

**Minutes of the Education Audit Appeals Panel**  
Monday, February 24, 2020  
915 L Street, Cedar Room  
Sacramento

**Call to Order and Roll Call**

Joel Montero called the meeting to order at 1:35 p.m.

Panel members present: Joel Montero, designee of the Fiscal Crisis and Management Assistance Team, Jennifer Whitaker, designee of the Director of the Department of Finance and Lisa Constancio, designee of the Superintendent of Public Instruction.

**Approval of Minutes**

**Action:** The minutes of the August 26, 2019 meeting were approved.

Item 1	Report of the Executive Officer	Information
	<ol style="list-style-type: none"><li data-bbox="365 779 787 814">1. Summary of appeal activities</li><li data-bbox="365 814 933 850">2. Appeals and Summary Review Caseload</li><li data-bbox="365 850 706 890">3. Other items of interest</li></ol>	

Ms. Kelly reported that since the last meeting, four summary reviews have been filed, two were withdrawn and six determinations were made. Relief was granted in the cases of Foresthill Union Elementary, Cajon Valley Union Elementary and Mark Twain Union Elementary School District. Pacheco Union School District and Lakeport Unified School District withdrew their requests for summary review. The summary review requests for Upper Lake Unified School District, West Covina Unified School District and Trinity Alps Unified School District were denied. The requests for Lemoore Union High School and Contra Costa County Office of Education are pending review.

There were two formal appeals filed since the last meeting, by West Covina Unified School District and Yreka Union High School District. West Covina previously filed for a summary review request and were denied, Yreka Union did not file for a summary review request. The closed session agenda has two proposed settlements in the both cases of Inglewood Unified School District.

The Emergency rulemaking for 2019-20 will be submitted to the Office of Administrative Law (OAL) this week. The permanent rulemaking package will be submitted once OAL approves the emergency package. EAAP is currently awaiting to receive the 2020-2021 Audit Guide packet from the State Controller's Office, expected to be received in time for the April 27, 2020 Panel Meeting.

EAAP continues to work on the agency's new website to meet Web Accessibility requirements. Ms. Whitaker had Department of Finance reach out to EAAP in order to provide assistance. Currently in the process of converting documents that are to be posted on the website.

Item 2	<p>Public Participation</p> <p>This time is reserved for any person to address the Panel. If the subject is on the Public Session Agenda, individuals may comment now or at the time the item is considered. If the subject is not on the Public Session Agenda, the Panel is not empowered to take action on it. Public comment is limited to 3 minutes per speaker; the Panel may extend the limit by a uniform amount per speaker.</p> <p>No comment will be taken on matters at issue in items on the Closed Session Agenda, or on any pending adjudicatory proceeding.</p>	Information
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There were no comments from the public.

Item 3	<p>Legislation Report</p> <p>Discussion and action as appropriate regarding any legislation that may affect EAAP</p>	Information Action
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Ms. Kelly reported that there was no legislation to discuss that will directly affect EAAP.

Item 4	<p>EAAP Rulemaking Calendar</p> <p>Approve the rulemaking calendars for 2020</p>	Information Action
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Ms. Kelly informed the Panel that the rulemaking calendars required review and approval. The Government Code requires state agencies to prepare a rulemaking calendar by January 31 of that year. The Office of Administrative Law collects and compiles the agencies rulemaking calendars into one calendar. These calendars, Schedule A and B, follow the template prescribed by OAL.

**Action:** The Panel members unanimously approved the rulemaking calendars for 2020.

Item 5	<p><i>Emergency Supplemental Regulations: 2019-20 Audit Guide</i></p> <p>To address issues resulting from legislative changes to the conditions of apportionment, and make non-substantive edits.</p>	Information Action
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The text of the proposed emergency and permanent regulations is identical, so Items 5 & 6 should be discussed together. The SCO had proposed several changes that have been incorporated into the 2019-20 Supplemental Audit Guide. Statute requires any such changes be adopted by March 1<sup>st</sup>.

If approved by the Panel, the emergency rulemaking package would be posted on EAAP's website and forwarded to its interested party list and five days later, the package would be submitted to OAL. After EAAP's filing with OAL, the public would have five calendar days to submit comments in writing to EAAP and OAL. OAL then has 5 days to review the regulations and file with the Secretary of State.

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

- *Section E, Continuation Education*, relocates procedure 6(a) 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).
- *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. 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.

**Action:** The Panel members unanimously adopted the proposed Emergency Rulemaking Regulations.

Item 6	Notice of Proposed Rulemaking: <i>Permanent Supplemental Regulations: 2019-20 Audit Guide</i>	Information Action
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**Action:** The Panel members unanimously approved the initiation of the rulemaking process.

Item 7	Next Meeting March 30, 2020 Tentative EAAP meeting calendar for 2020	Information Action
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Item 4	Next Meeting March 30, 2020 Tentative EAAP meeting calendar for 2020	Information Action
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The Tentative EAAP meeting calendar for 2020 was revised to include a tentative meeting for December 14, 2020.

**Action:** The Panel members unanimously approved the EAAP meeting calendar for 2020.

The Public Session recessed at 2:05 p.m.

**Closed Session**

The Panel met in closed session from approximately 2:06 p.m. until 2:24 p.m.

**Call to Order: Public Session**

Mr. Montero recalled the public session to order at 2:25 p.m.

**Closed Session Report:**

Mr. Montero reported that in closed session, the Panel heard a comment related to pending litigation and unanimously approved the Stipulated Agreements of the parties in the matters of Inglewood Unified School District, EAAP Case 17-17 and Inglewood Unified School District, EAAP Case 18-08.

**Adjournment**

Mr. Montero adjourned the meeting at 2:27 p.m.