

**SPECIFIC WAIVER COVER SHEET**  
**CALIFORNIA STATE BOARD OF EDUCATION**  
**JUNE 2003 AGENDA**  
**Item No. WC-2**

<p><b>TITLE:</b> Request by five school districts for a <b>retroactive waiver of <i>Education Code (EC) Section 60119</i></b> regarding Annual Public Hearing on the availability of textbooks or instructional materials. These districts had an audit finding for fiscal year 2001-2002 that they <b>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.</b></p> <p><b>CDSIS:</b> 02-05-2003 Franklin Elementary S. D. 09-05-2003 Parlier Unified School District 126-3-2003 Pond Union School District 37-04-2003 Round Valley Jt. Elementary S.D. 03-05-2003 Upper Lake Union High S.D.</p>	<p>_____ <b>ACTION</b> _____ <b>INFORMATION</b> _____ <b>PUBLIC HEARING</b> <u>  <b>X</b>  </u> <b>CONSENT</b></p>
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**RECOMMENDATION:**

The Department recommends:  Approval

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**Summary of Previous State Board of Education Discussion and Action:**

The State Board of Education (SBE) has heard and approved a policy developed by the department of Instructional Materials Sufficiency Waivers of Retroactive audit findings. None of these districts have had a prior year finding and waiver of this type, so this goes to consent.

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**Summary of Key Issue(s):**

During audits for fiscal year 2001-2002, it was discovered that the above local educational agencies did not hold the public hearing notice of sufficiency of instructional materials as required by *EC* Section 60119 or post the required ten days notice of the public hearing.

Since then, the local educational agencies have 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 local educational agencies have had a waiver of this education code before for the public hearing and ten day notice requirements in the 1997-98, 1998-99, 1999-00 or 2000-01 years. Without the waiver, the local educational agencies will have to return **\$297,198** to CDE.

Therefore, since the local educational agencies have met the requirements for fiscal year 2002-2003, and agree to comply with *E.C.* 60119 and ensure that the public hearing is held within the fiscal year and that the notice of public hearing is posted for ten days, CDE recommends approval of this waiver request.

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Authority for the waiver: EC Section 41344.3

Effective dates of request: 7/1/01 to 6/30/02 Audit Year

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**Fiscal Analysis (as appropriate):** This waiver if approved will relieve districts of \$ in total penalties.

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**Background Information:**

Waiver request forms and supporting documents 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 2001-2002 fiscal year)**

CDSIS- 02-05-2003 – Franklin Elementary School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$29,408 in Schiff-Bustamante and Instructional Materials funds.
- The district held the public hearing as required by EC Section 60119 but omitted the requirement of the resolution to be done by the board. The district superintendent was unaware of the resolution requirement.
- Since then, the district has held a fully compliant public hearing in accordance with EC Section 60119 on January 16, 2003. And the district has added the resolution requirement to their board calendar in order not to miss this important step in the future.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS- 126-3-2003 – Pond Union School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$13,944 in Schiff-Bustamante and Instructional Materials funds.
- The district did not complete a local board resolution after the public hearing for the sufficiency of instructional materials as required by EC Section 60119 in fiscal year 2001-2002.
- The district has since had a fully compliant hearing on March 17, 2003 and has instituted changes to prevent this from reoccurring.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS-37-4-2003 – Round Valley Joint Elementary School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$8,837 in Schiff-Bustamante and Instructional Materials funds.
- Due to the lack of a Superintendent in place during the last part of fiscal year 2001-2002, the district failed to hold a public hearing as required by EC Section 60119.

The district held a fully compliant public hearing as required by law on December 16, 2002.

- 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 2001-2002 fiscal year)**

#### CDSIS-09-05-2003 – Parlier Unified School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$221,393 in Schiff-Bustamante and Instructional Materials funds.
- The auditor found that the district only provided seven days notice instead of the required ten days notice of the public hearing in accordance with *EC* Section 60119. However, since then the district has had a fully compliant public hearing for the sufficiency of instructional materials on February 27, 2003.
- The district has changed their procedures to ensure that the notices are posted for the required ten days in the future.
- CDE staff verified all other requirements of the Specific Waiver request.

#### CDSIS – 03-05-2003 – Upper Lake Union High School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$23,616 in Schiff-Bustamante and Instructional Materials funds.
- The district did not post the notice for the 60119 public hearing for the sufficiency of textbooks and instructional materials for ten days prior to the date of the meeting.
- The district claims it was an oversight on their part and has taken steps to ensure compliance with this section of the EC in the future. The district held a fully compliant public hearing on April 23, 2003 for fiscal year 2002-2003 and it was noticed for ten days prior.
- CDE staff verified all other requirements of the Specific Waiver request.