

# Comprehensive List of Fiscal Penalties by LEA Type

Compliance with most of the requirements outlined below is verified by the local educational agency's (LEA's) independent auditor as part of the annual audit process. In some cases, fiscal penalties are determined through other mechanisms, such as data submitted by the LEA to the California Department of Education (CDE). Any instance of noncompliance may result in a fiscal penalty as prescribed by the statutes below. Many fiscal penalties consist of a reduction in funding based average daily attendance (ADA). Because ADA is part of the calculation for multiple state funding apportionments, these penalties may affect funding received by the LEA through the Local Control Funding Formula (LCFF), lottery funding, funding for special education (Assembly Bill 602), funding for the Expanded Learning Opportunities Program, and other ADA-based funding. In some circumstances, statutes allow fiscal penalties to be mitigated through the audit resolution process or an approved waiver granted by the State Board of Education (SBE). Additional information about these processes is available on CDE's website:

- Audit Resolution: <https://www.cde.ca.gov/fg/au/ag/>
- SBE Waivers: <https://www.cde.ca.gov/re/lr/wr/submit.asp>

## School Districts

| Statutory Authority    | Requirement                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Fiscal Penalty                                                                                                                                                                                                                                                                 |
|------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| EC 41341, 41601, 46300 | Compliance with the conditions required to claim average daily attendance (ADA), and accurate computation and reporting of ADA to receive funding.                                                                                                                                                                                                                                                                                                                                                                                   | The district will lose the funding generated by each unit of ADA determined to be ineligible.                                                                                                                                                                                  |
| EC 41404               | Administrator-to-teacher ratio.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | The penalty equals the district's state-funded average cost of an administrator, multiplied by its number of administrator positions that exceed the state maximum administrator-to-teacher ratio (0.08 for unified, 0.07 for high school, and 0.09 for elementary districts). |
| EC 41420               | Instructional time: minimum of 175 instructional days.                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Increased reduction in LCFF funding for each day less than 175 (see also EC 46208).                                                                                                                                                                                            |
| EC 41376 and 41378     | K-8 class size limits established in 1964: <ul style="list-style-type: none"> <li>• Kindergarten: average class size not to exceed 31 students; no class larger than 33 students.</li> <li>• Grades 1-3: average class size not to exceed 30 students; no class larger than 32 students.</li> <li>• Grades 4-8: average number of students per teacher not to exceed the greater of 29.9 (the statewide average number of students per teacher in 1964) or the district's average number of students per teacher in 1964.</li> </ul> | If the limits are exceeded, statute requires that the district's LCFF apportionment be reduced for each student over the limit.                                                                                                                                                |

