



CALIFORNIA STATE BOARD OF EDUCATION

JULY 2004 AGENDA

Specific Waiver

<p>SUBJECT</p> <p>Request by three school districts for a retroactive waiver of <i>Education Code</i> (EC) Section 60119 regarding the Annual Public Hearing on the availability of textbooks or instructional materials. The district had an audit finding for fiscal year 2002-2003 that they 1) failed to hold the public hearing, or 2) failed to properly notice (10 days) the public hearing and/or 3) failed to post the notice in the required three public places.</p> <p>CDSIS – 09-05-2004 – Big Pine Unified School District CDSIS – 15-05-2004 – Center Unified School District CDSIS – 81-03-2004 – Washington Union High School District</p>	<p><input checked="" type="checkbox"/> Action</p> <hr/> <p><input type="checkbox"/> Consent</p>
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RECOMMENDATION

Approval Approval with conditions Denial

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has heard and approved a Waiver Policy number 01-06 Instructional Materials Sufficiency (*Education Code* Section 60119) Waiver of Retroactive Audit. None of these local educational agencies (LEAs) have had a prior year finding and waiver of this type.

SUMMARY OF KEY ISSUES

During audits for fiscal year 2002-2003, it was discovered that the above LEAs did not hold the public hearings notice of sufficiency of instructional materials, or post the notice for ten days prior to the public hearing or post the required notice in three public places as required by *EC* Section 60119.

Since then, each LEA has held a fully compliant hearing and determined that it has sufficient instructional materials for each pupil in each school in the district.

California Department of Education (CDE) staff verified all other requirements of the Specific Waiver request and none of the LEAs has had a previous waiver of this *Education Code* for the public hearing and ten day notice requirements and/or post the notice in three public places in the 1997-98, 1998-99, 1999-00, 2000-01, or 2001-02 years. Without the waiver, the local educational agencies will have to return **\$300,605** to CDE. See attached specifics for each LEA.

Therefore, since the LEA have met the requirements for fiscal year 2003-2004, and agrees to comply with *EC* section 60119 and ensure that the public hearing is held, noticed to the public hearing for ten days, and in three public places, CDE recommends approval of this waiver request.

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Authority for the Waiver: EC section 41344.3

Bargaining unit(s) consulted on date(s): Various dates

Position of bargaining unit(s) (choose only one): Various

Name of bargaining unit(s)/representative(s): Various dates

Local board approval date(s): Various dates

Period of request: July 1, 2002 to June 30, 2003

FISCAL ANALYSIS (AS APPROPRIATE)

This waiver if approved will relieve the districts of **\$ 300,605** in total penalties.

BACKGROUND INFORMATION

Consent Item: Backup materials, waiver request forms and supporting documents are not available for web viewing but are available for inspection in the Waiver Office.

Failure to Hold the Public Hearing, and Complete a Local Board Resolution on the Sufficiency of Textbooks and Instructional Materials (within the 2002-2003 fiscal year)

CDSIS – 15-05-2004 – Center Unified School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$238,512 in Instructional Materials funds.
- The auditors found that the district did not hold a public hearing for 2002-2003 as required by EC section 60119.
- The district held a fully compliant public hearing on March 3, 2004 and has met the requirements of EC section 60119.
- CDE staff verified all other requirements of the Specific Waiver request.

Failure to Give Ten days Notice of the Public Hearing on the Sufficiency of Textbooks and Instructional Materials (within the 2002-2003 fiscal year)

CDSIS – 09-05-2004 – Big Pine Unified School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$10,682 in Instructional Materials funds.
- The district did not post the public notice for ten days as required by EC Section 60119.
- A fully compliant public hearing was held on February 4, 2004 that met the requirements of EC section 60119. The district has changed their procedures to ensure that the public notices will be posted for ten days in the future.
- CDE staff verified all other requirements of the Specific Waiver request.

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CDSIS – 81-03-2004 - Washington Union High School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$51,411 in Instructional Materials funds.
- The district had an audit finding for not posting the 60119 public notices for the required ten days, instead the district only posted the notice for five days.
- The district has changed their procedures for posting the notices of the 60119 sufficiency of instructional materials public hearings to ensure that they are posted for the required ten days. The district has since held a public hearing that was in full compliance with the requirements of EC Section 60119 on April 27, 2004, for the 2003-2004 year.
- CDE staff verified all other requirements of the Specific Waiver request.