

SAN LUIS OBISPO COUNTY OFFICE OF EDUCATION  
3350 Education Drive, San Luis Obispo, CA 93405

(P) #8230 APPEAL FROM DENIAL OF INTERDISTRICT  
ATTENDANCE AGREEMENT REQUEST

Education Code Section 46601 et seq. gives the responsibility of hearing interdistrict attendance agreement appeals to the County Board of Education that involve school districts within the county. The County Board of Education has established the following guidelines for considering appeals.

1. In general, pupils should attend school in the district of residence.
2. The County Board of Education will only hear appeals of interdistrict attendance agreement requests that have been denied by the district of residence, or the requested district, or if the district failed to rule on the request.
3. School districts should not admit a student living in another school district until an interdistrict attendance agreement has been approved by the district of residence, or the County Board of Education after hearing an appeal.
4. Persons who wish to present an appeal of an interdistrict attendance agreement decision must comply with the timeline established by the County Office of Education and provide all information required for the Board to hear the appeal.
5. It is the responsibility of the person filing an appeal to provide facts and written evidence where possible that meet one or more of the established criteria.
6. Preference or convenience of parents or the pupil alone will not constitute basis for granting an appeal.

**Limitations on County Board Authority**

The County Board of Education has no authority to consider the following interdistrict attendance request appeals or issues:

1. To determine the specific school within the school district where the pupil will be enrolled.
2. Denial of an interdistrict attendance request by a pupil under consideration for expulsion, or who has been expelled.
3. A dispute over the placement of a special education pupil, or the services provided to a special education pupil. Such a dispute should be addressed using the procedures established by the San Luis Obispo County Special Education Local Plan Area (SELPA).

4. A determination by a school district regarding the validity of a caregiver affidavit.
5. To consider an appeal based solely on parent employment in a district other than the district of residence. Please refer below.

### **Appeal Based On Parent Employment in District**

Ed. Code Section 48204(b) provides for the admission of a pupil to a district other than the district of residence on the basis that either parent is regularly employed within that district's boundary. This provision of law is sometimes referred to as an "Allen Bill Transfer", but is actually a means of establishing residency in a district and is not subject to appeal to the County Board. There are separate legal procedures governing school district consideration of attendance requests based on parent employment. Therefore, the County Board will not hear appeals based only on parent employment. The parents' optional remedy is to seek legal action against the district.

### **Consideration of An Appeal by the County Board of Education**

The County Board has total discretion to determine whether to grant or deny an interdistrict attendance agreement appeal. However, the Board has adopted criteria to guide its action. In deciding whether to grant or deny an appeal, the Board weighs the facts that support the criteria favoring a transfer against the adverse impacts presented by the school district. The Board will review the basis for the local board action that gave rise to the appeal and consider the merits of each case on an individual basis.

The Board strongly recommends that the parent/guardian or representative file a written statement of appeal including documentation as evidence to support the appeal. The School district will have an opportunity to rebut the evidence and submit evidence of an adverse impact on the district. If the appellant is unable to present sufficient evidence upon which reasonable persons can rely, the Board may rule against the appeal without considering the school district's evidence of an adverse impact. Misinformation and/or falsification of information provided by either party shall be cause for deciding against that party.

After considering the appeal, the Board will take one of the following actions:

1. Grant the appeal.
2. Deny the appeal.
3. Remand the matter for further consideration by the district(s). This action may be taken if new evidence or grounds are presented.

### **Criteria That Support Granting An Appeal**

1. **The pupil's desire to remain in his/her school of current attendance for the balance of the semester or school year despite his/her change of residence.** The pupil's desire may be based on his or her anticipated graduation from the school of current attendance at the end of the semester or school year, or on a need for educational continuity for the remainder of the semester or school year.
2. **The pupil's plan to move in the near future and desire to begin the semester or school year in his or her new school district.** The family must offer written proof of their plan to move into the district of proposed attendance. Such written proof may be a rental agreement, a contract to purchase a new property, or a similar document.

