

Students**INTERDISTRICT ATTENDANCE TRANSFER APPEALS**

Education Code Section 48200 provides that students should attend a school in the district where their parents or guardians reside. At the same time, Education Code Sections 46600 authorizes parents or guardians to request a permit to attend a district other than the district of residence.

According to Education Code Section 46601, if, within 30 calendar days after the person having legal custody of a pupil has so requested, the governing board of either school district fails to approve inter district attendance in the current term, or, in the absence of an agreement between the districts, fails or refused to enter into an agreement, the district of residence, shall advise the person requesting the permit of the right to appeal to the county board of education.

- a) An appeal shall be accepted only upon verification by the County Board or County Superintendent's designee that appeals within the districts have been exhausted.
- b) The County Board of Education shall, within 30 days after filing of the appeal, determine whether the student(s) should be permitted to attend in the district in which he/she desires to attend and for what period of time. If compliance by the County Board with this time frame is impracticable, the County Board or County Superintendent or designee, for good cause, may extend the time period for up to an additional five school days.
- c) The County Board or County Superintendent or designee may continue the hearing upon the request of any party who shows good cause for such continuance. Failure by either party to send a representative to the hearing will not result in a postponement of the hearing. If either party fails to send a representative to the hearing, the hearing will be conducted at the scheduled date and time provided in the notification. If the unrepresented party has previously submitted written statements, the statements will be read into the record during the hearing.
- d) The county shall provide adequate notice to all parties of the date and time of any hearing scheduled and of the opportunity to submit written statements and documentation and to be heard on the matter pursuant to rules and regulations adopted by the county board of education.
- e) The County Board of Education shall base its decision to approve or deny the appeal on a review of the evidence presented to the district issuing the denial. If new evidence is presented to the County Board that the Board believes would have affected the district's decision, the Board may remand the case back to the district issuing the denial for further consideration.
- f) Pupils who are under consideration for expulsion, or who have been expelled pursuant to Education Code Sections 48915 and 48918, may not appeal interdistrict attendance denials or rescissions while expulsion proceedings are pending, or during the term of the expulsion.
- g) If the County Board of Education determines that the pupil should be permitted to attend in the district in which he or she desires to attend, the pupil shall be admitted to a school in the district without delay.
- h) For a period not to exceed two school months, the governing board of a school district may provisionally admit to the schools of the district a pupil who resides in another district, pending a decision of the two boards, or by the County Board of Education upon appeal, regarding the interdistrict attendance.

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Under Section 48204(b) of the California Education Code, a school district may deem a pupil to have complied with the residency requirements for school attendance in the district if at least one parent or the legal guardian of the pupil is physically employed within the boundaries of that district for a minimum of 10 hours during the school week. Enrollment pursuant to Section 48204(b) is not an interdistrict transfer. If a school district refuses to enroll a student whose parent or guardian is employed within the district boundaries because enrollment would negatively impact the district's court-ordered or voluntary desegregation plan, or if the additional cost of educating the student would exceed the additional state assistance received for the student, or for other lawful, non-arbitrary reasons, the parent or legal guardian may not appeal this denial of enrollment under 48204(b) to the County Board of Education.

<i>Legal Reference:</i>	<u>EDUCATION CODE</u>
	<i>46600 (Terms of Interdistrict Agreements)</i>
	<i>46601 (Appellate Provisions upon Board's Neglect or Refusal to enter into an Interdistrict Agreement)</i>
	<i>46602 (Admission to school without Delay upon Board approval)</i>
	<i>46603 (Maximum Duration of Provisional Admission Pending Board decision)</i>
	<i>48200 (Residence of parents or legal guardians determines school district)</i>
	<i>48204(b) (Use of parent or legal guardian employment to establish residency)</i>

Policy
adopted: March 28, 1984

Policy
amended: April 24, 1996
May 20, 2015

Students**INTERDISTRICT ATTENDANCE TRANSFER APPEALS****A. Filing an Appeal**

1. An appeal of denial or failure to approve an interdistrict transfer of attendance shall be in writing on a form prescribed by the County Superintendent and shall specify the grounds for the appeal.
2. An appeal must be filed within 30 calendar days of the refusal or failure to permit interdistrict transfer of attendance by the district. Failure to appeal within the required time is good cause for denial of an appeal.
3. Multiple appeals from one family may be submitted as one; however, there will be a separate vote for each child, but only one written decision.
4. The appellant shall send or deliver the completed, signed, dated appeal to the County Superintendent or designee, and include a copy of the original request for transfer (preferably from both the district of residence and the proposed district), any letters received from either district, and any additional documentation this is pertinent to the request.
5. An appeal shall be accepted only upon verification by the County Superintendent's designee that appeals within the school district have been exhausted.
6. Once an appeal has been received, the County Superintendent or designee shall notify each district that an appeal has been filed.

