

AMENDED IN SENATE MAY 8, 2013  
AMENDED IN SENATE APRIL 1, 2013

**SENATE BILL**

**No. 302**

---

---

**Introduced by Senator Cannella  
(Coauthors: Senators Gaines and Huff)**

February 15, 2013

---

---

An act to amend Sections ~~14501, 14502.1, and 35400~~ *14501 and 14502.1* of, to add Sections 38087, 38096, 38097, 38098, and 38104 to, and to repeal Sections 38092 and 38102 of, the Education Code, relating to school cafeterias.

LEGISLATIVE COUNSEL'S DIGEST

SB 302, as amended, Cannella. School cafeterias: cafeteria fund.

(1) Existing law requires the Controller, in consultation with the Department of Finance and the State Department of Education, to develop a plan to review and report on financial and compliance audits, and with representatives of other entities, to recommend the statements and other information to be included in the audit reports filed with the state by local educational agencies, and to propose the content of an audit guide.

This bill would additionally require compliance audits and the audit guide to include cafeteria fund expenditures.

~~(2) Existing law, until January 1, 2015, authorizes the Los Angeles Unified School District Board of Education to appoint an inspector general and authorizes the inspector general to conduct audits and investigations, as specified, including administering oaths or affirmations. Existing law makes it a misdemeanor, punishable as specified, for a person, after the administration of an oath or affirmation,~~

~~to state or affirm as true any material matter that he or she knows to be false.~~

~~This bill would extend that authority of the inspector general of the Los Angeles Unified School District Board of Education until January 1, 2025. By extending the operation of a crime, the bill would impose a state-mandated local program.~~

~~(3)~~

(2) Existing law authorizes the governing board of any school district to establish cafeterias in the schools under its jurisdiction and authorizes the moneys received for the sale of food or for any services performed by the cafeterias to be paid into the county treasury to the credit of the cafeteria fund of the particular school district. Existing law requires the cafeteria fund to be used only for those expenditures authorized by the governing board of the school district that are defined in the California School Accounting Manual.

This bill would require the State Department of Education to assess its food services workload and staffing needs for purposes of carrying out the state's oversight responsibilities of cafeteria funds and to request sufficient federal funding to hire the appropriate number of staff based on that assessment. The bill would require the department to prepare simplified guidelines that address most of the common acceptable and unacceptable charges to cafeteria funds. The bill would require the department to post on its Internet Web site all enforcement actions for the misappropriation of cafeteria funds. The bill would require a school district to maintain all financial records related to its cafeteria fund for 5 years, thereby imposing a ~~state-mandated~~ *state-mandated* local program. The bill would prohibit a school district from withholding from its food service director any financial records involving school nutrition programs.

~~(4)~~

(3) Existing law authorizes the governing board of any school district with an average daily attendance of over 100,000 to allow as an expenditure from its cafeteria fund a share of money agreed upon pursuant to a contract that is generated from the joint sale of items between the cafeteria and an associated student body student store.

This bill would repeal that provision.

~~(5)~~

(4) Existing law authorizes the governing board of any school district operating school cafeterias to establish and maintain a cafeteria fund

reserve for the purchase, lease, maintenance, or replacement of cafeteria equipment, as specified.

This bill would repeal that provision.

~~(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

*(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 14501 of the Education Code is amended
- 2 to read:
- 3 14501. (a) As used in this chapter, “financial and compliance
- 4 audit” shall be consistent with the definition provided in the
- 5 “Standards for Audits of Governmental Organizations, Programs,
- 6 Activities, and Functions” promulgated by the Comptroller General
- 7 of the United States. Financial and compliance audits conducted
- 8 under this chapter shall fulfill federal single audit requirements.
- 9 (b) As used in this chapter, “compliance audit” means an audit
- 10 that ascertains and verifies whether or not funds provided through
- 11 apportionment, contract, or grant, either federal or state, have been
- 12 properly disbursed and expended as required by law or regulation,
- 13 or both, and includes the verification of each of the following:
- 14 (1) The reporting requirements for the sufficiency of textbooks
- 15 or instructional materials, or both, as defined in Section 60119.

