

INTERDISTRICT ATTENDANCE APPEALS

The County Board of Education shall consider an appeal against any school district within the county for its failure or refusal to issue an interdistrict attendance permit to a student, or for its failure or refusal to enter into an interdistrict attendance agreement with another school district for the student's attendance. (Education Code 46601)

If the request for interdistrict attendance involves a school district located within the county and a school district located in a different county, the County Board shall have jurisdiction if the denial of the permit, or the refusal or failure to enter into an agreement, is by the school district within the county. If both school districts deny the permit or refuse or fail to enter into an agreement, the County Board shall have jurisdiction only if the school district within the county is the student's district of residence. (Education Code 46601)

The appeal shall be filed in writing, by a person having legal custody of the student, within 30 calendar days of (1) denial of an interdistrict attendance request by either the sending or receiving district, (2) receipt of notice that an interdistrict attendance agreement allowing the request does not exist between the sending and receiving districts, or (3) failure or refusal of either or both the sending or the receiving district to grant or enter into an interdistrict attendance agreement. Failure to appeal within the required time is good cause for denial of an appeal. (Education Code 46601)

The parent, legal guardian, or caregiver shall file their Notice of Appeal on a form supplied by the County Superintendent of Schools Office.

The appeal shall be accepted only upon verification by the County Superintendent of Schools or designee that appeals within the districts have been exhausted. (Education Code 46601)

Hearing

No later than 10 days prior to the hearing, the secretary to the County Board shall serve upon all parties involved, a notice by certified mail, return receipt requested. The notice shall include details of the date, time and place of the hearing, and of the opportunity to submit written statements and documentation, and to be heard on the matter.

The County Board shall conduct a hearing within 30 calendar days after the appeal is filed, to determine whether the student should be permitted to attend school in the district of his/her choice. If it is impractical for the County Board to comply with the time requirement for the hearing, the County Board may extend the time period for up to an additional five school days. (Education Code 46601)

Documentation Presented to Board

The parent, legal guardian, or caregiver must present the following documentation to the Tuolumne County Superintendent of Schools Office at the time he/she files an appeal pursuant to this policy:

INTERDISTRICT ATTENDANCE APPEALS (continued)

1. The parent, legal guardian, or caregiver's request for an interdistrict attendance agreement.
2. Any written responses from either of the districts.
3. The denying district's interdistrict attendance agreement policy. Either party may present any other written documentation to the County Board of Education for it to consider at the appeal hearing so long as the information is either mailed or received by the County Superintendent of Schools Office and the other party at least seven calendar days before the scheduled Board hearing. The failure of either party to provide copies to the other parties prior to that date may result in the County Board either continuing the hearing, denying submission of the documents, or remanding the matter back to the denying district for further review.

It is the responsibility of each party to ensure that their documentation is either mailed or personally delivered.

Oral Presentation to the Board

Each party will have the opportunity to present argument to the County Board of Education concerning the interdistrict attendance agreement request. (See "Grounds for Granting and Denying Interdistrict Attendance Appeals" for assistance in presenting argument to County Board of Education.)

Investigation

The County Superintendent or designee shall investigate the circumstances of the appeal to determine whether the parent, legal guardian, or caregiver has exhausted all administrative remedies and to obtain any additional information deemed useful to the County Board. If the County Superintendent determines (1) the parent, legal guardian, or caregiver has not exhausted all other administrative remedies or (2) it is in the best interests of the parties that the matter be referred back to the denying local governing board for further deliberation, the County Superintendent or designee shall refer the matter back to the district(s) and provide notice to the appealing party of his /her options. In such a case, the parent, legal guardian, or caregiver's case shall be stayed pending the parties' compliance with the County Superintendent of Schools recommended course of action. In all other cases, the County Superintendent shall set the matter for a hearing before the County Board.

The County Superintendent, or designee, shall submit to the County Board and to all other parties a written statement with any relevant documentation reflecting the results of his/her investigation.

INTERDISTRICT ATTENDANCE APPEALS (continued)

Notice of Hearing

The County Superintendent or designee shall mail or deliver to the appealing person(s) and affected districts a Notice of Hearing at least 20 calendar days prior to the hearing. The Notice shall contain the date, time and place of the hearing to consider the appeal. The Notice also shall inform the parties of their opportunity to submit documentation and to make an oral presentation pursuant to these rules. The notice to the districts shall also include a copy of the Notice of Appeal and any other documents presented by the appealing party.

Hearing

The hearing before the County Board shall be informal. Subject to the Chairperson's control, the parties will be provided an opportunity to make an oral presentation in the following order:

1. Appealing persons
2. School district willing to grant request
3. School district(s) denying request

Any party may, at its own expense, be represented by a legal or non-legal representative of his, her, or its own choice.

Decision

The County Board shall decide each case on its own merit. If a parent, legal guardian, or caregiver presents, at the appeal hearing, new evidence or grounds for granting the interdistrict attendance request, the County Board may (1) grant the request or (2) remand the matter for further consideration by the district(s).

A majority vote of the members of the County Board present is required to grant the interdistrict attendance request. If a majority of the members present do not vote in favor of granting the interdistrict attendance agreement, the decision of the denying district shall stand.

