

## EDUCATION CODE WAIVER PROVISIONS

### Specific Waivers

1. Waiver of any part of the Education Code for any Compensatory Education Program to establish and operate a program for low-income children. (Education Code 58603).
2. Waiver of the minimum school day to establish experimental programs in reading and mathematics. (Education Code 41381)
3. Waiver of any section of the Education Code or California Code of Regulations, Title 5 if necessary or beneficial to the content and implementation of a student's individualized education program so long as the student or parent/guardian's rights are not abrogated. (Education Code 56101)
4. Waiver of the Education Code (with specific exceptions) and certain section of the California Code of Regulations, Title 5, if necessary or beneficial for successful implementation of a school development plan. (Education Code 44670.7)
5. Waivers of any section of the Education Code if necessary to establish and operate a program of compensatory education for low-income children. (Education Code 54407)
6. Exemptions from any and all sections of the Education code for a "program improvement school" when the director of the school believes that such provisions hinder the implementation and maintenance of the proposed program. (Education Code 54637)
7. Waivers of any section of the Education Code as may be necessary for the development of a dropout prevention program. (Education Code 54665)
8. Waiver of requirements for provisions of services by nonpublic, nonsectarian schools under Education Code 56365 and 56366. (Education Code 56366.1)
9. Waiver of requirements for funding for Instructional Personnel Service Units for district, special education local plan areas, or county offices. (Education Code 56761)
10. Waiver of any Education Code section (with exceptions) on behalf of schools in Demonstration School Programs. (Education Code 85024)
11. Waiver of any section of the Education Code (with exceptions) if necessary for assuring success of an Individualized Instruction Program. (Education Code 58407)
12. Waiver of any section(s) of the Education Code relating to the administrative functions or educational programs identified in Education Code 10400 if such waiver is necessary to establish and operate a Cooperative Improvement Program. (education Code 10407)
13. Waiver of any provision of the Administrator Training and Evaluation Program. (Education Code 44685)
14. Waiver of Education Code 45108.5 for the purposes of expanding the number and type of senior management (classified) positions. (Education Code 45108.7)
15. Waiver of the requirement to increase the number of youth in the regional occupational centers and programs. (Education Code 52333)
16. Waiver of the requirement that schools match funds for nonsalary costs of vocational-agricultural programs. (Education Code 52461.5)

17. Waiver of conditions regarding classes and courses offered to substantially handicapped adults in relation to adult block entitlements. (Education Code 52616)
18. Waiver for any section of Article 7 of Chapter 9, Part 29 of the Education Code commencing with 54720 for the purpose of implementing a School-Based Pupil Motivation and Maintenance Program. (Education Code 54727)
19. Waiver of any requirements of Education Code 52850-52863 for schools participating in a School-Based Coordinated Program. (Education Code 52863)
20. Waiver of the student-teacher ratio for work experience programs. (Education Code 46300)
21. Waiver of Education Code 17747.5 requiring districts to design and locate school facilities in a manner which maximizes interaction between individuals with exceptional needs and other students. (Education Code 17747.5(d))
22. Waiver of any part, article or section of the Education Code or any regulation implementing the Education Code when necessary to carry out a proposed pilot project pursuant to the School-Based Management and Advanced Career Opportunities for Classroom Teachers Programs. The exclusive representative of certificated employees must concur with the request. (Education Code 44669)

Note: Education Code 46206 Provides the following waiver for use when instructional time is lost because of natural disasters, emergencies or unavoidable human error. Generally this waiver lasts only one year and the time involved must not exceed 900 minutes of instructional time. In many cases of emergency, however, the district can simply see the CDE's form J-13 rather than requesting a specific waiver.

23. Waiver of penalties for failing to maintain the minimum length of time for the instructional school day and year as prescribed in Education Code 46200-46202, for reasons determined sufficient by the State Board of Education.
24. Waiver one time only for Education Code 39140-39156 and Education Code 39210-39234, with regard to relocatable buildings owned before April 17, 1990. (Education Code 39141.10)

**Waivers Under the School-Based Program Coordination Act**

Listed below are categorical programs for which waivers can be obtained as part of a school plan submitted by a school site council formed pursuant to Education Code 52852.

The Board may request the State Board of Education for such waivers pursuant to Education Code 52863, provided the school and district meet School-Based Program Coordination Act criteria.