B. Hearing Date

1. Upon receipt of the appeal, the County Superintendent, or designee will set a hearing on the matter at a regular or special meeting of the County Board of Education to be held no later than 30 days following receipt of the appeal.
2. In the event that meeting the time requirement for determining the appeal is impractical, the County Board of Education or the County Superintendent of Schools or designee may, for good cause, extend the time period for an additional five (5) school days.
3. The County Board of Education may grant a continuance to any party upon a showing of good cause. Such continuances shall result in an extension of the time line for a determination by the County Board equal to the number of days of the granted extension.
4. Failure by either party to send a representative to the hearing will not result in a postponement of the hearing. If either party fails to send a representative to the hearing, the hearing will be conducted at the scheduled date and time provided in the notification. If the unrepresented party has previously submitted written statements, the statements will be read into the record during the hearing.

C. Preparation for Hearing the Appeal

The County Superintendent or designee shall serve as the contact person and liaison among the student's representative, the districts involved, and other appropriate parties.

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1. Upon receiving the appeal, the County Superintendent or designee shall inform the person appealing of their rights and the procedures by which the appeal will be heard.
2. The County Superintendent or designee shall inform both school districts involved in the appeal and invite them to have representatives at the hearing to speak on their position regarding the appeal.
3. The County Superintendent or designee shall provide adequate notice to all parties of the date and time of the scheduled hearing, the opportunity to submit written statements and documentation, the date upon which any documentation is due, and the option of being represented by legal counsel.
4. The parties shall be required to provide the County Superintendent or designee with all information pertaining to the case no later than fourteen (14) days prior to the hearing. This information will be included in the packet provided to each County Board member and include at a minimum:
 - a. Copies of the original interdistrict attendance request and the interdistrict attendance request appeal
 - b. A copy of both districts' policy on interdistrict attendance
 - c. Materials and documentation relevant to the interdistrict attendance request provided by the district(s) and the appellant
5. Copies of all information provided to the County board shall be distributed to all parties involved prior to the hearing.

D. Conduct of the Appeal Hearing

1. The hearing will be conducted in a public session of the County Board of Education unless the appeal will involve presentation and discussion by any party of the pupil records of the appellant or of any other student.
 - 1.1 If notified by any party that information concerning pupil records will be discussed at the hearing, or if any party submits pupil records to the County Board in advance of the hearing, the Superintendent or designee will notify the parent in writing that the County Board will hold the appeal in closed session, unless the parent requests in writing in advance of the hearing that the entire hearing be held in public session.
 - 1.2 In any case, that portion of the appeal involving pupil records of a student other than the appellant will be held in closed session.
 - 1.3 When a closed session is held, all parties may attend the closed session.
 - 1.4 When a closed session is held, the County Board of Education will take its final action in public session, and the result of such action will be a public record. Individual board member votes will be documented.
2. The County Superintendent or designee shall preside over the hearing, and may recognize any concerned parties at any time during the hearing to ask questions or to add information.

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3. A record of the hearing shall be made.
4. Strict rules of evidence as required in court proceedings will not be applied. Persons to be heard will be limited to the student(s), his/her parent(s) or guardian(s) or other representative, and representatives of the districts involved.
5. The decision by the County Board of Education may only be to (1) approve the appeal, (2) deny the appeal, or (3) remand the matter back to the district. A written statement of the County Board of Education's action will be mailed to the person appealing and to each of the districts involved in the request.