| Statutory Authority                                                                                                                                                                                                                              | Requirement                                                                                                                                                                                                                                              | Fiscal Penalty                                                                                                                                                                                                                             |
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| EC <a href="#">42128</a>                                                                                                                                                                                                                         | <ul style="list-style-type: none"> <li>• Adopt LCAP or annual update by July 1.</li> <li>• Adopt or submit budget by July 1.</li> <li>• Submit interim financial reports by December 15 and March 15.</li> </ul>                                         | State or local apportionments are withheld if a district fails to meet these deadlines.                                                                                                                                                    |
| EC <a href="#">42129</a>                                                                                                                                                                                                                         | Provide the COE or CDE with its LCAP, budget, interims, unaudited actuals, and annual audit report.                                                                                                                                                      | Salaries, benefits and stipends of the superintendent and board members can be withheld for failing to meet these requirements.                                                                                                            |
| EC <a href="#">42238.02(d)</a>                                                                                                                                                                                                                   | To be eligible for the transitional kindergarten through grade 3 (TK-3) 10.4% grade span adjustment, school districts must maintain an average class size enrollment of not more than 24 students, unless there is a collectively bargained alternative. | Loss of the 10.4% TK-3 grade span adjustment.                                                                                                                                                                                              |
| EC <a href="#">45037</a>                                                                                                                                                                                                                         | Correct teacher certification.                                                                                                                                                                                                                           | The district will lose the funding generated by each unit of ADA determined to be ineligible (this is a combined penalty for ADA noncompliance and loss of instructional time, both because the teacher lacked the correct certification). |
| EC <a href="#">46207</a>                                                                                                                                                                                                                         | Instructional time: annual minutes by grade span.                                                                                                                                                                                                        | Reduction in LCFF funding proportional to the lost instructional minutes for the affected grade levels.                                                                                                                                    |
| EC <a href="#">46208</a>                                                                                                                                                                                                                         | Instructional time: annual 180 instructional days requirement.                                                                                                                                                                                           | Proportional reduction in LCFF funding for each day less than 180 (see also EC <a href="#">41420</a> ).                                                                                                                                    |
| EC <a href="#">46100</a> , <a href="#">46112-46115</a> , <a href="#">46117</a> , <a href="#">46141-46142</a> , <a href="#">46146-46146.5</a> , <a href="#">46170</a> , <a href="#">46180</a> , <a href="#">46307</a> , and <a href="#">48663</a> | Minimum day requirement for an instructional day for Grades TK–12 and various instructional settings.                                                                                                                                                    | The district will lose the funding generated by each unit of ADA determined to be ineligible.                                                                                                                                              |
| EC <a href="#">46211</a>                                                                                                                                                                                                                         | Attendance recovery program staffing requirements.                                                                                                                                                                                                       | The district will lose the funding generated by each unit of ADA determined to be ineligible.                                                                                                                                              |
| EC <a href="#">48000(g)</a>                                                                                                                                                                                                                      | Assigned TK teacher needs correct credential and qualifications.                                                                                                                                                                                         | The district will lose the funding generated by each unit of ADA determined to be ineligible.                                                                                                                                              |
| EC <a href="#">48000.1</a>                                                                                                                                                                                                                       | <ul style="list-style-type: none"> <li>• TK staffing: maintain adult-to-student ratio of 10-to-1.</li> <li>• TK class size: average class enrollment of no more than 24 students.</li> </ul>                                                             | <ul style="list-style-type: none"> <li>• TK staffing: Loss of the TK add-on funding for ADA at the affected schools.</li> <li>• TK class size: Loss of the 10.4% TK-3 grade span adjustment.</li> </ul>                                    |
| EC <a href="#">48307</a>                                                                                                                                                                                                                         | Excess ADA claimed by a school district of choice.                                                                                                                                                                                                       | The district will lose the funding generated by each unit of ADA determined to be ineligible.                                                                                                                                              |
| EC <a href="#">51744 – 51749.6</a> , and <i>California Code of Regulations (CCR)</i> , Title 5, section <a href="#">11700-11703</a>                                                                                                              | Compliance with the conditions required to claim traditional independent study ADA for apportionment.                                                                                                                                                    | The district will lose the funding generated by each unit of ADA determined to be ineligible.                                                                                                                                              |
| EC <a href="#">51749.5 – 51749.6</a> , <i>CCR</i> , Title 5, section <a href="#">11700-11703</a>                                                                                                                                                 | Compliance with the conditions required to claim course-based independent study ADA for apportionment.                                                                                                                                                   | The district will lose the funding generated by each unit of ADA determined to be ineligible.                                                                                                                                              |

| Statutory Authority | Requirement                                                             | Fiscal Penalty                                                                                                                                                                                                             |
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| EC <u>52065.1</u>   | Adopt an LCAP or annual update by the July 1 statutory deadline.        | A minimum of 20% of the district's LCFF entitlement, with daily increases of 1% of the district's LCFF entitlement for each business day past July 1 that an LCAP or annual update is not adopted, not to exceed 80%.      |
| EC <u>60150</u>     | Have sufficient textbooks or instructional materials.                   | Equal to the value of the district's unreduced 2012-13 fiscal year instructional materials block grant.                                                                                                                    |
| EC <u>60151</u>     | Compliance with EC <u>244(a)</u> in the use of instructional materials. | The education commissioner may assess a penalty up to the district's total expenditures on the textbooks, instructional materials, supplemental instructional materials, or curriculum found to violate EC <u>244(a)</u> . |