- 1 (2) Teacher misassignments pursuant to Section 44258.9.
- 2 (3) The accuracy of information reported on the School
- 3 Accountability Report Card required by Section 33126. The
- 4 requirements set forth in paragraphs (1), (2), and (4) and this
- 5 paragraph shall be added to the audit guide requirements pursuant
- 6 to subdivision (b) of Section 14502.1.
- 7 (4) Cafeteria fund expenditures pursuant to Chapter 3
- 8 (commencing with Section 38080) of Part 23 of Division 3 of Title
- 9 2.

10 SEC. 2. Section 14502.1 of the Education Code is amended to  
 11 read:

12 14502.1. (a) The Controller, in consultation with the  
 13 Department of Finance and the department, shall develop a plan  
 14 to review and report on financial and compliance audits. The plan  
 15 shall commence with the 2003–04 fiscal year for audits of school  
 16 districts, other local educational agencies, and the offices of county  
 17 superintendents of schools. The Controller, in consultation with  
 18 the Department of Finance, the department, and representatives  
 19 of the California School Boards Association, the California  
 20 Association of School Business Officials, the California County  
 21 Superintendents Educational ~~Service~~ *Services* Association, the  
 22 California Teachers Association, and the California Society of  
 23 Certified Public Accountants, shall recommend the statements and  
 24 other information to be included in the audit reports filed with the  
 25 state, and shall propose the content of an audit guide to carry out  
 26 the purposes of this chapter. A supplement to the audit guide may  
 27 be suggested in the audit year, following the above process, to  
 28 address issues resulting from new legislation in that year that  
 29 changes the conditions of apportionment. The proposed content  
 30 of the audit guide and any supplement to the audit guide shall be  
 31 submitted by the Controller to the Education Audit Appeals Panel  
 32 for review and possible amendment.

33 (b) The audit guide and any supplement shall be adopted by the  
 34 Education Audit Appeals Panel pursuant to the rulemaking  
 35 procedures of the Administrative Procedure Act as set forth in  
 36 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
 37 3 of Title 2 of the Government Code. It is the intent of the  
 38 Legislature that, for the 2003–04 fiscal year, the audit guide be  
 39 adopted by July 1 of the fiscal year to be audited. A supplemental  
 40 audit guide may be adopted to address legislative changes to the

1 conditions of apportionment. It is the intent of the Legislature that  
2 supplements be adopted before March 1 of the audit year.  
3 Commencing with the 2004–05 fiscal year, and each fiscal year  
4 thereafter, the audit guide shall be adopted by July 1 of the fiscal  
5 year to be audited. A supplemental audit guide may be adopted to  
6 address legislative changes to the conditions of apportionment.  
7 The supplements shall be adopted before March 1 of the audit  
8 year. To meet these goals and to ensure the accuracy of the audit  
9 guide, the process for adopting emergency regulations set forth in  
10 Section 11346.1 of the Government Code may be followed to  
11 adopt the guide and supplemental audit guide. It is the intent of  
12 the Legislature that once the audit guide has been adopted for a  
13 fiscal year, as well as any supplement for that year, thereafter only  
14 suggested changes to the audit guide and any additional  
15 supplements need be adopted pursuant to the rulemaking  
16 procedures of the Administrative Procedure Act. The audit guide  
17 and any supplement shall be issued in booklet form and may be  
18 made available by any means deemed appropriate. The Controller  
19 and consultants in the development of the suggested audit guide  
20 and any supplement shall work cooperatively on a timeline that  
21 will allow the Education Audit Appeals Panel to meet the July 1  
22 and March 1 issuance dates. Consistent with current practices for  
23 development of the audit guide before the 2003–04 fiscal year, the  
24 Controller shall provide for the adoption of procedures and  
25 timetables for the development of the suggested audit guide, any  
26 supplement, and the format for additions, deletions, and revisions.

