

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

<p><b>TITLE:</b> Request by two school districts for a <b>retroactive waiver of <i>Education Code</i> (EC) Section 60119</b> regarding Annual Public Hearing on the availability of textbooks or instructional materials. The district had an audit finding for fiscal year 2001-2002 that they <b>1) failed to properly notice (10 days) the public hearing and/or 2) failed to post the notice in the required three public places.</b></p> <p><b>CDSIS:</b> 51-6-2003 – Montecito Union School District 53-5-2003 – Snelling Merced Falls School District</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.

Since then, the local educational agencies have held a fully compliant hearing and determined that they have 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 two local educational agencies will have to return **\$42,054** to CDE.

Therefore, since the local educational agencies has met the requirements for fiscal year 2002-2003, and agrees to comply with EC Section 60119 and ensure that the notice of public hearing is posted 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

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 the district of **\$42,054** 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 Give Ten days Notice of the Public Hearing on the Sufficiency of Textbooks and Instructional Materials (within the 2001-2002 fiscal year)**

CDSIS – 51-6-2003 – Montecito Union School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$36,682 in Schiff-Bustamante and Instructional Materials funds.
- The district did not notice the public hearing for the ten days as required by *Education Code* (EC) Section 60119, instead they only posted the notice for five days.
- The district has since had a fully compliant hearing on April 22, 2003 and is now fully aware of the requirement.
- CDE staff verified all other requirements of the Specific Waiver request.

**Failure to Post the Notice of the Public Hearing in Three Public Places on the Sufficiency of Textbooks and Instructional Materials (within the 2001-2002 fiscal year)**

CDSIS – 53-5-2003 – Snelling Merced Falls School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$5,372 in Schiff-Bustamante and Instructional Materials funds.
- The district did not post the notice of the public hearing in three public places as required by *Education Code* (EC) Section 60119, instead they only posted the notice in two public places. This district only has 80 students and is located in a very small town with few places to post public notices. The person responsible for the posting of notices only placed the notice at the district office and the store, omitting to post a notice at one of the other two public places available.
- The district has since had a fully compliant hearing on April 15, 2003 and is now fully aware of the requirement.
- CDE staff verified all other requirements of the Specific Waiver request.