

**EDUCATION AUDIT APPEALS PANEL REGULATIONS FOR AUDITS OF CHARTER SCHOOLS
CALIFORNIA CODE OF REGULATIONS §§19814-19854**

(SEE PAGE 6, ARTICLE 4 (CHARTER SCHOOLS) LANGUAGE AT SECTION 19850)
AUDITS OF K-12 LOCAL EDUCATION AGENCIES

§ 19814 DEFINITIONS.

The content of the audit report sections and subsections specified in Section 19813 is as described in the *Codification of Statements on Auditing Standards* published by the American Institute of Certified Public Accountants, the *Codification of Governmental Accounting and Financial Reporting Standards* published by the Governmental Accounting Standards Board (GASB), or *Government Auditing Standards* published by the Comptroller General of the United States in the respective editions applicable to the fiscal year being audited, or as defined in one of the following:

- (a) “*Government Auditing Standards*” means the publication by the Comptroller General of the United States, United States General Accounting Office, originally issued in 1972 and revised from time to time, commonly known as the “Yellow Book,” that contains standards for audits of government organizations, programs, activities, and functions and that is referenced in Education Code sections 14501, 14503, and 41020(b)(4).
- (b) “OMB Circular A-133” means the publication, produced by the federal Office of Management and Budget and titled *Audits of States, Local Governments, and Non-Profit Organizations*, that sets forth standards for attaining consistency and uniformity in the audits of governments and organizations expending federal awards.
- (c) “Reconciliation of Annual Financial and Budget Report with Audited Financial Statements” means a schedule that displays the differences between the ending fund balance(s) from the audited financial statements and the unaudited ending fund balance(s) from the annual financial and budget report for each fund in which a variance occurred.
- (d) “Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on Audit of Financial Statements Performed in Accordance with Government Auditing Standards” means the component of the Other Independent Auditor’s Reports that specifies material instances of noncompliance, if any; defines reportable conditions and specifies the reportable conditions disclosed as a result of the audit; defines material weaknesses and specifies the material weaknesses, if any, that were disclosed by the audit; includes a statement that no material weaknesses were found, if that is the case; includes a statement that nonmaterial noncompliance and nonreportable conditions involving the internal control structure and its operation were communicated to management in a separate management letter, if that is the case; specifies all instances of fraud and illegal acts, if any, that were disclosed by the audit, unless clearly inconsequential; and specifies material abuse, if any, that was disclosed by the audit.
- (e) “Report on State Compliance” means the component of the Other Independent Auditor’s Reports that specifically and separately addresses each of the state compliance requirements included in this audit guide that are applicable to the year audited, stating whether or not the district is in

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compliance with those requirements; includes a chart that displays the number of audit procedures for each compliance requirement applicable to the year audited and states that the audit procedures included in the audit guide for each requirement were followed in the making of the audit, if that is the case, or, if not, what other procedures were followed; and includes an expression of positive assurance with respect to compliance with applicable laws and regulations for those items tested in accordance with those regulations, and negative assurance for untested items.

- (1) The numbers of audit procedures for the compliance requirements included in this audit guide for audits of fiscal year 2003-04 are:

Attendance Reporting, 6;
Kindergarten Continuance, 3;
Independent Study, 22;
Continuation Education, 10;
Adult Education, 9;
Regional Occupational Centers and Programs, 6;
Instructional Time and Staff Development Reform Program, 7;
Instructional Time for school districts, 4; for county offices of education, 3;
Community Day Schools, 9;
Class Size Reduction (including in charter schools): general requirements, 7; Option One, 3; Option Two, 4; districts or charter schools with only one school serving K-3, 4;
Instructional Materials general requirements, 9; K-8 only, 1; grades 9-12 only, 1;
Ratios of Administrative Employees to Teachers, 1;
Early Retirement Incentive Program, 4;
Gann Limit Calculation, 1.

