or otherwise in need of support (including mental health support), verification of live interaction and synchronous instruction, computer based evidence of engagement, and notification of the option for in-person instruction. Also requires verification that the LEA offered a pupil-parent-educator conference before execution of the agreement.
- *Section G, Gann Limit Calculations*, amends procedure 1.a for LEAs with excess Gann limit in the 2020-21 fiscal year, due to statutory changes required by Assembly Bill 130.
- *Section W, Unduplicated Local Control Funding Formula Pupil Counts*: amended to add note regarding Executive Order N-18-21, clarifying that for some LEAs impacted by wildfire, additional students identified as EL in the 2021-22 CALPADS UPC Source File (K-12) were not included in CALPADS snapshot report 1.18.
- *Section X, Local Control and Accountability Plans* makes technical amendments to Procedure 3 due to Local Control and Accountability Plan template amendments.

- *Section Y, Independent Study, Course-Based:* amendments implement new provisions of Education Code section 51749.5(d) including verification of adequate connectivity and devices, support for pupils not performing at grade level, English learner and special needs pupils in need of other support. Amendments to the provisions of the independent study agreement.; and confirmation that the LEA has a plan for live interaction and synchronous instruction consistent with Education Code section 51749.5. Amendments include the verification of the offer of a pupil-parent-educatory conference before execution of the agreement. Finally, a CDE website is identified for purposes of correctly calculating the independent study ratio.
- *Section BB, Mode of Instruction,* adds Procedure 1.a.(1) to incorporate temporary flexibilities regarding administrative processes, staffing, and other requirements, as allowed by Executive Order N-3-22.
- *Section CC, Nonclassroom-Based Instruction/Independent Study* adds technical clarifications and additional details to Procedures 1, 2, and 4.
- *Section AZ, Educator Effectiveness Funds Grant* add this new audit guide section to include procedures for verifying LEAs' compliance with requirements of Education Code section 41480, applicable to the Educator Effectiveness Block Grant funds.
- *Section BZ, Expanded Learning Opportunities Grant* adds this new audit guide section to include procedures for verifying LEAs' compliance with the requirements of the Expanded Learning Opportunity Grant funding.
- *Section CZ, Career Technical Educator Incentive Grant* adds this new audit guide section to include procedures for verifying LEAs' compliance with matching requirements of the Career Technical Educator Incentive Grant funding.
- *Section DZ, In-Person Instruction Grant* adds this new audit guide section to include procedures for verifying LEAs' compliance with requirements of the In-Person Instruction Grant Funding.

The proposed supplemental 2021-22 Audit Guide includes the following changes to Appendices B and C:

- Appendixes B and C: adds Procedure I.B.2, which requires auditors to present the required schedules in the format established by the Office of Public School Construction (OPSC).
- Appendix B Procedure II.A.11 and Appendix C Procedure II.A.11: updates terminology used in the procedures and the required table of hard construction costs to more accurately describe the calculation of costs that is to be presented in the auditor's report.
- Appendix B Procedure II.A.13 and Appendix C Procedures II.A.14 and II.B.17: updates procedures to add the following sentence to the end of the procedure:

Prepare the table to report the percent established for Restricted Maintenance Account and display the table in the audit report. The first year required to be audited and displayed is

the fiscal year in which the funding was received. All subsequent fiscal years up to the year of the audit will be included in the audit and displayed in the table.

Also, adds a table and note to the table to ensure compliance with California Education Code section 17075.75.

- Appendix B Procedure II.A.13, and Appendix C Procedures II.A.14 and II.B.17: adds an Information box with examples.
- Appendix B Procedure II.A.17, and Appendix C Procedures II.A.18 and II.B.9: updates procedures to add the following sentence to the end of the information boxes:

Obtain a copy of the required site clearance letter from DTSC. You can obtain a copy of the site clearance letter from the DTSC online EnviroStor.
<https://www.envirostor.dtsc.ca.gov/public/>.

- Appendix B Procedures II.A.21 and II.A.22, and Appendix C Procedures II.A.21, II.A.23, and II.B.18: adds the word “Required” before “District Contribution” in the Information box.

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 January 31, 2022, which proposed supplemental changes to the 2021-22 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 2021-22 Audit Guide clarifies and revises the language used in the original 2021-22 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 EAAP performed an economic impact assessment of the proposed regulations, in compliance with Government Code section 11346.3(b).

What would the proposed regulations do?

This rulemaking adopts the Audit Guide for 2021-22, Supplemented effective March 1, 2022, as “required by Section 14502.1, through incorporation by reference in a revised 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 Section 41020. The guidance facilitates auditors in conducting audits, and readers of audit reports, by directing the manner of presenting findings.

Creation or Elimination of Jobs Within the State of California

The activities specified in the regulations, or auditor-selected alternative activities, are necessary to ensure adequate review of LEA compliance with new or revised 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 Section 19810 and 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 requires that these audits be 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.