

Finding of Emergency

The Education Audit Appeals Panel (EAAP) has statutory authority to use the emergency regulations process to meet the deadlines specified for the adoption of an annual audit guide by July 1 of the fiscal year to be audited. (Educ. Code § 14502.1(b).)

Specific Facts Showing the Need for Immediate Action

Education Code Section (Section) 41020 requires the governing board of every local education agency (LEA) that serves kindergarten or any of grades K through 12 (K-12) to provide for an annual audit of the agency's books and accounts. Section 41020 further requires that the audit be developed and reported using a format established by the Controller after consultation with the Superintendent of Public Instruction and Director of Finance. Section 14502.1 requires the Controller, in consultation with the Department of Finance and the State Department of Education as well as representatives of specified organizations, to propose the content of an audit guide to promote accountability for public education funds. After review and possible amendment, EAAP is then to adopt the audit guide pursuant to the rulemaking procedures of the Administrative Procedure Act (APA) by July 1 of the fiscal year to be audited. EAAP is also authorized to adopt, before March 1 of the audit year, a supplemental audit guide to address legislative changes in the conditions of apportionment of school funding.

The Controller's Office letters of February 7 and 14, 2024, proposed language for the 2023-24 Audit Guide adopting modified versions of sections as compared to the 2023-24 Audit Guide adopted on July 1, 2023. The proposals arose from several meetings of stakeholders pursuant to Section 14502.1(a). To meet the statutory timelines and ensure the accuracy of the audit guide, Section 14502.1 authorizes use of the emergency regulations procedures of the APA to adopt the guide as regulations. Use of the emergency procedures protects EAAP's ability to meet the March 1 deadline in Section 14502.1 for supplemental audit guide changes. Further, meeting the timelines enables accounting firms to provide training to their field auditors prior to the commencement of auditing.

Authority and Reference

Authority cited: Section 14502.1, Education Code.

Reference: sections 14502.1, 14503, 41020, and 41024 of the Education Code.

Informative Digest

This rulemaking adopts the supplemental Audit Guide for 2023-24, as required by Section 14502.1, through incorporation by reference in a revised Section 19810. This supplemental rulemaking would adopt by incorporation and reference the document entitled "2023-24 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting (March 1, 2024)" which supersedes the version of the same title but dated July 1, 2023. 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, 2024. Copies of the proposed audit guide, its previous version, and the final audit guides for several previous years, are available at EAAP's website, www.eaap.ca.gov. A hard copy of the proposed text is available on request.

Title 5, Division 1.5
Chapter 3. Audits of California K - 12 Local Education Agencies
Article 1 General Provisions

§ 19810. Annual Audit Guides.

The "2023-24 Supplemental Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting," (~~March~~July 1, 2023~~4~~), 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, 41024, 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.

Audit Guide Amendments

The proposed annual 2023-24 Supplemental Audit Guide includes the following amendments:

Report Components Section 4.a, LEA Organization Structure is deleted and moved to new Section 5, Other Information. Also, a technical change is made to section 5.a.2 requiring a statement in instances where there was no change in the school districts boundaries.

Report Components Section 5.b, State Compliance Report is amended to ensure that the audit guide is in compliance with the most recent requirements of the American Institute of Certified Public Accountants.

Section G. Instructional Materials is amended to add a penalty to any finding that the school district or county office of education did not follow required steps to ensure that each pupil would have sufficient textbooks and instructional materials, in accordance with Section 60150(b).

Section P. Transportation Maintenance of Effort is deleted because there are no audit requirements in statute and no fiscal penalty for failing the requirement. Declining enrollment in some LEAs have reduced transportation expenses, and the Home-to-School Transportation Reimbursement program provides new funding for Home to School transportation.

Section TT. Home-to-School Transportation Reimbursement includes a technical change to reflect the fact that plans may have been updated subsequent to the original adoption on April 1, 2023.

Section T. Clean Energy Jobs Act is deleted due to completion of projects and submission of final expenditure reports.

Section T. Art and Music in Schools implements SB 115 (Stats. 2023, Chapter 49), amending sections 8820-8822, which in turn carry out the mandate of Proposition 28, enacted November 8, 2022, by funding a new, ongoing program supporting arts instruction in schools beginning in 2023-24. Section 8830 subdivision (i) requires the program to be included in the annual audit. Audit steps will review expenditures to ensure they were used to supplement rather than supplant existing services, that after an audit year in which the allocated funds are fully expended or the third year of the program, no more than 20 percent of the expenditures were used for allowable purposes other than certificated or classified salaries and benefits; and that no more than 1 percent of the total funding received in the allocation year was used for administrative expenses, including indirect costs. Other audit steps verify that the LEA certified compliance with Section 8820(g)(1) (or a waiver by CDE), and that the LEA certified compliance with Section 8820(g)(2), concerning the use of art and music funds.

Section Z. Immunizations section is revised to delete review of students in the 1st or 8th grade in the audit year. Review of those grades was necessary because of the disruption caused by the Covid-19 Pandemic. Current immunization rates are approaching rates near pre-pandemic levels and the Department of Public Health is no longer requiring reporting from grades 1 and 8.

Section DZ. Expanded Learning Opportunities Program includes technical amendments to steps 3 and 5 to ensure reference to the correct code section. It is also adding audit procedures that would exempt an LEA from fiscal penalty when it is temporarily prevented from operating the Expanded Learning Opportunities Program because of a school site closure due to emergency conditions, in compliance with Section 46120(b).

Section EZ. Transitional Kindergarten is amended to delay steps 5 and 6 to 2025-26 as a result of deadlines changed by SB114. It would also add a new procedure to audit transitional kindergarten classroom with early enrollment pupils, also resulting from changes made by SB114 to Section 48000.15.

Document incorporated by reference

2023-24 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting (March 1, 2024). Incorporation by reference simplifies 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 progress are readily available on EAAP's website.

Public Benefits

EAAP anticipates that these proposed amendments may create specific benefits for the protection of public health and safety, worker safety, the environment, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government. These additions, deletions and amendments make technical and conforming changes to 2023-24 K-12 audit guide requirements to ensure the annual Audit Guide's consistency and compatibility with new and preexisting state statutes and regulations. Additionally, EAAP has determined that the proposed amendments will ultimately benefit the welfare of California residents by ensuring that local education agencies' compliance with regulatory requirements and by improving the quality and consistency of K-12 audits.

Technical, Theoretical, or Empirical Studies, Reports, or Documents

EAAP relied upon the State Controller's Office letters of February 7 and 14, 2024, which proposed changes to the 2023-24 Audit Guide.

Mandate on Local Agencies or School Districts

EAAP has determined that these regulations do not impose a mandate on LEAs. No reimbursement is required.

Cost Estimate

EAAP has determined that these regulations will involve no costs or savings to any State agency, no nondiscretionary costs or savings to local agencies or school districts, no reimbursable costs or savings to local agencies or school districts under Government Code section 17561 and no costs or savings in federal funding to the State.

Evaluation of Consistency/Compatibility with Existing Regulations

EAAP staff performed an evaluation and determined that the proposed regulation is not inconsistent or incompatible with existing state regulations. This evaluation was performed in compliance with Government Code section 11346.5(a)(3)(D).