- (2) The numbers of audit procedures for the compliance requirements included in this audit guide for audits of fiscal year 2004-05 are:

Attendance Reporting, 8;
Kindergarten Continuance, 3;
Independent Study, 22;
Continuation Education, 10;
Adult Education, 9;
Regional Occupational Centers and Programs;
Instructional Time and Staff Development Reform Program, 7;
Instructional Time for school districts, 4; for county offices of education, 3;
Community Day Schools, 9;
Class Size Reduction (including in charter schools): general requirements, 7; Option One, 3; Option Two, 4; districts or charter schools with only one school serving K-3, 4;
Instructional Materials general requirements, 12; K-8 only, 1; grades 9-12 only, 1;
Ratios of Administrative Employees to Teachers, 1;
Early Retirement Incentive Program, 4;

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Gann Limit Calculation, 1;
School Construction Funds: School District Bonds, 3; State School Facilities Funds, 1;
Alternative Pension Plans, 2;
Proposition 20 Lottery Funds (Cardenas Textbook Act of 2000), 2;
State Lottery Funds (California State Lottery Act of 1984), 2;
California School Age Families Education (Cal-SAFE) Program, 3;
School Accountability Report Card, 3.

- (3) The numbers of audit procedures for the compliance requirements included in this audit guide for audits of fiscal year 2005-06 are:

Attendance Reporting, 8;
Kindergarten Continuance, 3;
Independent Study, 22;
Continuation Education, 10;
Adult Education, 9;
Regional Occupational Centers and Programs, 6;
Instructional Time for school districts, 4; for county offices of education, Community Day Schools, 9;
Class Size Reduction (including in charter schools): general requirements, 7; Option One, 3; Option Two, 4; districts or charter schools with only one school serving K-3, 4;
Instructional Materials general requirements, 12; K-8 only, 1; grades 9-12 only, 1;
Ratios of Administrative Employees to Teachers, 1;
Early Retirement Incentive Program, 4;
Gann Limit Calculation, 1;
School Construction Funds: School District Bonds, 3; State School Facilities Funds, 1;
Alternative Pension Plans, 2;
Proposition 20 Lottery Funds (Cardenas Textbook Act of 2000), 2;
State Lottery Funds (California State Lottery Act of 1984), 2;
California School Age Families Education (Cal-SAFE) Program, 3;
School Accountability Report Card, 3;
Contemporaneous Records of Attendance, for charter schools, 1;
Nonclassroom-Based Instruction/Independent Study, for charter schools, 15;
Additional Nonclassroom-Based Instruction, for charter schools, 1;
Determination of Funding for Nonclassroom-Based Instruction, for charter schools, 3;
Annual Instructional Minutes – Classroom Based, for charter schools, 3.

- (f) “Report on Compliance With Requirements Applicable to Each Major Program and Internal Control Over Compliance in Accordance With OMB Circular A-133” means the component of the Other Independent Auditor’s Reports that states whether the auditee has complied with federal laws, regulations, and the provisions of federal contracts or grant agreements and has established and maintained effective internal control over compliance with the requirements for major federal programs.

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- (g) “Schedule of Average Daily Attendance” means the schedule in the Supplementary Information section that displays Average Daily Attendance data for both the Second Period and Annual reports, by grade level and program as appropriate.
- (h) “Schedule of Charter Schools” means the schedule in the Supplementary Information section that lists all charter schools chartered by the school district or county office of education, and displays information for each charter school on whether or not the charter school is included in the school district or county office of education audit.
- (i) “Schedule of Financial Trends and Analysis” means the schedule in the Supplementary Information section that displays information regarding the auditee’s financial position and going concern status, in the form of actual financial and attendance figures for at least the most recent three-year period (ending with the audit year), plus the current year’s budget, for the following items: General Fund financial activity, including total revenue, expenditures, and other sources and uses; General Fund balance; available reserve balances (funds designated for economic uncertainty, and any other remaining undesignated fund balance) within the General Fund, Special Reserve Fund, and any Article XIII-B Trust Funds; available reserve balances expressed as a percentage of total General Fund outgo (expenditures, transfers out, and other uses), including a comparison to the applicable state-recommended available reserve percentage; total long-term debt; and elementary and secondary Second Principal Average Daily Attendance, excluding Regional Occupational Centers and Programs and Adult Average Daily Attendance; and, when the auditee’s percentage of available reserves to total General Fund outgo is below the state-recommended percentage, management’s plans for increasing the auditee’s available reserve percentage.
- (j) “Schedule of Findings and Questioned Costs” means that part of the Findings and Recommendations section that presents all audit year findings, and a copy of each management letter issued, if any, with each finding assigned the appropriate code from among the following: 10000 Attendance, 20000 Inventory of Equipment, 30000 Internal Control, 40000 State Compliance, 50000 Federal Compliance, 60000 Miscellaneous, and includes the following elements:
 - (1) Criteria;
 - (2) Condition;
 - (3) Effect;
 - (4) Cause;
 - (5) A statement of the number of units of Average Daily Attendance, if any, that were inappropriately reported for apportionment; and a statement consistent with its basis of funding, for any other inappropriately reported claim—such as number of staff development days, or number of pupils for Class Size Reduction, or amount in dollars for Instructional Materials, and so forth;

