

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 TK/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 14 and 23, 2024, proposed language for the 2024-25 Audit Guide adopting modified versions of sections as compared to the Supplemental 2023-24 Audit Guide adopted on March 1, 2024. 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. Meeting the timelines in Section 14502.1 through use of the emergency regulations procedures affords notice to LEAs at the beginning of the fiscal year of areas that will be subjected to particular audit scrutiny. In addition, meeting the timelines enables accounting firms to provide training to their field auditors prior to the commencement of auditing. In this instance, the emergency procedures enable EAAP to meet the July 1, 2024 statutory target should there be changes during the notice and public hearing period.

Authority and Reference

Authority cited: Section 14502.1, Education Code.

Reference: Sections 14502.1, 14503, 41020, and 41024, Education Code.

Informative Digest

This rulemaking adopts the annual Audit Guide for 2024-25, required by Section 14502.1, through incorporation by reference in a revised Section 19810. 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.

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

§ 19810. Annual Audit Guides.

The "~~2023-24-25 Supplemental~~ Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting," (~~March~~ July 1, 2023-4)-25), 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 2024-25 Audit Guide includes the following amendments from the March 1, 2024 Supplemental version of the 2023-04 Audit Guide:

Report Components Section 4.c. Schedule of Instructional Time is amended to add instructions for LEA's awaiting the Department of Education's approval of Form J-13A.

G. Instructional Materials is amended in Procedure 5 to require the auditor to verify that the school district governing board or the county office of education submitted a copy of the resolution to the county superintendent of schools no later than three business days after the governing board hearing on the sufficiency of textbooks and instructional materials, as required by Education Code Section 60119(a)(2)(A).

N. Middle or Early College High Schools and Programs, amended to add the words "and Programs" in recognition that such schools can be a program within existing high schools, is also amended to recognize that a county office of education, as well as a school district, can operate such a program.

FZ. In Person Instruction Grant [New] is added to require verification of an LEA's compliance with the requirements of Education Code Section 43521(c) applicable to the In-Person Instruction Grant expenditure reporting requirements.

TT. Home to School Transportation Reimbursement is amended to require determination whether the school district or county office of education reported transportation data through the California Basic Educational Data System (CBEDS) Home-to-School Transportation Reimbursement Supplemental worksheet in October.

X. Local Control and Accountability Plan (LCAP) is amended to implement new requirements added to Education Code Sections 52062 and 52068 requiring charter schools, school districts, and county office of

education to present a midyear update to the LCAP and the Local Control Funding Formula budget overview for parents to its local governing board or body at a regularly scheduled meeting.

Z. Immunizations is amended to reflect recent changes to Health and Safety Code Section 120372 and Subchapter 8 of Chapter 4 of Division 1 of Title 17, regulations adopted by the California Department of Public Health, to specify that, beginning with 2024-25, medical exemptions from immunizations for pupils entering TK/K or 7th Grade must be issued through the California Immunization Registry – Medical Exemption website.

BZ. Expanded Learning Opportunities Grant (ELO-G) is amended to require audit verification of timely submittal of the expenditure report required by Education Code Section 43523(c) or forfeiture of funds apportioned pursuant to Section 43521.

DZ. Expanded Learning Opportunities Program is amended to require audit verification that an LEA had procedures in place and/or contract requirements where the LEA contracted with a third party, to ensure that program staff, volunteers, and contracted personnel were subject to the health screening and fingerprint clearance requirement in current law and district policy.

BB. Mode of Instruction is amended to recognize that a charter school may operate a middle or early college high school program, and that such a program can exist without the charter school requiring its pupils to be in attendance at least 80 percent of the required instructional time.

Public Benefits. EAAP anticipates that these proposed amendments may create various 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 the 2023-24 K-12 supplemental audit guide in order to create the 2024-25 guide and 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 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

No technical, theoretical, or empirical studies, reports, or documents were relied on in proposing the adoption of these regulations.

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 also determined that the 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 Section 17561 of the Government Code, 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).