

Minutes of the Education Audit Appeals Panel

Monday, February 26, 2024
915 L Street, Cedar Room
Sacramento

Call to Order and Roll Call

Joel Montero called the meeting to order at 1:30 p.m.

Panel members present: Joel Montero, designee of the Fiscal Crisis and Management Assistance Team, Cheryl McCormick, designee of the Director of the Department of Finance and Elizabeth Dearstyne, designee of the Superintendent of Public Instruction.

Approval of Minutes

Action: The minutes of the January 29, 2024 meeting were approved.

Item 1	Report of the Executive Officer 1. Summary of appeal activities 2. Appeals and Summary Review Caseload 3. Other items of interest	Information
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Ms. Kelly reported that since the last meeting, two new summary reviews were filed and one determination was made. Relief was fully granted in the case of Imperial County Office of Education. It was a finding of Teacher Certification and Misassignments for \$13,652.

No additional formal appeals were filed since the last meeting and the meeting will not have a Closed Session.

EAAP is approved to hire a part time attorney position prior to the end of the fiscal year. This is in order to bring somebody on board while Mr. Morgan is still on staff and to get somebody up to speed on what is required. Eventually the position would become a full-time position.

Item 2	Public Participation 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. No comment will be taken on matters at issue in items on the Closed Session Agenda, or on any pending adjudicatory proceeding.	Information
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Robert Manwaring and Eric Premack had public comments. Their comments are included under Item 4.

Item 3	Legislation Report Discussion and action as appropriate regarding any legislation that may affect EAAP	Information Action
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The legislative session just started and there are bills being introduced that EAAP staff are following. Currently there is nothing to discuss but EAAP staff will continue following them.

Item 4	<i>Emergency Supplemental Regulations: 2023-24 Audit Guide</i> To address issues resulting from legislative changes to the conditions of apportionment, and make non-substantive edits.	Information Action
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The text of the proposed emergency and permanent regulations is identical, so Items 4 & 5 were discussed together.

Statute requires any such changes be adopted by March 1, 2024. 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 2023-24 Audit Guide includes the following deletions, amendments and additions:

- Section G. Instructional Materials is amended to empower the county superintendent of schools to ask CDE to purchase textbooks and instructional materials as necessary and for CDE to recoup those expenses; and otherwise to include a penalty for failing to remedy a deficiency in textbooks or instructional materials to be assessed against its local control funding formula.
- Section P. Home-To-School Transportation is deleted because the Education Code does not mandate such and audit nor impose a fiscal penalty for noncompliance; because declining enrollment in some LEAs have reduced transportation expenses, and because the procedures of the Home-to-School Transportation Reimbursement (HTSTR) program provides a new funding mechanism replacing the 10-year old service threshold with transportation services plans based on current needs and the priorities outlined in HTSTR statute.
- Old Section T. Clean Energy Jobs Act is deleted, as that program has expired and requires no further testing. It is replaced by a NEW Section T:
- Section T. Art and Music in Schools implements SB 115 (Stats. 2023, Chapter 49), amending Education Code sections 8820-8822, which in turn carries 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. Education Code 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 Education Code 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.

- 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.
- DZ. Expanded Learning Opportunities Program is added to include audit procedures for determining LEAs' compliance with the requirements of the Expanded Learning Opportunities Program, pursuant to Education Code section 46120.
- EZ. Transitional Kindergarten is amended to add procedures to verify LEAs' compliance with requirements of Education Code section 48000 related to teacher credentials, other qualifications.

Mr. Manwaring is representing both himself, as one of the authors of the Arts and Music in School Initiative and Austin Beutner, who was the main proponent of the initiative. Mr. Manwaring appreciated the changes that are being proposed and will look forward to seeing a hard copy of it. He believes the suggested changes appear to really make the focus on what they were concerned about. He states Mr. Beutner is hearing from the field already that some actions appear to be supplanting, appear to be using these Prop 28 funds to support existing art staff at school sites. Suggested including additional instructions for auditors to determine prior year expenditures, what sources they should be looking at in making that determination. Appreciated the step of moving this into the audit guide and looks forward to reviewing the specific language and the calculations that are being suggested.

Ms. Kelly informed him that the updated documents will be sent out to Mr. Manwaring and all interested parties with the Notice of Emergency Rulemaking.

Mr. Premack voiced continued concerns regarding the SCO's Audit Guide workgroup meeting process and believes EAAP staff do not receive sufficient time to adopt regulations. He had concerns about the external reference to CDE's website and the fact that he could not locate the forms or the worksheets that were made verbal reference to on that website. He also voiced concerns over the supplement not supplant requirement and if there is an additional maintenance of effort requirement being added. He views those as quite distinguishable

concepts; he believes adding a new restrictive layer on top of what the initiative statute called for could be very problematic. Also concerned with the language deeming indirect costs to be prohibited. In addition, he had concerns about implementing penalties on a statute after schools had done their final enrollment and staffing decisions, and potentially imposing retroactive penalties on new laws. Also concerned with language that requires that the adults in classrooms to be present for the entire school day.

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

Item 5	Notice of Proposed Rulemaking: Permanent Supplemental Regulations: 2023-24 Audit Guide	Information Action
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Action: The Panel members unanimously approved the initiation of the permanent rulemaking process for the 2023-24 Supplemental Audit Guide

Item 6	Next Meeting March 25, 2024	Information Action
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Adjournment

Mr. Montero adjourned the meeting at 2:13 p.m.