

**TITLE 5. Education**  
**Education Audit Appeals Panel**

Notice of Proposed Rulemaking

*Supplement to Audits of K-12 Local Education Agencies*  
Fiscal Year 2023-24 as of March 1, 2024

The Education Audit Appeals Panel (EAAP) proposes to adopt an Audit Guide for Fiscal Year 2023-24, Supplemented as of March 1, 2024, as well as the Guide's incorporating regulation, as described below, after considering all comments, objections, and recommendations regarding the proposed action. The Supplemented Audit Guide will be derived from and incorporated in Section 19810.

**Public Hearing:**

A public hearing regarding this proposal is not currently scheduled. Not later than 15 days prior to the close of the written comment period, any interested person, or his or her authorized representative, may make a written request for a public hearing pursuant to Government Code section 11346.8, and a public hearing will be held. Requests for a public hearing should be addressed to Mary Kelly.

**Written Comment Period:**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action. The written comment period closes on **Monday, June 24, 2024**. EAAP will consider only written comments received by that time. Written comments for EAAP's consideration should be directed to:

Mary Kelly, Executive Officer  
Education Audit Appeals Panel  
770 L Street, Suite 1100  
Sacramento, CA 95814

Fax: (916) 445-7626  
e-mail: [mkelly@eaap.ca.gov](mailto:mkelly@eaap.ca.gov)

**Authority and Reference:**

Authority cited: Section 14502.1, Education Code.

Reference: Sections 14502.1, 14503, 42010, and 41024 of the Education Code.

**Informative Digest/Policy Statement Overview:**

This rulemaking amends title 5, California Code of Regulations, section 19810 to clarify the incorporation by reference language and make reference to the audit guide. It also adopts the Audit Guide for 2023-24, supplemented as of March 1, 2024, with any technical and clarifying revisions and legislative changes that will affect audits and possibly the conditions for

apportionment of school funding. This supplemental filing ensures that audits include subjects pertinent to and/or required by legislation through January 1, 2024.

This rulemaking meets the requirements of Education Code section 14502.1, which mandates that an annual audit guide be adopted by EAAP, and the additional laws and Constitutional provisions listed under “Authority cited” below the proposed amended text of Section 19810, as shown below. 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. The Controller, in letters dated February 7 and 14, 2024, pursuant to Education Code section 14502.1, proposed supplemental changes to be reflected in the 2023-24 audit guide. The proposed changes derive from the Controller’s proposals and also contain changes designed to clarify audit steps.

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. The regulations direct accountants to perform the steps necessary for the annual audits required by Education Code Section 41020. EAAP has determined that the proposed amendments will ultimately benefit the welfare of California residents by ensuring that local education agencies are complying with regulatory requirements, and that educational funds are being properly utilized, which would ultimately affect the quality of students’ educational experiences. In developing the rulemaking, EAAP evaluated the proposed changes to regulations and determined that they are not inconsistent or incompatible with existing regulations, state or federal.

A description of proposed changes to section 19810, and a discussion of revisions to the audit guide, follow.

**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](http://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 district's 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 1<sup>st</sup> or 8<sup>th</sup> 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.

NOTE: The changes described above are already in effect on an emergency basis.

**Disclosures Regarding the Proposed Action:**

1. Mandate on local agencies and school districts: None
2. Cost to any local agency or school district which must be reimbursed: None
3. Cost or savings to any state agency: None
4. Other non-discretionary cost or savings imposed upon local agencies: None
5. Cost or savings in federal funding to the state: None
6. Significant effect on housing costs: None
7. Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None
8. The Economic Impact Assessment found that adoption of these regulations will not:
  - create or eliminate jobs within California;
  - create new businesses or eliminate existing businesses within California; or,
  - affect the expansion of businesses currently doing business within California.
  - benefit or harm worker safety or the state's environment.

As stated in the Informative Digest/Policy Statement Overview above, EAAP has determined that the proposed amendments will ultimately benefit the welfare of California residents by ensuring that local education agencies follow regulatory requirements, and that education funds are being properly utilized, which would ultimately affect the quality of pupils and students' educational experiences.

9. Cost impact on a representative private person or business: EAAP is not aware of

any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

10. Business report requirements: None

11. Effect on small businesses: The proposed regulations will have no effect on small businesses because they do not materially alter the requirements for LEA audits.

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

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

### **Consideration of Alternatives**

In accordance with Government Code Section 11346.5(a)(13), EAAP must determine that no reasonable alternative it has considered or that has otherwise been identified and brought to the EAAP's attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

### **Availability of Rulemaking File**

The entire rulemaking file will be available for inspection and copying throughout the rulemaking process at EAAP's office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and the Economic Impact Assessment. A copy may be obtained by contacting Mary Kelly at the above address. The bill analyses are also available online at <http://leginfo.legislature.ca.gov/faces/billSearchClient.xhtml>.

### **Availability of Changed or Modified Text**

Following the comment period, a hearing, if requested, and consideration of all timely and relevant comments received, EAAP may adopt the proposed regulations substantially as described in this notice. If EAAP makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before EAAP adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of Timothy Morgan at the address stated above. EAAP will accept written comments on the modified regulations for 15 days after the date on which they are made available.

### **Availability of Documents on the Internet**

Copies of the Notice of Proposed Rulemaking, Initial Statement of Reasons, text of the regulations in underline and strikeout, any changed or modified text, and the Final Statement of Reasons will be accessible through the EAAP website: [www.eaap.ca.gov](http://www.eaap.ca.gov)

## Contact Persons

Direct inquiries concerning the proposed administrative action, or requests for the proposed text, the Initial Statement of Reasons, any modified text of the regulations, or technical information supporting the rulemaking to Timothy Morgan, Staff Attorney, (916)445-7745, [tmorgan@eaap.ca.gov](mailto:tmorgan@eaap.ca.gov), or Mary C. Kelly, Executive Officer, (916)445-7745, [mkelly@eaap.ca.gov](mailto:mkelly@eaap.ca.gov).