E. Hearing Procedures

The format for the hearing shall be substantially as follows:

1. The County Superintendent or designee will introduce the matter for the record and all parties present will identify themselves.
2. The County Superintendent or designee will review the scope of the County Board's role and receive any additional written evidence regarding the matter.
3. The student's representative will be invited to make a presentation and allotted ten (10) minutes to do so.
4. The representative of the district which failed or refused to approve the interdistrict attendance request will be invited to make a presentation and allotted ten (10) minutes to do so.
5. If present, the representative of the other district involved will be invited to make a presentation and allotted ten (10) minutes to do so.
6. Each County Board of Education Member will be provided an opportunity to ask questions of Parent(s) or guardian(s) of student, the student, district of residence, and district of proposed attendance, and others as appropriate.
7. At the conclusion of the presentations and questioning, the Board President shall declare the hearing closed and request that the appellant and district representatives leave the board room while they conduct their deliberation.

F. Scope of Review and Decision of the Board

1. The party requesting the interdistrict transfer shall have the burden of proof and the responsibility to present sufficient evidence to justify the transfer.
2. The County Board will grant appeals only in cases of significant legal, financial, or equitable hardship or deprivation to the student which cannot reasonably be remedied by any other means. In making its decision, the County Board shall also consider the financial and other needs of the district of residence and the proposed district of attendance, and balance such needs against that of the student.

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3. The Board shall consider all evidence and information presented by all parties to determine whether to:
 - a. Grant the appeal
 - b. Deny the appeal
 - c. Remand the matter back to the district for further consideration
4. If the County Board determines that the student should be permitted to attend school in the district proposed, the County Board shall fix the length of time for the student's attendance in that district, and the student shall be admitted to a school in the district without delay.
5. Written notice of the decision by the County Board of Education shall be delivered to the student and the parent or legal guardian, and to each district.

G. Criteria for Consideration in Appeals

1. The student's psychological or physical well-being.
Problems with a student's psychological or physical well-being must be supported by the written statement of a qualified professional.
2. A substantial danger to the student's health or safety.
A danger to the student's health or safety must be supported by the written statement of a qualified health expert, by police reports, by school records, or by other documentation.
3. A specialized and specific academic program or service, unavailable in the district of residence but necessary to the student's career or academic objectives.
Such a program or service must be related to the student's career objectives or academic advancement and not based solely on the student's interests or desires, or on extracurricular activities or athletics.
4. Hardship resulting from lack of available or appropriate after school care options for pupil in the district of residence.
The parent or legal guardian must demonstrate attempts to find appropriate care in the district of residence and must describe these attempts in the written materials provided when the appeal is filed.
5. A severe and demonstrated hardship to parents/guardians which could affect the student's success in school.
The parent/guardian must specify and describe the type of hardship in writing; "hardship" shall be understood to exclude inconvenience to the parents/guardians or matters of preference.
6. The student's desire to remain in his/her school of current attendance for the balance of the semester of school year.
The student's desire may be based on his/her anticipated promotion from the school of current attendance at the end of the semester or school year or on a need for education continuity for the remainder of the semester or school year.
7. The student's plan to move in the near future and desire to begin the semester or school year in his or her new school district.

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The student and his/her 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 new property, or similar document.

8. The financial impact of educating the student (district of proposed attendance) or of losing the student (district of residence).
In either case, the impacted district(s) must demonstrate in writing that the student's transfer would place an undue hardship on the district's resident students in terms of reduced services or other unacceptable outcomes.
9. The student's demonstrated failure to meet reasonable standards relating to behavior, attendance, or diligence to studies.
The demonstration of such failure must be based on a written explanation of the district's previous experience with the student under an interdistrict transfer agreement or on other documented evidence.
10. Lack of space for the student in the receiving district.
The district of proposed transfer must demonstrate in writing that the student's transfer would result in an undue hardship on the district's resident students in terms of overcrowding and/or would be a violation of district policy or a collective bargaining agreement regarding class size goals.
11. The negative impact of the student's transfer on a court ordered or voluntary desegregation plan of either district.
The district must provide details about the court order or desegregation plan and provide written evidence of the anticipated negative impact of the student's transfer.
12. Other exceptional or extraordinary circumstances which would weigh heavily in favor of the appellate student or the affected school district.
The parent/guardian or school district must specify and describe the type of exceptional or extraordinary circumstance and its effect on the appellant student or the resident students of the district.

