

SPECIFIC WAIVER COVER SHEET
CALIFORNIA STATE BOARD OF EDUCATION
MARCH 2003 AGENDA
Item No. WC-3

<p>TITLE: Request by six school districts and two county offices of education for a retroactive waiver of <i>Education Code (EC) Section 60119</i> regarding Annual Public Hearing on the availability of textbooks or instructional materials. These districts have audit findings for fiscal year 2001-2002 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: 17-01-2003 – Curtis Creek Elementary School District 07-01-2003 – Lassen View Elementary School District 05-01-2003 – Orchard Elementary School District 16-01-2003 – Riverside County Office of Education 09-01-2003 – Roseville Joint Union High School District 26-01-2003 – Westminster Elementary School District 07-02-2003 – Whittier Union High School District 06-02-2003 – Ventura County Superintendent of Schools</p>	<p>_____ ACTION _____ INFORMATION _____ PUBLIC HEARING <u> X </u> CONSENT</p>
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RECOMMENDATION:

The Department recommends: Approval

Summary of Previous State Board of Education Discussion and Action:

The State Board of Education has a policy, **Instructional Materials Sufficiency (*Education Code Section 60119*) Waiver of Retroactive Audit Penalty (01-06)**. None of these districts have had a prior year finding and waiver of this *Education Code*.

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 *Education Code* 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. 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 **\$5,772,600** 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.

Authority for the waiver: *EC* Section 41344.3

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

Fiscal Analysis (as appropriate): This waiver if approved will relieve districts of **\$2,315,435** in total penalties.

Background Information:

Waiver request forms and supporting documents are available for inspection in the Waiver Office.

Information on the two districts requesting the waiver at this time follow:

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 – 17-01-2003 – Curtis Creek Elementary School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$55,195 in Schiff-Bustamante and Instructional Materials funds.
- The school district did not hold a public hearing as required by *E.C.* 60119 based on a recommendation in 1999 by an auditor to use the Statement of Assurance forms as part of the district's public hearing and resolution process. The district has changed their procedures so that this situation will not occur again. The district held a properly noticed public hearing on July 9, 2002 for fiscal year 2002-2003.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS-07-01-2003 – Lassen View Elementary School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$27,225 in Schiff-Bustamante and Instructional Materials funds.
- The district did not know that they had to notice a public hearing separately from the local board meeting and therefore, did not conduct a public hearing for the Schiff-

Bustamante and Instructional Materials monies. The district has since held a

properly noticed public hearing on December 16, 2002 for fiscal year 2002-2003.

- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS-05-01-2003 – Orchard School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$57,297 in Schiff-Bustamante and Instructional Materials funds.
- The auditors could not find any evidence that the Orchard School District held a public hearing during the 2001-2002 fiscal year. The district has since held a fully compliant hearing on November 2, 2002 for fiscal year 2002-2003.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS-26-01-2003-Westminster Elementary School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$737,966 in Schiff-Bustamante and Instructional Materials funds.
- The district passed a resolution regarding the sufficiency of instructional materials at each school for each pupil but neglected to hold the public hearing as required by E.C. Section 60119.
- The district held a fully compliant public hearing on November 21, 2002 for fiscal year 2002-2003.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS-07-02-2003 – Whittier Union High School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$696,119 in Schiff-Bustamante and Instructional Materials funds.
- Due to a change in personnel, the district failed to hold a public hearing for the sufficiency of instructional materials as required by *E.C.* Section 60119. Procedures have been implemented to ensure that this situation does not occur again.
- The district held a fully compliant public hearing on September 10, 2002 for fiscal year 2002-2003.
- 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-16-01-2003-Riverside County Office of Education

- Audit finding for the 2001-2002 fiscal year that would require the return of \$226,954 in Schiff-Bustamante and Instructional Materials funds.
- The county office of education failed to post the notice for the public hearing for the required ten days during the 2001-2002 fiscal year. The county office of education has since held a fully compliant hearing on December 11, 2003 and has revised their procedures to include ten-day notices for advertising the 60119 public hearing.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS-09-01-2003 – Roseville Joint Union High School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$445,684 in Schiff-Bustamante and Instructional Materials funds.
- The district failed to post the notice for the public hearing for the required ten days during the 2001-2002 fiscal year. The district has since held a fully compliant hearing on January 7, 2003 and has implemented procedures to prevent this from happening again.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS-06-02-2003 – Ventura County Superintendent of Schools

- Audit finding for the 2001-2002 fiscal year that would require the return of \$68,995 in Schiff-Bustamante and Instructional Materials funds.
- The county superintendent's office failed to post the notice for the public hearing for the required ten days during the 2001-2002 fiscal year. They have had a fully compliant hearing on January 27, 2003 and had updated their procedures to prevent this from happening again.
- CDE staff verified all other requirements of the Specific Waiver request.