

Minutes of the Education Audit Appeals Panel

Monday, February 24, 2025
915 L Street, Cedar Room
Sacramento

Call to Order and Roll Call

Cheryl McCormick called the meeting to order at 1:32 p.m.

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

Approval of Minutes

Action: The minutes of the December 16, 2024 meeting were approved. Paragraph three of Item 1 required an edit to fix a typographical error.

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 since the last meeting, two new summary reviews were filed, Yreka Union School District and Los Angeles Unified School District. Six summary reviews were granted, three were partially granted, one was denied and one was withdrawn. Relief was fully granted in the cases of: Santa Ana Unified School District, Natomas Unified School District, Trona Joint Unified, Connect Community Charter, Delphic Elementary and Summerville Union High. Relief was partially granted in the cases of: Victor Valley Union High, Ingenuity Charter and Parlier Unified School District. The summary review request for Victor Valley Union High School District (FY 22-23) was denied and still eligible to file a formal appeal. El Dorado Union High School withdrew their request.

Since the last meeting, three additional formal appeals were filed. Bonsall Unified School District, Chino Unified School District and Oak Run Elementary School District filed. Oak Run Elementary School District missed the deadline to file a Summary Review. Bonsall Unified School District and Chino Unified School District were related to the School Facility Program Bond Fund (Appendix B). Junction Elementary School District is on the Closed Session Agenda.

EAAP is currently advertising for a new Executive Officer. The final filing date is March 9, 2025. Updates will be provided at the next Panel meeting.

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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Public Participation will be addressed in Item 5.

Item 3	Legislation Report Discussion and action as appropriate regarding any legislation that may affect EAAP	Information Action
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Mr. Morgan mentioned Assembly Bill No. 84. School accountability: audits: charter schools: data systems. Currently the bill presents nothing to discuss, but EAAP staff will continue following it.

Item 4	School Facility Program Bond Fund Audit (Appendix B) Bonsall USD; Chino USD	Information
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As noted in the report of the executive officer, there are two new formal appeals related to the School Facility Program Bond Fund (Appendix B), Bonsall Unified School District and Chino Unified School District. These audit appeals are new to EAAP’s workload and can only be filed as formal appeals, not for summary review.

Ed Code 41024(b) requires the performance of audits for an LEA that receives funds pursuant to the Leroy F. Greene School Facilities Act of 1998. Appendix B constitutes the guide for the performance of such audits, commencing with audits of the 2018-19 fiscal year.

Ed Code 41024(c)(1) requires the auditor to submit the audit report to the State Controller’s Office (SCO) within 60 days of the completion of the audit. SCO will certify the audit report.

After SCO’s certification, if the LEA does not agree with the audit finding, they have 60 days to request a formal appeal from EAAP. Ed code 41024(c)(4) expressly states that the informal summary appeals process does not apply to these audits.

EAAP staff spoke with the Office of Public-School Construction to get an understanding of the findings contained in the two formal appeals. Both are findings are due to clerical errors. Ms. Kelly believes both could easily be addressed by conducting a summary review.

Ms. Kelly presented the idea of having OPSC as a subject matter expert in the formal appeal process. She also suggested of revisions to Ed Code 41024(c) to allow these appeals to be first addressed as summary reviews.

Suzanne Reese, from DGS, commented that OPSC is staff to the State Allocation Board [unless it intervenes] would also not be allowed to weigh in the appeals.

Mr. Montero asked if there was no recourse for appeal to OPSC regarding these audits and who was conducting the audits. Ms. Kelly informed him that independent auditors are performing the audits. The findings are a result the independent external audit. EAAP staff are unsure of the expected workload that will result from these audits. EAAP staff wanted to see if more research could be conducted in order to deal with these cases at the informal summary review level.

Item 5	2025-26 Audit Guide “Audit Best Practices for Detecting and Curtailing Charter School Fraud” Update from Working Group Meeting	Information
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The K-12 audit guide Working Group has been meeting for the past four months to discuss amendments for the 2024-25 supplemental audit guide and the 2025-26 annual audit guide. A significant component of the 2025-26 proposed amendments that EAAP anticipates from SCO’s proposal are audit guide additions that reflect the recommendations contained in the Multi Agency Charter School Audits Task Force report issued in September 2024.

Although the proposed additional audit steps will be included in the 2025-26 Rulemaking and are not on this agenda, Ms. Kelly thought it would be beneficial to introduce the subject earlier, to give some background and to discuss any questions the Panel members may have.

Kim Tarvin, SCO’s Chief of the Audits Division, provided information regarding the Multi-Agency Charter School Audits Task Force. Their primary objective is to examine the audit functions of the California charter schools and develop comprehensive guidelines that will assist charter school authorizers, county offices of education, California Department of Education, and State Controller’s Office to promptly identify financial issues or misconduct.

In 2019, the San Diego District Attorney’s Office prosecuted 11 individuals associated with the Academics Arts and Action Education network of 19 charter schools. The fraud involved falsely enrolling students, manipulating enrollment figures, and funneling funds into companies controlled by Sean McManus and Jason Schrock. Over a several-year period, this fraudulent operation brought in approximately \$400 million in revenue.

In response to the Academics Arts and Action Education fraud case, San Diego Superior Court Judge Robert C. Longstreth signed a court order on September 21, 2023, granting a motion to approve the formation of a multi-agency task force to combat charter school fraud.

Ms. Tarvin described the goals of the Task Force.