## County Superintendents of Schools

| Statutory Authority                                    | Requirement                                                                                                                                                                                                      | Fiscal Penalty                                                                                                                                                                                                                                                                                                                                                                                                      |
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| EC <u>1631</u>                                         | <ul style="list-style-type: none"> <li>• Adopt LCAP or annual update by July 1.</li> <li>• Adopt or submit budget by July 1.</li> <li>• Submit interim financial reports by December 15 and March 15.</li> </ul> | State or local apportionments are withheld if a county superintendent fails to meet these deadlines.                                                                                                                                                                                                                                                                                                                |
| EC <u>46010.3</u> , <u>46300</u> , and <u>41601(b)</u> | Compliance with the conditions required to claim average daily attendance (ADA), and accurate computation and reporting of ADA to receive funding based on the instructional setting.                            | The COE will lose the funding generated by each unit of ADA determined to be ineligible.                                                                                                                                                                                                                                                                                                                            |
| EC <u>42129</u>                                        | Provide the CDE with its LCAP, budget, interims, unaudited actuals, and annual audit report.                                                                                                                     | Salaries, benefits and stipends of the superintendent and board members can be withheld for failing to meet these requirements.                                                                                                                                                                                                                                                                                     |
| EC <u>45037</u>                                        | Correct teacher certification.                                                                                                                                                                                   | The COE will lose the funding generated by each unit of ADA determined to be ineligible (this is a combined penalty for ADA noncompliance and loss of instructional time, both because the teacher lacked the correct certification).                                                                                                                                                                               |
| EC <u>45037</u>                                        | A COE may not release a warrant to a teacher in a school district in its jurisdiction who lacks a valid certification document.                                                                                  | <p>If such a warrant is released, the penalty is capped at the lower of the following:</p> <ul style="list-style-type: none"> <li>• 50% of the combined penalties assessed to districts within the county.</li> <li>• 0.5% of the COE's unrestricted expenditures if two or fewer districts are penalized</li> <li>• 1% of the COE's unrestricted expenditures if three or more districts are penalized.</li> </ul> |
| EC <u>46211</u>                                        | Attendance recovery program staffing requirements.                                                                                                                                                               | The COE will lose the funding generated by each unit of ADA determined to be ineligible.                                                                                                                                                                                                                                                                                                                            |

| Statutory Authority                                     | Requirement                                                                                            | Fiscal Penalty                                                                                                                                                                                                |
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| EC 51744 – 51749.6, CCR, Title 5, section 11700-11703   | Compliance with the conditions required to claim traditional independent study ADA for apportionment.  | The COE will lose the funding generated by each unit of ADA determined to be ineligible.                                                                                                                      |
| EC 51749.5 – 51749.6, CCR, Title 5, section 11700-11703 | Compliance with the conditions required to claim course-based independent study ADA for apportionment. | The COE will lose the funding generated by each unit of ADA determined to be ineligible.                                                                                                                      |
| EC 52065.1                                              | Adopt an LCAP or annual update by the July 1 statutory deadline.                                       | A minimum of 20% of the COE's LCFF entitlement, with daily increases of 1% of the COE's LCFF entitlement for each business day past July 1 that an LCAP or annual update is not adopted, not to exceed 80%.   |
| EC 60151                                                | Compliance with EC 244(a) in the use of instructional materials.                                       | The education commissioner may assess a penalty up to the COE's total expenditures on the textbooks, instructional materials, supplemental instructional materials, or curriculum found to violate EC 244(a). |

