

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

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

Education Code Section 46601 et seq. gives the responsibility of hearing interdistrict attendance appeals to the County Board of Education ("County Board") that involve school districts within the county. The County Board has established the following guidelines to implement Education Code section 46601.

1. With few exceptions, children should attend school in the district of residence. Any request for attending school in another school district should be based upon exceptional circumstances unique to the child concerned.
2. The County Board 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. An appeal shall be accepted only upon verification by the county board's designee that appeals within the districts have been exhausted.
3. The appeal must be filed within 30 days of the final denial by the district. The county board's designee has the authority to reject the appeals filed after the 30-day requirement.
4. 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 after hearing an appeal. Pending a decision by the County Board, the Superintendent or designee may provisionally admit a student who resides in another district for a period not to exceed two school months.
5. 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 County Board to hear the appeal.
6. It is the responsibility of the parent/guardian filing an appeal to provide facts and written evidence that meet one or more of the established criteria. Insufficient written evidence may be cause for denial. Misinformation and/or falsification of information provided by either party may be cause for denying the appeal.
7. If new evidence or grounds for the request are introduced, the County Board may remand the matter for further consideration by the district or districts. In all other cases, the appeal shall be granted or denied on the merits.
8. Frequently stated reasons for requesting out of district attendance includes a parent's perception that one school district is better than another, convenience of transportation, continuance of social contacts and the proximity of a parent's work place. None of these reasons shall be cause for granting such a request unless it can be clearly demonstrated that there are exceptional circumstances unique to the child concerned that justify disrupting the normal pattern of school attendance.

Limitations on County Board Authority

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

1. To hear an appeal filed after 30 days of the final denial of the school district.
2. To determine the specific school within the school district where the pupil will be enrolled.
3. 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.
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:

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. The County Board strongly encourages the district of residence and district of enrollment to make a final decision regarding the transfer request before the parent/guardian submits an appeal. However if, after 30 calendar days, the governing board of either school district fails to approve interdistrict attendance in the current term, or, in the absence of an agreement between the school districts, fails or refuses to enter into an agreement the County Board will consider this a denial of the transfer request and the parent/guardian may appeal to the County Board.

Primary Consideration of the Board is:

1. Exceptional circumstances regarding the health, safety, emotional development, social development and/or academic development of the child concerned. The parent/guardian must specify and describe the type of exceptional or extraordinary circumstance and its effect on the pupil.

2. Exceptional circumstances regarding other family members that are relevant to the child's school attendance. The parent/guardian must specify and describe the type of exceptional or extraordinary circumstance and its effect on the pupil.
3. The effect that the granting of the appeal would have upon the districts concerned. The School district will have an opportunity to rebut the evidence and submit evidence of an adverse impact on the district. If the parent/guardian is unable to present sufficient evidence upon which reasonable persons can rely, the County Board may rule against the appeal without considering the school district's evidence of an adverse impact.
4. The ability of the requested district to meet the stated needs of the child concerned.

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

- Grant the appeal. If the appeal is granted, the term will be for one school year only.
- Deny the appeal.
- Remand the matter for further consideration by the district(s). This action may be taken if new evidence or grounds are presented.

Should the County Board remand the matter for further consideration by the district or districts, the district(s) shall consider the new evidence or information no later than the next regularly scheduled district board meeting(s), provided the district(s) are able to comply with the Brown Act notice requirements. The County Board shall retain jurisdiction over the matter and after the district(s) action or failure to act within the specified timelines, the matter may be appealed a second time to the County Board. The second appeal will be subject to all appeal procedures and timelines included in this policy.

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 parent/guardian 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 parent/guardian to use childcare services that are within the boundaries of the other district. The parent/guardian 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.

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 different districts would cause a hardship on the family. The parent/guardian 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 written documentation from a qualified health expert, by police reports, by school records or by other documentation.
7. A specialized and specific district academic program or service in grades 7 – 12 is unavailable in the district of residence, available in the requested district, and critical to the educational well-being of the pupil. Appellants **shall** submit written documentation (such as a **district-generated course description from both districts**), as well as a **statement** of the need for this particular academic program or service as related to the student's educational pathway. **One or two classes do not constitute a program.**
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 parent/guardian must provide written documentation of the land-locked situation and how such a situation makes a change in school districts advisable.

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 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 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

APPROVED BY COUNTY BOARD OF EDUCATION

DATE: 5/20/76

REVISED BY COUNTY BOARD OF EDUCATION

DATE: 3/5/87; 11/3/88; 6/27/91; 11/3/05; 5/7/15; 4/6/17; 5/3/18; 10/4/18; 11/7/19