Regulation

approved: March 29, 1984

Regulation

amended: March 13, 1996
January 28, 1998
October 14, 1998
October 5, 2005
August 6, 2008
June 3, 2015

Contra Costa County Board of Education
APPEAL OF DENIAL OF INTERDISTRICT ATTENDANCE
(Please print or type all information except signature)

In accordance with Education Code 46601, and the Contra Costa County Board of Education Policy 5200, we hereby request a hearing for the purpose of an Appeal of an Interdistrict Transfer Denial. [NOTE: This request for Appeal shall be submitted to the Contra Costa County Office of Education within thirty (30) calendar days following the date of district failure or refusal to issue a permit or enter into an agreement allowing the attendance.]

Date _____
Appellant(Parent(s)) _____ Cell/Work Phone _____
Residence Address _____ Residence Phone _____
District of Residence _____ School District _____

I am / we are requesting that the Contra Costa County Board of Education hear an appeal of the denial by _____ School District of an interdistrict attendance transfer request for my / our son(s) / daughter(s) to attend school in the _____ School District.

Student _____ Age ___ Grade ___ Student _____ Age ___ Grade ___
Student _____ Age ___ Grade ___ Student _____ Age ___ Grade ___

How many other children in the home? _____ Give ages: _____

Do they attend school in the district of residence? Yes _____ No _____

Explain if answer to above question is no: _____

Respond to the following questions and attach additional pages, if necessary:

1. What reason(s) did you give for requesting an interdistrict transfer in your application to the school district(s)? _____

2. State your understanding of why the school district(s) denied your request for an interdistrict transfer.

3. State why you believe the decision(s) of the school district(s) should be set aside (changed to approve your appeal) _____

I hereby certify that this information is true and correct to the best of my knowledge.

Signature of Parent/Guardian Filing the Appeal Date

Please include all related documentation that you received from the school district(s), including the following:

- 1) *your transfer request;*
- 2) *any letters from your district of residence regarding your request;*
- 3) *any letters from the district you are requesting to attend;*
- 4) *any additional documentation that is pertinent to your request.*

Send to CCCOE at 77 Santa Barbara Rd. Pleasant Hill, CA 94523 or fax to 925-942-3353 or email to lgriffin@cccoe.k12.ca.us

INTERDISTRICT ATTENDANCE TRANSFER APPEAL PROCEDURES
The Contra Costa County Board of Education Hearing

- _____ I. **Opening** by the Superintendent or Superintendent's designee.
He/she explains the procedures to be followed during the hearing:
- A. The persons who may be heard:
 - 1. Parent(s) or Guardian(s)
 - 2. Other representative(s) of the student, i.e., legal counsel.
 - 3. Representatives of involved districts.
 - B. After the hearing, the Board will deliberate and come to a decision.
 - C. The Board's determination will be limited to one of the following:
 - 1. Deny the appeal.
 - 2. Approve the appeal.
 - 3. Remand the matter back to the district for further consideration.
- _____ II. **Presentation** by Superintendent or Superintendent's designee.
- _____ III. **Presentation** by the parent(s)/guardian(s) of the student.
- _____ IV. **Presentation** by representative(s) of the district of residence.
- _____ V. **Presentation** by representative(s) of the district of proposed attendance.
- _____ VI. **Questioning** by County Board of Education members of the parent(s)/guardian(s) of student, and representative(s) of the district of residence, and representative(s) of the district of proposed attendance.
- _____ VII. **Deliberation and Decision** by County Board of Education.
Determination will be limited to the following:
 - A. Deny the appeal.
 - B. Approve the appeal.
 - C. Remand the matter back to the district for further consideration.

Interdistrict Transfer Appeal Ground Rules

The Contra Costa County Board of Education has agreed to the following commitments in the conduct of Interdistrict Transfer Appeal Hearings in order to ensure that everyone is treated equally and all issues are considered in a fair and unbiased manner.

Each Board Member shall:

- Review all materials in advance of the hearing
- Listen attentively and without prejudice to all arguments and responses to questions posed
- Ask clarifying questions and reserve all comments and statements for the Board's closed deliberations
- Maintain a professional demeanor at all times
- Make a conscientious effort to conduct each hearing within the allotted timeframe in order to maximize efficiency, and as a courtesy to all parties involved
- Ensure that all decisions are based on the evidence and documentation provided

It is understood that each Board Member and the Superintendent or designee is responsible for adherence to these ground rules.