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- (6) A recommendation for the resolution of the finding; and
 - (7) A corrective action plan prepared by the auditee that describes in specific terms the actions planned or taken to correct the problem, or a statement from the auditee that the corrective action recommended by the auditor is not necessary or appropriate and giving the specific reasons why, if that is the case, and a statement that the corrective action plan was not available if no corrective action plan was submitted before the audit report was prepared.
- (k) “Schedule of Instructional Time” means a schedule in the Supplementary Information section that displays, for school districts, including basic aid districts, and county offices of education, data that show whether the auditee complied with the provisions of Article 8 (commencing with Section 46200) of Chapter 2 of Part 26 of the Education Code; and for charter schools, data that show whether the auditee complied with the provisions of subdivision (a)(1) of Education Code Section 47612.5 and subdivision (a)(3) of Education Code Section 46201.
- (l) “Schedule of Prior Audit Findings” means that part of the Findings and Recommendations section that presents the status of actions taken by the auditee on each of the findings and recommendations reported in the prior year audit, and includes as current year findings and recommendations those prior year findings that have not been resolved.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14501, 14502.1, 14503, 41020 and 47634.2, Education Code.

§ 19814.1. APPLICABILITY OF AUDIT PROCEDURES BY AUDIT YEAR.

- (a) Of the compliance requirements set forth in Article 3:
 - (1) Sections 19815 through 19831 are applicable to fiscal year 2003-04 audits;
 - (2) Sections 19815 through 19837 are applicable to fiscal year 2004-05 audits;
 - (3) Sections 19815, 19816, 19817.1 through 19822, 19824, 19825, 19826.1, and 19828.1 through 19837 are applicable to fiscal year 2005-06 audits.
- (b) Of the compliance requirements set forth in Article 4, Sections 19850 through 19854 are applicable to fiscal year 2005-06 audits.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14501, 14502.1, 14503, 41020 and 47634.2, Education Code.

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Article 4. Charter Schools

§ 19850. CONTEMPORANEOUS RECORDS OF ATTENDANCE.

- (a) Determine whether the Second Principal report of attendance submitted to the California Department of Education is supported by written contemporaneous records that document all pupil attendance included in the charter school's Average Daily Attendance calculations, by tracing the Average Daily Attendance numbers from the Second Principal report of attendance through any documentation used by the charter school to summarize attendance, to written contemporaneous data origination documents.
- (b) If any inappropriately reported units of Average Daily Attendance are identified through the foregoing audit procedure, recalculate, consistent with the provisions of Education Code Section 46303, the correct number of units of Average Daily Attendance. Include a statement in the Findings and Recommendations section of the audit report of the number of units of Average Daily Attendance that were inappropriately reported for apportionment and an estimate of their dollar value.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503, 41020, 47612.5 and 47634.2, Education Code.

§ 19851. NONCLASSROOM-BASED INSTRUCTION/INDEPENDENT STUDY.