<u>Categorical Programs</u>	<u>Education Code</u>
1. Grants for Conservation Education	8750-8754
2. New Careers Program	44520-44534
3. Local Staff Development Programs	44670-44671.5
4. Educational Technology Local Assistance Program	51870-51879.5
5. School Improvement Program	52000-52049
6. Gifted and Talented Students Program	52200-52213
7. Career Guidance Centers	52340-52347
8. Educationally Disadvantaged Youth Program	54000-54061

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| 9.  | Miller-Unruh Basic Reading Program                  | 54100-54145 |
| 10. | Special Education Programs                          | 56000-56885 |
| 11. | California Cadet Corps (military and Veterans Code) | 500-520.1   |

The Waiver of an advisory committee required by law may be granted only pursuant to Education Code 52870, which applies only to schools participating in school-based program coordination.

**General Waivers**

The following sections are nonwaivable under the general Waiver Authority:

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| 1. | 15700-15754 | State School Building Aid Law of 1949   |
|    | 15780-15795 | Aid For Reorganized Districts   |
|    | 16000-16105 | State School Building Aid Law of 1952   |
|    | 16150-16166 | Aid for reorganized district  |
|    | 16190-16207 | Aid for exceptional children  |
|    | 16210-16215 | Aid for compensatory education  |
|    | 16230-16235 | Seasonal impaction aid  |
|    | 16250-16253 | Aid for ROC/ROP   |
|    | 16260-16272 | Children’s Center Construction Law of 1968  |
|    | 16280-16284 | Kern County ROC   |
|    | 16300-16301 | San Joaquin County ROC  |
|    | 16310-16344 | Aid for structurally inadequate facilities  |
|    | 16400-16414 | State School Building Aid Bond Law of 1952  |
|    | 17700-17708 | State School Building Lease – Purchase Law of 1976  |
|    | 17717-17739 | Projects  |
|    | 17740-17751 | Allowances  |
|    | 17785-17795 | Emergency School Classroom Law of 1979  |
|    | 22000-24944 | State Teacher Retirement System   |
|    | 39000-39018 | School Sites  |
|    | 39030-39032 | Disposal Sites  |
|    | 39100-39234 | School Building Plans, Approvals etc., but see Education Code 39141.10 re specific waiver, one time only, for 39140-39156 and 39210-39234 |
|    | 39313-39325 | Leasing Property  |
|    | 363690.5    | Duty to offer for sale as surplus land  |
|    | 39363       | Use of Funds from Sale or Lease with Purchase Option  |
|    | 39363.5(a)  | Priorities for sale/lease of surplus property   |
|    | 39618-39621 | Property Maintenance  |
|    | 41000-41360 | State financial management and control, property valuations, state school funds, loans and advances                                       |
|    | 41420-41423 | Apportionments  |
|    | 41600-41866 | Computation of allowances   |
|    | 41920-42911 | Instructional TV, miscellaneous allowances, financial statements of school districts, taxation, school district funds, reimbursements     |
|    | 44930-44988 | Employment-certificated resignations, dismissals, and leaves of absence   |
|    | 46000-46611 | Attendance for computing apportionments (Note: 46300(b), WEE ration, is waivable)   |
|    | 48900-49040 | Pupil rights and responsibilities   |

49060-49078	Pupil records
52850-52863	School plans, but see Education Code 52863 re specific waiver

2. Identification and assessment criteria related to any categorical aid program.
3. Regulations in Title 5 of the California Code of Regulations adopted pursuant to Education Code 44930-44988.

Under Education Code 33051, the State Board of Education must approve all requests for waivers unless it specifically finds any of the following:

1. The educational needs of the students are not adequately addressed.
2. The waiver affects a program which requires the existence of a school site council and the school site council did not approve the request.
3. The appropriate councils or advisory committees, including bilingual advisory committees, did not have adequate opportunity to review the request and the request did not include a written summary of any objections by the councils or advisory committees.
4. Student or school personnel protections are jeopardized.
5. Guarantees of parental involvement are jeopardized.
6. The request would substantially increase state costs.
7. The exclusive representative of employees, if any, was not a participant in the development of the waiver.

General waivers are granted only by formal action of the State Board for no more than two years. Waivers of requirements pertaining to the sale of surplus recreational property (Education Code 39390-39404) may be granted, for up to three years, only under conditions specified in Education Code 33051.