



STUDENTS

BOARD POLICY – INTERDISTRICT ATTENDANCE APPEALS

BP 5117.1

In accordance with the provisions of California Education Code section 46601, the County Board of Education will consider appeals following the failure or refusal of a school district to issue an inter-district attendance permit or to enter into an agreement allowing inter-district attendance. Any such appeal must be submitted in writing by a person having legal custody of the student denied inter-district attendance and must be filed within thirty (30) calendar days of the failure or refusal of the school district to issue a permit. Failure to appeal within the required time is good cause for denial of the appeal. An appeal shall be accepted only upon verification by the County Superintendent of Schools or designee that appeals within the districts have been exhausted.

Within thirty (30) calendar days of receipt of a written appeal, the County Board of Education will 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. The County Superintendent or designee may, for good cause, extend this thirty-day period for an additional five (5) school days if the time requirement for an appeal hearing is impractical for the County Board of Education. Additionally, the County Superintendent or designee may grant a continuance of any applicable time requirement for a specified number of days for any other reason upon good cause shown.

Inter-district transfer appeals may be heard in closed session if necessary, to protect pupil confidentiality, as long as to do so would not violate the Brown Act. The County Board of Education shall deliberate in closed session if the appeal is heard in closed session. In such cases, the decision of the County Board of Education and the vote of each member shall be announced in open session immediately following the closed session.

Families with appeals for multiple children may have the appeals heard separately or as one. The County Board of Education will conduct a separate vote on the appeal of each child.

Adequate notice shall be provided 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. All written statements and supporting documentation must be attached to the appeal or the response to the appeal so that the County Board of Education and the parties have ample time to prepare for the appeal hearing. The County Board of Education may, in its discretion, permit parties to present additional written documentation at the time of the hearing. In exercising that discretion the County Board of Education may consider factors that it deems relevant including but not limited to the following: (1) whether the opposing party will be unfairly prejudiced by the late submission of the additional documentation because it will be unable to adequately respond to the additional documentation; (2) the reasons why the party offering the additional documentation did not

timely submit that documentation with their appeal or response; and (3) whether acceptance of the additional documentation will unduly delay the hearing on the appeal or the ability of the County Board of Education to timely rule on the merits of the appeal. An appeal may be remanded for further consideration if local remedies at the district level have not been exhausted or new evidence or grounds for request are produced.

The County Board of Education, in its discretion, may decide to limit the time each party has to present their position at the appeal hearing. The parties will be notified in advance of the hearing of any time limit imposed by the County Board of Education.

Each party to the appeal or their counsel may present oral statements to the County Board of Education. Each party may also present the oral statements of witnesses having knowledge of the facts relating to the appeal. The statements of parties and witnesses shall be taken in a narrative form and the parties and witnesses shall not be administered an oath prior to making their statements. No party shall have the right to examine or question the witnesses of the other party. The County Board of Education may do so at its discretion.

The County Superintendent, or designee, shall investigate to determine whether local remedies in the matter have been exhausted and to provide any additional information deemed useful to the County Board of Education in reaching a decision.

Students who are under consideration for expulsion or who have been expelled may not appeal inter-district attendance denials or rescissions while expulsion proceedings are pending, or during the term of the expulsion.

Although the County Board of Education has broad discretion, disposition of inter-district attendance appeals will generally be based upon the presumptions that: (a) the pupil is normally required to attend school in the district of residence of either the parent or the legal guardian; (b) such issues should be settled by the governing boards of the district(s) involved; and (c) only in extraordinary situations would the County Board of Education reverse the decisions of the local school board(s). The County Board of Education's scope of review of an inter-district appeal includes determining whether the subject school district(s) acted in compliance with the Education Code regarding inter-district transfers.

The County Board does not conduct the appeal hearing de novo. Instead it acts as an appellate body and examines the record before it to ascertain whether:

1. The district's policy was adhered to and consistently applied; and
2. The district's decision is supported by substantial evidence;

The County Board grants deference to the decision of governing board and existing district policies where the decision being appealed was made by the governing board and was adequately explained to the parent or guardian and will not override a lawful district policy absent a showing of substantial harm to the student.

In determining whether the appeal presents an extraordinary situation exists that supports a reversal of the decision of the governing board, the County Board may consider the following factors:

- (a) A substantial danger to the student's health or safety. There must be evidence of threats or injuries to the student or evidence that the student's health, welfare or safety is otherwise in clear, present, and continuing jeopardy or danger at the school of required attendance.
- (b) A severe hardship to parents or guardians, which is substantially greater than inconvenience, which would negatively affect the student's success in school. The parent or guardian must specify and describe the type of hardship in writing.
- (c) Continuity of attendance involving situations where a student has been allowed to attend a school in a district of non-residency, but the district alters policy.
- (d) The negative financial impact of educating the student (district of desired attendance) or losing the student (district of residence).
- (e) Overcrowding/Lack of space for the student in the receiving district, or evidence that the educational goals of the district will be otherwise impaired if it was required to admit the student and similarly situated students.

In applying these factors, the County Board may give them the weight it considers appropriate under the circumstances of each case.

The County Board ordinarily will not consider the following factors in determining whether an extraordinary situation exists:

- (a) The academic performance or reputation of a district or school;
- (b) Matters of preference or inconvenience to parents, the student, or the students' siblings caused by the parents' place of employment, transportation, child care or the availability of after-school options (unless considered under the district's policy) that will occur if the student is required to attend school in the student's district of residence.

The County Board's discretion is limited to granting or denying an appeal to attend in a particular district and not with regard to an individual school. The inter-district attendance appeal shall be denied unless the majority of all of the members of the County Board of Education (regardless of the number of members hearing the appeal) vote to grant the appeal. Once the County Board of Education has ruled on an appeal, it may not reconsider that ruling at a subsequent meeting.

Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the County Superintendent of Schools or designee to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State

Gov. Code 54950-54963

Description

The Ralph M. Brown Act

ADOPTED BY COUNTY BOARD:
REVISED:

July 3, 1975
January 6, 1994
April 7, 1994
June 12, 2008
December 2, 2010
December 11, 2014
November 3, 2022