## Charter Schools

| Statutory Authority                                                                                      | Requirement                                                                                                                                                                                                                                                           | Fiscal Penalty                                                                                                                                                                                                                                      |
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| EC 46146-46146.5, 47612.5, 76004 and California Code of Regulations (CCR), Title 5, Section 11960, 11963 | Compliance with the conditions required to claim classroom-based ADA, and the accurate computation and reporting of ADA to receive funding.                                                                                                                           | The charter school will lose the funding generated by each unit of ADA determined to be ineligible.                                                                                                                                                 |
| 42128                                                                                                    | <ul style="list-style-type: none"> <li>• Adopt LCAP or annual update by July 1.</li> <li>• Adopt or submit budget by July 1.</li> <li>• Submit interim financial reports by December 15 and March 15.</li> <li>• Submit unaudited actuals by September 15.</li> </ul> | State or local apportionments are withheld if a charter school fails to meet these deadlines.                                                                                                                                                       |
| EC 42129                                                                                                 | Provide the CDE with: LCAP, budget, interims, unaudited actuals, and annual audit report.                                                                                                                                                                             | Salaries, benefits and stipends of the charter school administrator and board members can be withheld for failing to meet these requirements.                                                                                                       |
| EC 45037                                                                                                 | Correct teacher certification.                                                                                                                                                                                                                                        | The charter school will lose the funding generated by each unit of ADA determined to be ineligible (this is a combined penalty for ADA noncompliance and loss of instructional time, both because the teacher lacked the correct certification).    |
| EC 47612.5                                                                                               | Instructional time: annual minutes by grade span and specific funding requirements for non-classroom-based instruction.                                                                                                                                               | Annual minutes: reduction in LCFF funding proportional to the lost instructional minutes for the affected students. Non-classroom-based instruction: loss of LCFF funding if the State Board of Education has not approved a funding determination. |

| Statutory Authority                                                               | Requirement                                                                                                                                                                          | Fiscal Penalty                                                                                                                                                                                                             |
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| CCR, Title 5, Section 11960                                                       | Instructional time: annual 175 instructional day requirement.                                                                                                                        | Proportional reduction in LCFF funding for each day less than 175.                                                                                                                                                         |
| EC 46211                                                                          | Attendance recovery program staffing requirements.                                                                                                                                   | The charter school will lose the funding generated by each unit of ADA determined to be ineligible.                                                                                                                        |
| EC 48000(g)                                                                       | Assigned TK teacher must have correct credential and qualifications.                                                                                                                 | The charter school will lose the funding generated by each unit of ADA determined to be ineligible.                                                                                                                        |
| EC 48000.1                                                                        | <ul style="list-style-type: none"> <li>TK staffing: maintain adult-to-student ratio of 10:1.</li> <li>TK class size: average class enrollment of no more than 24 students</li> </ul> | <ul style="list-style-type: none"> <li>TK staffing: Loss of the TK add-on funding for ADA at the affected schools.</li> <li>TK class size: Loss of the 10.4% TK-3 grade span adjustment.</li> </ul>                        |
| EC 47612.5, 51744 – 51749.6, CCR Title 5, section 11700-11705 and 11960-11963.2   | Compliance with the conditions required to claim traditional independent study ADA (non-classroom-based ADA) for apportionment.                                                      | The charter school will lose the funding generated by each unit of ADA determined to be ineligible.                                                                                                                        |
| EC 47612.5, 51749.5 – 51749.6, CCR Title 5, section 11700-11705 and 11960-11963.2 | Compliance with the conditions required to claim course-based independent study ADA (non-classroom-based ADA) for apportionment.                                                     | The charter school will lose the funding generated by each unit of ADA determined to be ineligible.                                                                                                                        |
| EC 52065.1                                                                        | Adopt an LCAP or annual update by the July 1 statutory deadline.                                                                                                                     | A minimum of 20% of the charter school's LCFF entitlement, with daily increases of 1% of the charter's LCFF entitlement for each business day past July 1 that an LCAP or annual update is not adopted, not to exceed 80%. |
| EC 60151                                                                          | Compliance with EC 244(a) in the use of instructional materials.                                                                                                                     | The education commissioner may assess a penalty up to the charter's total expenditures on the textbooks, instructional materials, supplemental instructional materials, or curriculum found to violate EC Section 244(a).  |