27 (c) For the audit of school districts or county offices of education  
28 electing to take formal action pursuant to Sections 22714 and  
29 44929, the audit guide content proposed by the Controller shall  
30 include, but not be limited to, the following:

- 31 (1) The number and type of positions vacated.
- 32 (2) The age and service credit of the retirees receiving the  
33 additional service credit provided by Sections 22714 and 44929.
- 34 (3) A comparison of the salary and benefits of each retiree  
35 receiving the additional service credit with the salary and benefits  
36 of the replacement employee, if any.
- 37 (4) The resulting retirement cost, including interest, if any, and  
38 postretirement health care benefits costs, incurred by the employer.

39 (d) The Controller shall annually prepare a cost analysis, based  
40 on the information included in the audit reports for the prior fiscal

1 year, to determine the net savings or costs resulting from formal  
2 actions taken by school districts and county offices of education  
3 pursuant to Sections 22714 and 44929 and shall report the results  
4 of the cost analysis to the Governor and the Legislature by April  
5 1 of each year.

6 (e) All costs incurred by the Controller to implement subdivision  
7 (c) shall be absorbed by the Controller.

8 (f) On or before July 1, 2014, the Education Audit Appeals  
9 Panel shall revise the audit guide to include clear and  
10 comprehensive guidance on what school districts may or may not  
11 do with moneys in a cafeteria fund pursuant to Chapter 3  
12 (commencing with Section 38080) of Part 23 of Division 3 of Title  
13 2 and applicable federal law.

14 (g) This section shall become operative July 1, 2003, and shall  
15 apply to the preparation of the audit guide for school district audits  
16 commencing with the 2003–04 fiscal year.

17 ~~SEC. 3. Section 35400 of the Education Code is amended to~~  
18 ~~read:~~

19 ~~35400. (a) The Los Angeles Unified School District's Inspector~~  
20 ~~General of the Office of the Inspector General is authorized to~~  
21 ~~conduct audits and investigations. The inspector general may~~  
22 ~~subpoena witnesses, administer oaths or affirmations, take~~  
23 ~~testimony, and compel the production of all information,~~  
24 ~~documents, reports, answers, records, accounts, papers, and other~~  
25 ~~data and documentary evidence deemed material and relevant and~~  
26 ~~that reasonably relate to the inquiry or investigation undertaken~~  
27 ~~by the inspector general when he or she has a reasonable suspicion~~  
28 ~~that a law, regulation, rule, or district policy has been violated or~~  
29 ~~is being violated. For purposes of this section, "reasonable~~  
30 ~~suspicion" means that the circumstances known or apparent to the~~  
31 ~~inspector general include specific and articulable facts causing~~  
32 ~~him or her to suspect that a material violation of law, regulation,~~  
33 ~~rule, or district policy has occurred or is occurring, and that the~~  
34 ~~facts would cause a reasonable officer in a like position to suspect~~  
35 ~~that a material violation of a law, regulation, rule, or district bulletin~~  
36 ~~has occurred or is occurring.~~

37 ~~(b) Subpoenas shall be served in the manner provided by law~~  
38 ~~for service of summons. Any subpoena issued pursuant to this~~  
39 ~~section may be subject to challenge pursuant to Chapter 2~~

1 (~~commencing with Section 1985~~) of Title 3 of Part 4 of the Code  
2 of Civil Procedure.

3 ~~(e) For purposes of this section, Sections 11184, 11185, 11186,~~  
4 ~~11187, 11188, 11189, 11190, and 11191 of the Government Code~~  
5 ~~shall apply to the subpoenaing of witnesses and documents, reports,~~  
6 ~~answers, records, accounts, papers, and other data and documentary~~  
7 ~~evidence as if the investigation was being conducted by a state~~  
8 ~~department head, except that the applicable court for resolving~~  
9 ~~motions to compel or motions to quash shall be the Superior Court~~  
10 ~~for the County of Los Angeles.~~

11 ~~(d) Notwithstanding any other law, any person who, after the~~  
12 ~~administration of an oath or affirmation pursuant to this section,~~  
13 ~~states or affirms as true any material matter that he or she knows~~  
14 ~~to be false is guilty of a misdemeanor punishable by imprisonment~~  
15 ~~in a county jail not to exceed six months or by a fine not to exceed~~  
16 ~~five thousand dollars (\$5,000), or by both that fine and~~  
17 ~~imprisonment for the first offense. Any subsequent violation shall~~  
18 ~~be punishable by imprisonment in a county jail not to exceed one~~  
19 ~~year or by a fine not to exceed ten thousand dollars (\$10,000), or~~  
20 ~~by both that fine and imprisonment.~~