If Average Daily Attendance was reported by the charter school to the California Department of Education as generated through nonclassroom-based instruction (independent study), perform the following procedures:

- (a) Determine whether the governing body of the charter school had adopted written policies for independent study as required by the provisions of Education Code Section 51747. If it had not, any reported Average Daily Attendance generated through independent study is not eligible for apportionment. If the required policies were in place, determine whether any reported Average Daily Attendance was generated before the written policies were adopted. Any reported Average Daily Attendance generated through independent study before the written policies were adopted is not eligible for apportionment.
- (b) Verify the charter school's calculation of the ratio of independent study teachers to Average Daily Attendance generated through full-time independent study by pupils 18 years of age or less, as specified by the California Department of Education pursuant to Section 11704 and the provisions of subdivision (a) of Education Code Section 51745.6. Determine the number of ineligible units of Average Daily Attendance pursuant to the provisions of subdivision (b) of Education Code Section 51745.6.

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- (c) Verify that the documentation used by the charter school to summarize monthly attendance provides accurate information. If the charter school had multiple sites through which it provided independent study, select a sample of school sites that is representative of the charter school's grade spans (elementary, middle, and high schools) and sufficient in size to allow the auditor to draw a reasonable conclusion with respect to the charter school's compliance with independent study requirements. Perform the following procedures:
- (1) Determine the total number of days of attendance reported for each sampled site that resulted from attendance by pupils while engaged in independent study. Reconcile the monthly totals (days of apportionment attendance) on the site's attendance summary to the summary maintained by the charter school for the Second Principal attendance report.
 - (2) Select a test month in the Second Principal attendance reporting period. Verify the mathematical accuracy of the monthly report, or its equivalent if no monthly report is prepared, and trace totals to the site's attendance summary.
 - (3) Verify that a certificated employee of the charter school, as defined by Section 11700.1, coordinated, evaluated, and provided general supervision of each pupil's independent study, as required by the provisions of subdivision (a) of Education Code Section 51747.5.
 - (4) Select a representative sample of teachers. Verify the mathematical accuracy of the teachers' attendance records of pupil attendance. Trace the monthly totals from the monthly report to the attendance records.
- (d) From the attendance records, select a representative sample of pupils for whom Average Daily Attendance generated through independent study was claimed, including pupils on intermittent ("short term") independent study, if the charter school offered that option, and perform the following procedures:
- (1) Determine each pupil's county of residence at the time of commencing independent study and verify that it is the county in which the apportionment claim is reported or a contiguous county within California.
 - (2) Determine whether mailing addresses or other evidence of residency changed during the time the pupils were in independent study and, if so, whether each pupil remained a resident of the same or a contiguous county within California.
 - (3) Verify that, on each day for which a pupil's attendance was reported, the pupil engaged in an educational activity or activities required of him or her by the charter school.
 - (4) Verify that each day of each pupil's attendance included in calculations of Average Daily Attendance took place on one of the charter school's schooldays.

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- (5) Verify that a total of not more than one day of attendance was recorded for each pupil for any calendar day on which school was in session.
- (6) Verify that a written agreement exists for each pupil.
- (7) Verify that every written agreement contained all the elements required by the provisions of Education Code Section 51747(c):
 - (A) The manner, time, frequency, and place for submitting a pupil's assignments and for reporting his or her progress.
 - (B) The objectives and methods of study (pupil activities selected by the supervising teacher as the means to reach the educational objectives set forth in the written agreement) for the pupil's work.
 - (C) The methods utilized to evaluate that work (any specified procedure through which a11 certificated teacher personally assesses the extent to which achievement of the pupils meets the objectives set forth in the written assignment).
 - (D) The specific resources, including materials and personnel, to be made available to the pupils (resources reasonably necessary to the achievement of the objectives in the written agreement, not to exclude resources normally available to all pupils on the same terms as the terms on which they are normally available to all pupils).
 - (E) A statement of the policies adopted pursuant to the provisions of subdivisions (a) and (b) of Education Code Section 51747 regarding the maximum length of time allowed between the assignment and the completion of a pupil's assigned work, and the number of assignments a pupil may miss before there must be an evaluation of whether it is in the pupil's best interests to continue in independent study.
 - (F) The duration of the independent study agreement, including the beginning and ending dates for the pupil's participation in independent study under the agreement, with no agreement being for a period longer than one semester, or one-half year for a school on a year-round calendar.
 - (G) A statement of the number of course credits or, for the elementary grades, other measures of academic accomplishment appropriate to the agreement, to be earned by the pupil upon completion.
 - (H) A statement in each independent study agreement that independent study is an optional educational alternative in which no pupil may be required to participate.
 - (I) Signatures, affixed prior to the commencement of independent study, by:

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- (1) The pupil;
 - (2) The pupil's parent, legal guardian, or caregiver as that term is used in Family Code Section 6550 and following, if the pupil was less than 18 years of age;
 - (3) The certificated employee who was designated as having responsibility for the general supervision of the pupil's independent study; and
 - (4) All other persons, if any, who had direct responsibility for providing assistance to the pupil.
- (8) Verify that no days of attendance were reported for dates prior to the signing of the agreement by all parties.
- (9) Verify that evaluated pupil work samples, bearing signed or initialed and dated notations by the supervising teacher indicating that he or she personally evaluated the work, or that he or she personally reviewed the evaluations made by another certificated teacher, have been retained in the file.
- (e) If any inappropriately reported units of Average Daily Attendance are identified through the foregoing audit procedures, recalculate, consistent with the provisions of Education Code Section 46303, the correct number of units of Average Daily Attendance. Include a statement in the Findings and Recommendations section of the audit report of the number of units of Average Daily Attendance that were inappropriately reported for apportionment and an estimate of their dollar value.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503, 41020, 47612.5_and 47634.2, Education Code; Section 11963.1, Title 5.

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§ 19852. ADDITIONAL NONCLASSROOM-BASED INSTRUCTION.

- (a) Determine whether the Average Daily Attendance reported to the California Department of Education by the charter school as generated through classroom-based instruction was generated in compliance with all of the following conditions:
- (1) The charter school's pupils were engaged in educational activities required of those pupils, and the pupils were under the immediate supervision and control of an employee of the charter school who possessed a valid teaching certification in accordance with the provisions of subdivision (l) of Education Code Section 47605.
 - (2) At least 80 percent of the instructional time offered at the charter school was at the schoolsite. The requirement to be "at the schoolsite" is satisfied if either of the conditions set forth in subdivision (b) of Section 11963 is met.
 - (3) The charter school's schoolsite was a facility that was used principally for classroom instruction as that term is defined in subdivision (b)(1) of Section 11963.
 - (4) The charter school required its pupils to be in attendance at the schoolsite at least 80 percent of the minimum instructional time required pursuant to the provisions of subdivision (a)(1) of Education Code Section 47612.5.
- (b) If any Average Daily Attendance reported to the California Department of Education as classroom-based instruction was not generated in compliance with all of the preceding conditions, it is not eligible for apportionments unless it was generated in full compliance with the requirements set forth in Section 19851. If it was not generated in full compliance with the requirements set forth in Section 19851, include a statement in the Findings and Recommendations section of the audit report of the number of units of Average Daily Attendance that were inappropriately reported for apportionment and an estimate of their dollar value.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503, 41020, 47612.5 and 47634.2, Education Code; sections 11963 and 11963.1, Title 5.

§ 19853. DETERMINATION OF FUNDING FOR NONCLASSROOM-BASED INSTRUCTION.

If more than 20 percent of the charter school's total Average Daily Attendance was generated through nonclassroom-based instruction (independent study) as set forth in Section 19851, perform the following procedures:

- (a) Determine whether the charter school has:

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- (1) A multi-year funding determination, made pursuant to the provisions of subdivision (d) of Education Code Section 47612.5 and of Section 47634.2, that applies to the year being audited and that was granted in a year prior to the year being audited, or
 - (2) A funding determination otherwise applicable to the year audited.
- (b) If the charter school does not have either type of funding determination specified in subdivision (a) of this section, the charter school was not eligible for funding for any Average Daily Attendance generated through nonclassroom-based instruction. Include a statement in the Findings and Recommendations section of the audit report of the number of units of Average Daily Attendance that were inappropriately reported for apportionment and an estimate of their dollar value.
- (c) If the charter school has a funding determination as specified in subdivision (a)(2) of this section, and the charter school was in operation in the fiscal year prior to the year being audited, verify the accuracy of the following data submitted by the charter school to the California Department of Education on the nonclassroom-based funding determination form applicable to the year being audited:
- (1) The charter school's federal revenues, including start-up, implementation, and dissemination grant(s); state revenues; local revenues, including in lieu of property taxes; and other financing sources.
 - (2) The charter school's total expenditures for instruction and related services.
 - (3) The charter school's total expenditures for salaries and benefits for all certificated employees as defined in subdivision (c)(1) of Section 11963.3.
 - (4) The charter school's pupil-teacher ratio calculated pursuant to the provisions of Education Code Section 51745.6, and the pupil-teacher ratio of the largest unified school district in the county or counties in which the charter school operates, as applicable pursuant to Section 11704.
 - (5) The listing of entities that received, in the previous fiscal year, \$50,000 or more of the charter school's total expenditures identified pursuant to subparagraphs (B), (C), (D), and (E) of subdivision (a)(5) of Section 11963.3; the amount received by each entity; whether each of any such contract payments was based upon specific services rendered or upon an amount per unit of Average Daily Attendance or some other percentage; and an identification of which entities, if any, had contracts that included provision for payments based on a per unit of Average Daily Attendance amount or some other percentage.
- (d) If any inaccurate data is identified through the immediately foregoing audit procedures, prepare a schedule displaying the inaccurate data and the corresponding correct data. Include the schedule in the Findings and Recommendations section of the audit report.

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- (e) If a funding determination applicable to the year audited was made for the charter school by the State Board of Education, pursuant to the provisions of Education Code Section 47634.2, confirm that the governing board of the charter school has adopted and implemented conflict of interest policies as required by subdivision (b)(1)(C) of Section 11963.3. If the governing board of the charter school has not adopted, or has adopted but has not implemented, conflict of interest policies as required, include a statement in the Findings and Recommendations section of the audit report that states the policies were not adopted, if that is the case; or that the policies were not implemented, if that is the case, and describes the relevant facts.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503, 41020 and 47634.2, Education Code; sections 11963.2 and 11963.3, Title 5.

§ 19854. ANNUAL INSTRUCTIONAL MINUTES – CLASSROOM BASED.

- (a) Review the charter school’s attendance calendar and bell (class) schedules or other available comparable documentation. If the charter school has multiple sites, select a sample of school sites that is representative of the charter school’s grade spans (elementary, middle, and high schools).
- (b) For each sampled site, compare the amount of instructional minutes offered for each grade level during the year being audited to the amount of instructional minutes required pursuant to the provisions of subdivision (a)(1) of Education Code Section 47612.5 and subdivision (a)(3) of Education Code Section 46201, as set forth below:

Kindergarten	36,000 minutes
Grades 1 through 3	50,400 minutes
Grades 4 through 8	54,000 minutes
Grades 9 through 12	64,800 minutes

- (c) Determine whether the charter school offered optional classes to satisfy instructional minutes requirements. If enrollment in optional classes was low, review the charter school’s documentation of class offerings to ensure that the charter school acted effectively to comply with the law. Practices that are not consistent with effectively offering instructional time may include, but are not limited to, offering only a small number of courses that in addition are appropriate only for limited numbers of pupils, and courses scheduled such that pupils may take them only by giving up their lunch period.
- (d) Prepare the “Schedule of Instructional Time” that must be presented in the Supplementary Information section of the audit report, showing by grade span the minimum instructional minutes requirements specified in subdivision (a)(3) of Education Code Section 46201, the instructional minutes offered during the year being audited showing the sampled site with the lowest number of minutes offered at each grade span; and whether the charter school complied with the instructional minutes provisions.

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- (e) If the charter school did not offer the required number(s) of instructional minutes, prepare a separate schedule for each site, showing only the grade level(s) that were not in compliance, and calculate a proportional reduction in apportionment consistent with the provisions of subdivision (c) of Education Code Section 47612.5. Include both the schedule(s) and the calculated reduction in apportionment, in a finding in the Findings and Recommendations section of the audit report.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503, 41020, 47612.5 and 47634.2, Education Code.