

SPECIFIC WAIVER COVER SHEET
CALIFORNIA STATE BOARD OF EDUCATION
NOVEMBER 2003 AGENDA
Item No. W-7

<p>TITLE: Request by Franklin Elementary School District for a retroactive waiver of <i>Education Code</i> (EC) Section 60119 regarding Annual Public Hearing on the availability of textbooks or instructional materials. The district had an audit finding for fiscal year 2000-2001 for failure to pass a resolution.</p> <p>CDSIS: 9-7-2003</p>	<p><u> X </u> ACTION <u> </u> INFORMATION <u> </u> PUBLIC HEARING <u> </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 (SBE) has heard and approved a policy developed by the department of Instructional Materials Sufficiency Waivers of Retroactive audit findings. **This is the second year in a row for this district to get this audit finding, therefore, it must be put to action.**

Summary of Key Issue(s):

An audit was conducted at Franklin Elementary School District for both fiscal years 2000-2001 and 2001-2002 and submitted to CDE as one audit. The audit cited the district for failing to pass a resolution stating whether or not each pupil in the school district had sufficient instructional materials and or textbooks, after holding a properly noticed public hearing according to the requirements of *Education Code* (EC) Section 60119. The district held public hearings during which parents, teachers, and members of the community participated but omitted the crucial step of issuing a resolution that made the determination of whether or not there was sufficient textbooks and instructional materials. A waiver request was completed and approved on consent by the SBE in April of 2003 for the 2001-2002 fiscal year. The second year finding for the district was initially overlooked as it is not usual for the auditor to report two years in a row in one audit report.

When a district has a finding of EC Section 60119 two years in a row, the Waiver Office requires additional information from the district on their textbooks and instructional materials. As the soon as the Waiver Office became aware of the second finding, paperwork was prepared for the second waiver request. Franklin Elementary is a small rural one school district, was shut down over the summer for extensive construction projects. As a result, there was no power to the district facilities and no contact was made with the district until the last week in August of 2003. By the middle of September 2003, the district submitted a form (see attached) that verified their use of adopted textbooks in all four major subject areas at all grade levels. The district held a fully compliant hearing on January 1, 2003 and is now fully aware of the requirement. CDE staff verified all other requirements of the Specific

Waiver request. Without the waiver, the local educational agency will have to return **\$28,657** to CDE.

Since the district is now fully compliant with the requirements of EC Section 60119 and aware of the purpose and importance of passing a resolution after the public hearing, and the district has submitted evidence that they are using adopted textbooks and instructional materials, the department recommends approval of this waiver.

Authority for the waiver: EC Section 41344.3

Bargaining unit(s) consulted on: April 12, 2001

Position of bargaining unit (choose only one):

Neutral

Support

Oppose

Name of bargaining unit representative: Mrs. Barbaccia, Mr. Dahl, Mrs. Norene

Local board approval date: 7/1/00 to 6/30/01 Audit Year

Effective dates of request: 1/16/03

Fiscal Analysis (as appropriate): This waiver if approved will relieve the district of **\$28,657** in total penalties.

Background Information:

Waiver request forms and supporting documents are attached to this summary.