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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 CITY AND COUNTY OF SAN FRANCISCO  
10

11 ELIEZER WILLIAMS, et al., ) Case No. 312 236  
12 )  
Plaintiffs, ) Hearing Date: September 17, 2003  
13 )  
vs. ) Time: 3:30 p.m.  
14 )  
STATE OF CALIFORNIA, DELAINE ) Department: 20  
15 EASTIN, State Superintendent )  
Of Public Instruction, STATE ) Judge: Hon. Peter J. Busch  
16 DEPARTMENT OF EDUCATION, STATE )  
17 BOARD OF EDUCATION, )  
18 )  
Defendants. )  
19 )  
20 )  
AND RELATED CROSS-ACTION. )  
21 )

22  
23 DECLARATION OF ARLENE MATSUURA IN SUPPORT OF DEFENDANT STATE OF  
24 CALIFORNIA'S OPPOSITION TO PLAINTIFFS' MOTION FOR SUMMARY  
25 ADJUDICATION  
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I, Arlene Matsuura, declare and state as follows:

1. I am currently employed by the California Department of Education (CDE). I make this declaration in support of the opposition by defendant State of California to plaintiffs' motion for summary adjudication. All of the facts set forth in this declaration are known to me personally and, if called as a witness, I could and would testify competently thereto.

2. I have been employed by the Department of Education as an Education Fiscal Services Consultant in the Audit Resolution Unit since 2000. My duties include reviewing school district audit reports submitted to the Department of Education, and assisting with resolution of audit findings.

3. Every year each county superintendent of schools and the governing board of each local education agency in California are required to provide for an audit ("annual audit") of all funds under their jurisdiction. The annual audits are performed by a certified public accountant or a public accountant, licensed by the California Board of Accountancy. These external auditors must fully comply with the Government Auditing Standards issued by the Comptroller General of the United States. The State Controller's (April 2003) Standards and Procedures for Audits of California K-12 Local Educational Agencies (Audit Guide) assists certified public accountants and public accountants in performing the audits of K-12 local educational agencies. The Audit Guide

1 identifies the minimum audit and reporting requirements needed to  
2 comply with statutory requirements.

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4 4. The annual audit reports are filed with the county  
5 superintendent of schools of the county in which the local  
6 education agency is located, the state Department of Education,  
7 the state Controller, and other government agencies. Each  
8 auditor's report is required to include a summary of audit  
9 exceptions and to categorize those exceptions for which the State  
10 Superintendent of Public Instruction ("SPI") is responsible for  
11 ensuring the correction of by a local educational agency, and  
12 those for which the county superintendent is responsible.

13  
14 5. The SPI must ensure that local educational agencies  
15 have either corrected, or developed plans of correction for the  
16 following types of exceptions: Federal and state compliance audit  
17 exceptions identified in the audit, exceptions that the county  
18 superintendent certifies have not been corrected, and any repeat  
19 audit exceptions that are not assigned to a county superintendent  
20 to correct. For those exceptions that are assigned to the county  
21 superintendent, the county superintendent must certify to the SPI  
22 and the State Controller that it has reviewed them and, except as  
23 otherwise noted in the certification, has ensured that such  
24 exceptions have been corrected by the local educational agency.  
25 If an exception has not been corrected, the county superintendent  
26 must demonstrate that an acceptable plan of correction has been  
27 submitted by the local educational agency.

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1           6.    I    (and the other Educational Fiscal Services  
2 Consultants in the Audit Resolution Unit) review the annual audit  
3 reports submitted to the Department of Education, and identify  
4 the specific auditor's findings (or unresolved exceptions) that  
5 require follow-up with the local educational agency. With  
6 respect to each annual audit report with findings that require  
7 follow-up, I then send a letter to the appropriate local  
8 educational agency official (a) identifying those findings and  
9 (b) requesting that the official submit evidence to the CDE  
10 regarding the specific corrective action that has been taken to  
11 resolve the audit exceptions. I and the other Audit Resolution  
12 staff also review and evaluate the local educational agencies'  
13 proposed corrective actions to determine whether such actions  
14 would resolve the pertinent audit findings. I continue to  
15 follow-up with the local educational agency officials until each  
16 of the audit exceptions has been corrected and/or resolved.

17  
18           7.    Among other statutory requirements, auditors review  
19 whether districts have expended their instructional materials  
20 funds in a manner consistent with state requirements. In  
21 particular, the State's Instructional Materials Funding  
22 Realignment Program (IMFRP) requires districts receiving funds  
23 from this program to deposit such funds into a separate account,  
24 as specified by the Superintendent of Public Instruction. Use of  
25 these funds and any interest generated by them are restricted to  
26 the purchase of instructional materials permitted by the program.  
27 Auditors, thus, determine whether instructional materials  
28 allowances have been accounted for separately, and whether school

1 districts purchased only instructional materials with funds  
2 earmarked for that purpose. (These requirements also applied  
3 when the Schiff-Bustamante Program was in effect, which was the  
4 predecessor of the IMFRP.)  
5

6 8. Auditors also review school districts to ensure that  
7 they have complied with their obligations under Education Code  
8 section 60119. Beginning with the 1999-2000 fiscal year and for  
9 each fiscal year thereafter, in order to receive instructional  
10 materials funds from any state source, local educational agencies  
11 have been required to meet the requirements of Education Code  
12 section 60119. Section 60119 requires that each fiscal year the  
13 governing boards of each school district provide 10 days advance  
14 notice that a public hearing will occur. During this annual  
15 public hearing the board must encourage participation of parents,  
16 teachers, members of the community interested in the affairs of  
17 the school district, and bargaining unit leaders, and determine,  
18 through a resolution, whether each student in each school in the  
19 district has, or will have prior to the end of that fiscal year,  
20 sufficient textbooks or instructional materials or both in each  
21 subject that are consistent with the content and cycles of the  
22 curriculum framework adopted by the State Board. If a negative  
23 finding is made (that is, each student does not have such  
24 materials), then the board must set forth the reason for the  
25 shortfall, establish a remedy and ensure that the remedy is  
26 accomplished within a two-year period.

1           9.     The annual audit is a method by which the State  
2 determines compliance with section 60119. According to the Audit  
3 Guide, there are several grounds upon which an auditor may  
4 determine that a district was not in compliance with section  
5 60119, including (1) failure to hold a public hearing, (2)  
6 failure to provide a 10-day advance notice of the public hearing,  
7 (3) failure to post notice of the hearing in three public places  
8 in the school district, and (4) failure to make a determination,  
9 through resolution, that each pupil has or will have enough  
10 textbooks or instructional materials.

11  
12           10.  Furthermore, if auditors find that a district's  
13 resolution pursuant to section 60119 does not state that all  
14 students have sufficient textbooks and instructional materials by  
15 the end of the fiscal year, the auditor is requested to verify  
16 that the school district took action to ensure that students will  
17 have sufficient textbooks or instructional materials within a  
18 two-year period. If auditors find an exception with respect to  
19 this issue or any of the 60119 requirements, I work with local  
20 educational agencies to resolve the exceptions as set forth in  
21 paragraph 6.

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23           I declare under penalty of perjury under the laws of the  
24 State of California that the foregoing is true and correct.

1 Executed this 19<sup>th</sup> day of August 2003, at Sacramento, California.

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Arlene Matsuura

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