21 ~~(e) The inspector general shall submit an interim report to the~~  
22 ~~Legislature by July 1, 2000, annual interim reports by July 1 of~~  
23 ~~each succeeding year, and a final cumulative report by December~~  
24 ~~1, 2014, on all of the following:~~

25 ~~(1) The use and effectiveness of the subpoena power authorized~~  
26 ~~by this section in the successful completion of the inspector~~  
27 ~~general's duties.~~

28 ~~(2) Any use of the subpoena power in which the issued subpoena~~  
29 ~~was quashed, including the basis for the court's order.~~

30 ~~(3) Any referral to the local district attorney or the Attorney~~  
31 ~~General where the district attorney or Attorney General declined~~  
32 ~~to investigate the matter further or declined to prosecute.~~

33 ~~(f) This article shall remain in effect only until January 1, 2025,~~  
34 ~~and as of that date is repealed, unless a later enacted statute, that~~  
35 ~~is enacted before January 1, 2025, deletes or extends that date.~~

36 ~~SEC. 4.~~

37 *SEC. 3.* Section 38087 is added to the Education Code, to read:  
38 38087. The department shall assess its food services workload  
39 and staffing needs for purposes of carrying out the state's oversight  
40 responsibilities in accordance with federal law and regulations

1 adopted by the United States Department of Agriculture and shall  
2 request sufficient federal funding to hire the appropriate number  
3 of staff based on that assessment.

4 ~~SEC. 5.~~

5 *SEC. 4.* Section 38092 of the Education Code is repealed.

6 ~~SEC. 6.~~

7 *SEC. 5.* Section 38096 is added to the Education Code, to read:  
8 38096. (a) The department shall prepare simplified guidelines  
9 that address most of the common acceptable and unacceptable  
10 charges to cafeteria funds.

11 (b) The department shall post on its Internet Web site all  
12 enforcement actions for the misappropriation of cafeteria funds.

13 ~~SEC. 7.~~

14 *SEC. 6.* Section 38097 is added to the Education Code, to read:  
15 38097. A school district shall maintain all financial records  
16 related to its cafeteria fund for five years.

17 ~~SEC. 8.~~

18 *SEC. 7.* Section 38098 is added to the Education Code, to read:  
19 38098. This chapter does not authorize a school district to  
20 charge a food service program any charge prohibited by state or  
21 federal law or regulation or guidance.

22 ~~SEC. 9.~~

23 *SEC. 8.* Section 38102 of the Education Code is repealed.

24 ~~SEC. 10.~~

25 *SEC. 9.* Section 38104 is added to the Education Code, to read:  
26 38104. A school district shall not withhold from its food service  
27 director any financial records involving school nutrition programs.

28 ~~SEC. 11. No reimbursement is required by this act pursuant to  
29 Section 6 of Article XIII B of the California Constitution for certain  
30 costs that may be incurred by a local agency or school district  
31 because, in that regard, this act creates a new crime or infraction,  
32 eliminates a crime or infraction, or changes the penalty for a crime  
33 or infraction, within the meaning of Section 17556 of the  
34 Government Code, or changes the definition of a crime within the  
35 meaning of Section 6 of Article XIII B of the California  
36 Constitution.~~

37 ~~However, if the Commission on State Mandates determines that  
38 this act contains other costs mandated by the state, reimbursement  
39 to local agencies and school districts for those costs shall be made~~

1 pursuant to Part 7 (commencing with Section 17500) of Division  
2 4 of Title 2 of the Government Code.

3 *SEC. 10. If the Commission on State Mandates determines that*  
4 *this act contains costs mandated by the state, reimbursement to*  
5 *local agencies and school districts for those costs shall be made*  
6 *pursuant to Part 7 (commencing with Section 17500) of Division*  
7 *4 of Title 2 of the Government Code.*

O