



CALIFORNIA STATE BOARD OF EDUCATION **ITEM #WC-11**

MARCH 2004 AGENDA

Specific Waiver

<p>SUBJECT Request by ten school districts for a retroactive waiver of <i>Education Code (EC) Section 60119</i> 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>16-11-2003 – Mountain Union SD 17-12-2003 – Oxnard SD 20-01-2004 – Placer Union High SD 15-11-2003 – Santa Paula Elementary School District 09-10-2003 – Shaffer Elementary SD 31-12-2003 – Central SD 11-12-2003 – Hesperia Unified SD 29-12-2003 – San Ramon Valley SD 32-07-2003 – Lake Elsinore Unified SD 04-10-2003 – Turlock Joint Union High SD</p>	<p><input checked="" type="checkbox"/> Action</p> <p><input checked="" type="checkbox"/> Consent</p>
---	--

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, so this goes to consent.

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.

Education Code (EC) Section 60119, Page 2

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 local educational agencies 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 or 2000-01, 2001-02, 2002-03 years. Without the waiver, the local educational agencies will have to return **\$7,715,975** 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 *E.C.* 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.

Authority for the Waiver: EC 41344.3

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

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

Neutral Support Oppose

Name of bargaining unit representative(s): Various dates

Local board approval date(s): Various dates

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

FISCAL ANALYSIS (AS APPROPRIATE)

This waiver if approved will relieve the districts of **\$2,939,352** in total penalties.

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 2002-2003 fiscal year)

Education Code (EC) Section 60119, Page 3 (Specifics on each LEA)

CDSIS – 16-11-2003 – Mountain Union School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$4,907 in Instructional Materials funds.
- The district failed to hold a public hearing for the determination of the sufficiency of instructional materials in accordance with E.C. Section 60119 in fiscal year 2002-2003. The district lost their superintendent during mid-school year and with the change in administration, the hearing was overlooked.
- Since then the district held a fully compliant public hearing as required by E.C. Section 60119 on September 16, 2003 for 2003-2004.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS – 17-12-2003 – Oxnard School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$716,753 in Instructional Materials funds.
- The district failed to hold a public hearing for the determination of the sufficiency of instructional materials in accordance with E.C. Section 60119 in fiscal year 2002-2003. The district inadvertently included the required public hearing on the July agenda.
- Since then the district held a fully compliant public hearing as required by E.C. Section 60119 by July 23, 2003 for 2003-2004.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS – 20-01-2004 – Placer Union School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$202,907 in Instructional Materials funds.
- The district failed to hold a public hearing for the determination of the sufficiency of instructional materials in accordance with E.C. Section 60119 in fiscal year 2002-2003. The district has created an annual calendar for board items so that this meeting will be not overlooked again.
- The district held a fully compliant public hearing as required by E.C. Section 60119 on January 13, 2004 for 2003-2004.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS – 15-11-2003 – Santa Paula School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$178,244 in Instructional Materials funds.
- The district failed to hold a public hearing for the sufficiency of instructional materials as required by EC Section 60119. Instead the district held the hearing after the end of the fiscal year in August.
- Since then the district held a fully compliant public hearing as required by E.C. Section 60119 by August 12, 2003 for 2003-2004.
- CDE staff verified all other requirements of the Specific Waiver request.

Education Code (EC) Section 60119, Page 4 (Specifics on each LEA)

CDSIS – 09-10-2003 – Shaffer Elementary School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$16,197 in Instructional Materials funds.
- The district failed to hold a public hearing in accordance with the requirements of EC Section 60119 in fiscal year 2002-2003.
- The district has since held a fully compliant hearing as required by EC Section 60119 on October 21, 2003 for the 2003-2004 year.
- 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 – 31-12-2003 – Central Elementary School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$227,527 in Instructional Materials funds.
- The district posted the notice for six days instead of the required ten days notice in accordance with EC Section 60119 in fiscal year 2002-2003 for the sufficiency of textbooks and instructional materials.
- The district has since held a public hearing that was in full compliance with the requirements of EC Section 60119 on December 18, 2003 for the 2003-2004 year
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS – 11-12-2003 – Hesperia Unified School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$680,973 in Instructional Materials funds.
- The district posted the notice as a regular public notice instead of the required ten days notice in accordance with EC Section 60119 in fiscal year 2002-2003 for the sufficiency of textbooks and instructional materials.
- The district has since held a public hearing that was in full compliance with the requirements of EC Section 60119 on January 12, 2004 for 2003-2004 year. In the future, the district will post the notice for ten days as required by
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS – 29-12-2003 – San Ramon Valley Unified School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$911,844 in Instructional Materials funds.
- The district posted the notice for less than the required ten days in accordance with EC Section 60119 in fiscal year 2002-2003 for the sufficiency of textbooks and instructional materials.
- The district has since held a public hearing that was in full compliance with the requirements of EC Section 60119 on December 9, 2003.

Education Code (EC) Section 60119, Page 5 (Specifics on each LEA)

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

CDSIS-32-7-2003 Lake Elsinore Unified School District

- Audit finding the 2002-2003 fiscal year that would require the return of \$771,549 in Instructional Materials funds.
- The district posted the public hearing for two days instead of the required ten days in accordance with EC Section 60119 in fiscal year 2002-2003 for the sufficiency of textbooks and instructional materials.
- The district has since held a public hearing that was in full compliance with the requirements of EC Section 60119 on July 22, 2003 for the 2003-2004 year.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS-4-10-2003 Turlock Joint Unified School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$175,334 in Instructional Materials funds.
- The district posted the notice for less than the required ten days in accordance with EC Section 60119 in fiscal year 2002-2003 for the sufficiency of textbooks and instructional materials.
- The district has since held a public hearing that was in full compliance with the requirements of EC Section 60119 on October 7, 2003 for the 2003-2004 year.
- CDE staff verified all other requirements of the Specific Waiver request.