3. **The desire of the appellant to use childcare services that are within the boundaries of the other district.** The appellant must justify why the use of childcare services outside of the district of residence is the only satisfactory childcare arrangement available; or that provision of childcare in the district of residence would impose a substantial hardship or cost. If an interdistrict transfer agreement has been approved based on child care needs, then the pupil must be allowed to continuously enroll in the district as long as child care continues pursuant to Education Code Section 46601.5. The district of residence can require documentation of child care services.
4. **The acceptance of a sibling of the pupil for attendance for the current school year by the district of requested attendance when requiring the pupils to attend difference districts would cause a hardship on the family.** The appellant must submit written documentation of the sibling's enrollment and demonstrate a hardship based upon childcare needs, transportation issues, employment location, or other significant factors.
5. **Remaining in the district of residence will seriously adversely impact the pupil's psychological or physical well-being.** The written statement of a qualified medical or behavioral professional having a professional relationship with the pupil must support problems with a pupil's psychological or physical well-being.
6. **A substantial danger to the pupil's health or safety exists by remaining in the district of residence.** A danger to the pupil's health or safety must be supported by documentation from a qualified health expert, by police reports, by school records or by other documentation. Substantial danger based upon transportation issues may be included under this criterion.
7. **A specialized and specific district academic program or service is unavailable in the district of residence and is essential to the pupil's career or academic objectives.** Such a district program or service must be directly related to and essential to the pupil's career objectives or academic advancement, and not be based solely on the pupil's interests or desires, or on extracurricular activities or athletics.
8. **The pupil's residence is located such that the entrance and exit on streets or sidewalks in all directions require travel through the district of requested attendance, and by virtue of topography, street pattern, and location of homes in the neighborhood, the area is land-locked.** The appellant must provide written documentation of the land-locked situation and how such a situation makes a change in school districts advisable.
9. **Other exceptional or extraordinary circumstances which would weigh heavily in favor of the pupil.** The appellant must specify and describe the type of exceptional or extraordinary circumstance and its effect on the pupil.

#### **Criteria That Support an Adverse Impact Upon a District.**

The County Board, in its discretion, may determine that evidence provided by the affected district(s) to justify an adverse impact listed in the criteria below outweighs facts supporting one or more of the above criteria justifying granting the appeal.

1. **The negative financial impact of educating the pupil (district of desired attendance) or losing the pupil (district of residence).** In either case, the impacted district(s) must demonstrate in writing that the pupil's transfer would place an undue hardship on the district's operations and/or resident pupils in terms of costs, reduced services, or other unacceptable outcomes.
2. **The pupil's demonstrated failure to meet reasonable standards relating to behavior, attendance, or attention to studies.** The demonstration of such failure by the district of proposed attendance must be based on a written explanation of the district's previous experience with the pupil under an interdistrict attendance agreement or on other documented evidence of behavior or attendance in the prior district of attendance.
3. **Overcrowding/Lack of space for the pupil in the receiving district.** The district of proposed attendance must demonstrate in writing that the pupil's transfer would result in an undue hardship on the district's resident pupils in terms of overcrowding or priority for enrollment in a specific program or school and/or would be a violation of law, district policy or a collective bargaining agreement regarding class sizes or facilities use.
4. **The negative impact of the pupil's transfer on a court ordered or voluntary desegregation plan of either district.** The district must provide details about the court ordered or voluntary desegregation plan and provide written evidence of the anticipated negative impact of the pupil's transfer.
5. **The transfer of the pupil would violate the Education Code, a California Department of Education regulation, or some other law governing school districts.** The districts must provide written documentation of the specific law or regulation that would be violated.
6. **Other exceptional or extraordinary circumstances that would weigh heavily in favor of the affected school district.** The school district must specify and describe the type of exceptional or extraordinary circumstance.

*Legal Reference:*

EDUCATION CODE

*Sections 46601-46605; 48204*

REVIEWED BY DISTRICT ATTORNEY'S OFFICE SFH 4/8/76  
Date

REVIEWED BY SCHOOLS LEGAL SERVICE SLH 10/25/90  
Date

APPROVED BY COUNTY BOARD OF EDUCATION 5/20/76  
Date

REVISED BY COUNTY BOARD OF EDUCATION 3/5/87; 11/3/88; 6/27/91; 11/3/05  
Date