The County Board shall, 30 calendar days after the appeal is filed, determine whether the student should be permitted to attend in the district in which the student desires to attend and the applicable period of time. In the event that determining whether the student should be permitted to attend in the district, which the student desires to attend, is impractical, the County Board or the County Superintendent for good cause, may extend the time period for up to an additional five school days.

INTERDISTRICT ATTENDANCE APPEALS (continued)

The County Board shall render a decision within three schooldays of any hearing conducted by the Board unless the person who filed the appeal requests a postponement.

As soon as possible after the hearing is concluded, the County Board, through the County Office, shall issue a written decision of its determination.

The written decision shall include the factual findings forming the basis of its decision, the determination of whether the student should be permitted to attend in the district in which he or she desires to attend, and the period of time during which the attendance shall be permitted.

The County Office shall mail or deliver a written copy of the County Board decision to the student, the appealing person, and to the governing boards of the affected districts.

Open or Closed Hearing

Because there appears to be a potential conflict between the Ralph M. Brown Act and the Federal Rights and Privacy Act (FERPA) on whether County Interdistrict Attendance Agreement Appeals shall be held in a session open or closed to the general public, the County Superintendent will schedule all appeals for open session unless the parent(s) requests, in writing, that the appeal take place in a session closed to the general public. A parent, legal guardian, or caregiver's request for a closed hearing must be received by the County Superintendent at least five calendar days prior to the hearing. A request received within five days of the hearing will be denied.

Continuances of the Appeal Hearing

The County Superintendent may grant either party a request for a continuance upon a showing of good cause and upon a showing that the needs of the student(s) will not be harmed because of the continuance.

Further Appeals

The County Board shall not consider more than one appeal on the merits in any one school year with respect to a student seeking interdistrict attendance from the district of residence to another district unless new evidence or grounds exist that in the exercise of due diligence were not available at the time of the first appeal.

INTERDISTRICT ATTENDANCE APPEALS (continued)

Grounds for Granting an Interdistrict Attendance Agreement Request

1. The County Board concludes that the receiving district offers a specialized or unique educational program or service, required by the student, which is unavailable in the district of residence. Specialized or unique educational program is defined as a series of courses (not a single course), significantly related to the student's career objectives or critical to the student's well being because of special circumstances. A specialized or unique educational program does not include extracurricular activities or athletics.
2. The parent, guardian, or caregiver of an elementary grade level student can demonstrate, to the satisfaction of the County Board, that the after school care options in the district of residence are unavailable or significantly inappropriate, and the only manner of providing appropriate and/or necessary after school care services would be by enrollment in the receiving district. The parent, guardian, or caregiver must demonstrate to the satisfaction of the County Board, attempts to find appropriate after school care in the district of residence.
3. A high school student has been allowed, because of childcare needs, to attend a feeder elementary school in the high school district to which he or she now wishes to attend.
4. The student has only one year or less before he or she is promoted from the school of current attendance if attended by the student for the previous year or more.
5. The student has moved into the district of residence and desires to remain in his/her school in his/her district of former residence for the balance of the current school semester or year.
6. The student will move into the district of proposed attendance during the coming semester or school year and desires to begin the semester or school year in his/her school in his/her district of former residence for the balance of the current school semester or year.
7. The student will move into the district of proposed attendance during the coming semester or school year and desires to begin the semester or school year in his/her new school. Appropriate verification is required before the County Board can consider this request.
8. When the student has siblings attending a school in the receiving district.
9. To meet a child's special mental or physical needs, as certified by a physician, school psychologist, or other appropriate school personnel.

INTERDISTRICT ATTENDANCE APPEALS (continued)

10. The County Board determines that the best interests of the student will be served by allowing him or her to attend a school in the receiving district.

Grounds for Denying Interdistrict Attendance Appeals

1. The sending district demonstrates, to the satisfaction of the County Board, that it can meet the needs of the student.
2. The receiving district demonstrates, to the satisfaction of the County Board, that accepting the student would negatively impact a current program, or require the receiving district to establish a program it currently does not provide.
3. The County Board determines that the student, while previously attending the receiving district, failed to meet reasonable standards of the district relating to behavior, attendance, or diligence to studies, which the district expects of its students.
4. The receiving district demonstrates, to the satisfaction of the County Board, that space is not available in the receiving district at the time of the application at the grade level of the student.
5. A student who is under consideration for expulsion may not appeal interdistrict attendance denials while expulsion proceedings are pending.
6. A student who has been expelled may not appeal interdistrict attendance denials during the term of his/her expulsion.
7. The County Board concludes that the parent/guardian or caregiver's reasons for requesting an interdistrict attendance agreement do not meet any of the conditions set forth in the section entitled "Grounds For Granting An Interdistrict Attendance Agreement Request"
8. The County Board concludes that the best interests of the student will be served by remaining at his/her district of residence.

Legal Reference: (see next page)

INTERDISTRICT ATTENDANCE APPEALS (continued)

Legal Reference:

EDUCATION CODE

- 46600-46611 Interdistrict attendance agreements*
- 48204 Residency requirements for school attendance*
- 48209-48209.17 Student attendance alternatives*
- 48660-48666 Community day schools*
- 48900-48926 Suspension and expulsion*
- 48950 Speech and other communication*
- 49073-49079 Privacy of student records*

GOVERNMENT CODE

- 11455.20 Contempt*
- 54950-54962 Ralph M. Brown Act (re closed sessions)*