- Evaluate the system for authorizing auditors and review the required qualifications for serving in this function.
- Review the protocol for training and evaluating authorized auditors.
- Evaluate the compliance of authorized auditors conducting reviews of California Charter schools with the Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting.
- Develop guidelines and requirements, including notification requirements, for the charter school and the auditor in the event of auditor termination or replacement by a charter school.
- Identify best practices and recommendations for the improvement of the audit process for California charter schools.
- Identify potential legal or regulatory obstacles to the implementation of the recommendations, and provide guidance for overcoming such obstacles.
- Provide timely and accurate information on the state of California charter schools, including compliance issues, areas for improvement, and best practices.
- Foster a culture of transparency and accountability in auditing operations, and promote trust and confidence in the oversight of California charter schools.

Ms. Tarvin stated she could not comment on Assembly Bill No. 84.

Eric Premack had public comments. Mr. Premack stated he was previously made aware of the potential fraud from calls he received from parents. He voiced concerns over expanding the Audit Guide, asked if auditing was the right tool to prevent any potential fraud. Believed it could lead to “over-auditing” and could lead to issues finding auditors to perform the K12 Audit Reports. He believes incompetence was to blame for the fraudulent activities being overlooked in the audit report and not the lack of audit guidelines. Mr. Premack also voiced continued concerns regarding the SCO’s Audit Guide workgroup meeting process, and his organization desire for an open discussion.

Ms. Dearstyne had concerns about the impact overall on the Audit Guide and what the long-term effect could be. She shared concerns over LEAs having difficulty finding auditors and adding complexity to Audit Guide could provide more issues. She also expressed concerns regarding the mentioned recommendations, some are complex and staff have short timelines to consider them.

Mr. Montero shared his thoughts regarding potentially auditing for fraud. Believes it to be a fairly significant structural change from the scope of current audits.

Mr. Morgan suggested that non-annual audits may facilitate with any potential fraud issues.

Item 6	Readoption of Emergency Regulations: 2024-25 Audit Guide To address issues resulting from legislative changes to the conditions of apportionment, and make non-substantive edits. This readoption will be the supplemental audit guide effective March 1, 2025.	Information Action
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Statute requires that Supplemental Audit Guide changes be adopted by March 1, 2025. 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 second readoption of the 2024-25 Audit Guide includes the following amendments included in the emergency adoption noticed on June 6, 2024 and noticed as a readoption on December 5, 2024.

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.

This proposed second re-adoption of the 2024-25 Audit Guide also includes the following amendments proposed by the Controller’s Office and represent revisions to the audit guide to incorporate in a 2024-25 Supplemental Audit Guide (March 1, 2025).

C. Kindergarten Continuance is amended to move procedure C from Local Education Agencies Other than Charter Schools to Section FZ, under the section that applies to all LEAs. Education Code section 46300(g)(1) was amended and kindergarten continuance now applies to charter schools.

D. Independent Study is amended to update various audit procedures to ensure consistency with changes made to the requirements of Education Code sections 46300(e)(1), 51747(g)(9)(A)(ii) and 51747.5(b)(2)(A)(ii).

Y. Independent Study Course-Based is amended to incorporate changes made to requirements of Education Code sections 51749.5 and 51749.6.

L. School Accountability Report Card is amended at step 1(a) to correct an error and properly reference Education Code section 35186(e).

W. Unduplicated Pupil Counts is amended to remove the language in procedure 1(a) that was made obsolete by amendment to Education Code section 42238.01(a)(2)(b).

Z. Immunization is amended at procedure 2 to exempt pupils that were 3 years old on the first day of TK, in accordance with Education Code section 48000.15(b)(4).

AZ. Educator Effectiveness is amended to remove Procedures 1 and 2, renumber the remaining procedures, and update the references to the renumbered procedures. Also, an amendment is

made to Procedure 2 to identify in the finding the amount of the Educator Effectiveness funding received by the local educational agency.

BZ. Expanded Learning Opportunities Grant (ELO-G) is amended to delete Procedure 3 to reflect amendments in Education Code section 43523(a) and to remove the requirement to disallow the funds from Procedure 5.

DZ. Expanded Learning Opportunities Program (ELO-P) is amended to provide clarification for Procedures 2 and 3, and remove Procedures 3(a)(iii) and 5(a)(iii) as they are not included in Education Code section 46120. Additional resources for the auditors are added to Procedure 11.

FZ. In-Person Instruction Grant is deleted to reflect the removal of removal of paragraph (a)(3) from Education Code section 43523, the requirement to audit the submission of the expenditure report to the California Department of Education.

CC. Nonclassroom-Based Instruction/Independent Study is amended to reflect changes to Education Code section 51747.

Appendix B and Appendix C are amended to include in General Provisions clarification that a separate audit report shall be submitted for each audited project, and that multiple projects cannot be combined in one audit report.

Mr. Premack expressed concerns over making changes to the Audit Guide. He believes some changes are too sudden, as they require revising data systems and adding staff. Does not agree with enforcing penalties when LEA staff have had a limited timeframe to implement. He recommended the changes to be deferred for a year.

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

Item 7	Next Meeting March 24, 2025	Information Action
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Multiple staff members would not be available for March 24, 2025. The meeting was rescheduled for Wednesday, April 2, 2025 at 1:30 p.m.

Adjournment

Ms. McCormick adjourned the meeting at 3:07 p.m.

Closed Session Report:

In closed session, the Panel unanimously approved the Stipulated Agreements of the parties in the matter of Junction Elementary School District.