

Initial Statement of Reasons

SECTIONS 19810 and the 2022-23 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting (Supplemented effective March 1, 2023) 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 enacted before March 1 of the audit year. (Ed. Code § 14502.1(b)).

The Controller, pursuant to Education Code Section 14502.1 and by letters dated January 30, 2023 and February 14, 2023, proposed amending and supplementing the Audit Guide for fiscal year 2022-23. After review and some amendment, EAAP proposes to amend Section 19810 and the 2022-23 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 "2022-23 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting," (~~March~~July 1, 2023), 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, 47614, 47634, 48000, 48206, 48306, 48313, 51747, 51749, 52060, 53071, 56026, 56340 and 76004, Education Code.

Document incorporated by reference: 2022-23 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting (March 1, 2023). 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 2022-23 Audit Guide includes the following deletions, amendments and additions:

Deletions:

Section DZ. Expanded Learning Opportunities Program is deleted (for 2022-23 only) because subdivision (c) of amended Education Code section 46120 requires that audits of the Expanded Learning Opportunities Program commence with the 2023-24 school year.

Amendments:

Section D. Independent Study is amended to add and modify procedures, to ensure alignment with the amended provisions of independent study contained in Education Code section 51747.

Section W. Unduplicated Local Control Funding Formula Pupil Counts is amended to make technical amendments to Procedure 1 to change the title of the 1.18 report to LCFF Unduplicated Pupil Student List, and to remove obsolete language regarding age eligibility.

Section X. Local Control and Accountability Plan has a technical amendment to add "estimated" to Procedure 3 to conform to Education Code section 52064(b)(7).

Section Y. Independent Study – Course Based is amended to incorporate requirements of Education Code sections 51749.5 and 51749.6 into Procedures 1 and 2.

Section AZ. Educator Effectiveness is amended to change Procedures 1 and 2, and add Procedures 3 and 4, as a result of changes in Education Code section 41480. Procedures 1 and 2 remove verification of the annual report and add language to determine whether LEAs developed and adopted a plan, and to include return of funds if not. Procedures 3 and 4 were added to address fees charged for services.

Section BZ. Expanded Learning Opportunities Grant (ELO-G) is amended to make technical amendments to Procedure 2, and to delete Procedures 3 and 4, which pertained to one-time funding and distance learning.

Section CC. Nonclassroom-Based Instruction/Independent Study is amended to add and modify procedures to ensure alignment with the amended provisions of independent study contained in Education Code section 51747 (AB181).

Additions:

Section TT. Home-To-School Transportation adds procedures for a new program that increases transportation funding to school districts and county offices of education. The procedures verify LEAs' compliance with requirements of Education Code sections 41850.1 and 39800.1, specifically the development of a plan describing transportation services it will offer to pupils, including prioritization of services.

Section EZ. Transitional Kindergarten (TK) adds procedures for a new two-year kindergarten program to provide early education to ensure younger pupils obtain the necessary preparation to succeed in school. The procedures will verify LEAs and charter schools' compliance with requirements of Education Code section 48000, including average class enrollment and adult to pupil ratio requirements.

Section UU. Independent Study Certification for ADA Loss Mitigation adds procedures to verify compliance with requirements of Education Code section 42238.023, which would increase an LEAs 2021-22 average daily attendance for the Local Control Funding Formula, to mitigate the negative impact COVID-19 had on attendance rates. LEAs are eligible for the ADA Loss Mitigation funding if they meet specific requirements related to offering independent study programs or received a waiver.

The proposed supplemental 2022-23 Audit Guide includes the following changes to Appendices B and C:

Appendix B – Amendment

This rulemaking proposes technical amendments and additional audit procedures regarding modular school facilities piggyback contracts entered after August 21, 2022. Six sub-procedures were

added to each of the following sections:

- I. Initial Steps, B. Documents Needed to Audit – All Projects Procedures 1
- II. Non-Financial Hardship Projects, A. Closeout Audit, Procedures 8
- II. Non-Financial Hardship Projects, B. Reduced to Costs Incurred, Procedures 15
- III. Financial Hardship Projects, A. Closeout Audit, Procedures 9
- III. Financial Hardship Projects, B. Reduced to Costs Incurred, Procedures 16
- IV. Career Technical Education, A. Closeout Audit, Procedures 8
- IV. Career Technical Education, B. Reduced to Costs Incurred, Procedures 8

- V. Charter School Facilities Program, A. Closeout Audit, Procedures 9
- V. Charter School Facilities Program, B. Reduced to Costs Incurred, Procedures 8

Appendix B –Addition and Deletion

This rulemaking adds additional procedures related to savings to each section of Appendix B, and deletes two procedures related to savings and unspent funds in each section, as follows:

- III. Financial Hardship Projects, A. Closeout Audit, Procedures 22-23
- III. Financial Hardship Projects, C. Savings Audit, Procedures 1-3
- IV. Career Technical Education, A. Closeout Audit, Procedures 14-16
- IV. Career Technical Education, C. Savings Audit, Procedures 1-3
- V. Charter School Facilities Program, A. Closeout Audit, Procedures 22-23
- V. Charter School Facilities Program, C. Savings Audit, Procedures 1-3

Appendix C – Amendment

This rulemaking proposes technical amendments and additional audit procedures regarding modular school facilities piggyback contracts entered after August 21, 2022. Six sub-procedures were

added to each of the following sections:

- I. Initial Steps, A., Procedures 1 (b), Reduction to Costs Incurred
- I. Initial Steps, B. Documents Needed to Audit – All Projects, Procedures 1
- II. Full-Day Kindergarten Program, A. Closeout Audit, Procedures 8

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 letters dated January 30, 2023 and February 14, 2023, which proposed supplemental changes to the 2022-23 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 2022-23 Audit Guide clarifies and revises the language used in the original 2022-23 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 2022-23, Supplemented effective March 1, 2023, 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.