

8000 COUNTY BOARD OF EDUCATION

8600 APPELLATE FUNCTIONS

8610 INTERDISTRICT ATTENDANCE


It is the policy of the Marin County Board of Education that, with few exceptions, children should attend school in the district of residence.

The Board shall adopt rules and regulations governing the appellate process when an interdistrict attendance agreement has been denied. These rules and regulations shall include the criteria the Board will consider in rendering its decision.

The district denying an interdistrict attendance permit or, in the absence of an agreement, the district of residence, shall advise the person requesting the permit of the right of appeal to the Marin County Board of Education.

References: Education Code 46601

Approved as to form:



Deputy County Counsel

Approved by
Marin County Board of Education - 9/26/89
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MARIN COUNTY BOARD OF EDUCATION
ADMINISTRATIVE REGULATIONS AND PROCEDURES

APPEALS FROM DENIAL OF INTERDISTRICT ATTENDANCE REQUESTS

Legal provisions for interdistrict attendance agreements are contained in California Education Code Sections 46600-46609. Section 46601 provides, upon a district's refusal to enter into such an agreement, that a person having legal custody of a child may appeal to the County Board of Education. Interpretations by County Counsel indicate that the County Board of Education has broad powers in relation to such an appeal and that its decision is binding on all parties.

The following procedures and criteria have been developed in order to guide the Marin County Board of Education and to provide clarification and explanation to those involved in such an appeal.

I. PROCEDURE

A. CONDITIONS UNDER WHICH AN APPEAL MAY BE MADE

1. **Permit sought for current term.**

If the governing board of either district neglects or refuses to enter into an interdistrict attendance agreement within 30 calendar days after the person having legal custody of a pupil has requested the board so to do, an appeal may be made to the County Board of Education.

2. **Permit sought for subsequent term.**

If, at least 30 calendar days prior to the commencement of a new term, the person having legal custody or the pupil requests each of the districts to grant an interdistrict permit and such permit is not granted, an appeal may be made to the County Board of Education within 14 calendar days of the commencement of the new term.

3. An appeal shall be accepted only upon verification by the Marin County Superintendent of Schools, or his/her designee, that appeals within the districts have been exhausted.

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B. FILING AN APPEAL

The written appeal should be filed on a form provided by the district office or the County Office of Education within 30 calendar days after either district fails or refuses to issue a permit. Failure to appeal within the required time is good cause for denial of an appeal. The appeal must include at least the following information:

1. Name(s), address and telephone number of the parent(s), guardian(s) or custodian(s) of the student(s).
2. Student(s) name(s), age(s), grade(s) and school(s) currently attending (or previously attended, if request is made when school is not in session).
3. Name of districts involved.
4. Actions taken on the request.
5. Reasons for requesting the interdistrict attendance agreement.

The County Board of Education shall, within 30 calendar days after the written appeal is filed, determine whether the pupil should be permitted to attend in the district in which he/she desires to attend and for what period of time. The County Board of Education or the County Superintendent of Schools may, for good cause, extend the time period for up to five (5) school days.

C. PREPARATION FOR HEARING THE APPEAL

1. Upon receiving the appeal, the County Superintendent, or his/her designee, will inform the person appealing concerning procedures by which the appeal will be heard.
2. The County Superintendent, or his/her designee, shall verify that appeals within the districts have been exhausted.
3. A date will be set for the appeal to be heard. Normally, appeals will be heard at regular meetings and must be filed at least one week prior to a regular meeting in order to be placed on the agenda for that meeting.

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4. Both school districts concerned will be informed of the appeal, of the date for the hearing, and of the appeal procedure and will be invited to have representatives at the hearing to speak regarding the appeal, if they so desire.
5. The person appealing may retain private legal counsel, if he/she so desires. The districts involved may also be represented by legal counsel.

D. CONDUCT OF THE HEARING

1. The hearing will be in a public meeting of the Board unless one or both of the following circumstances exists, in which case that portion of the hearing will be in closed session:
 - a. When the case of the person appealing includes allegations against identifiable staff members and/or other identifiable students.
 - b. When the case is such that it will require using information of a personal/confidential nature concerning the student(s) for whom transfer is requested and the parent(s), guardian(s) or custodian(s) request a closed session.
2. The Board will consider all evidence presented to it and render its decision in public session.

Strict rules of evidence as required in court proceedings will not be applied. Evidence to be admissible must be related to the issue and be the type of evidence on which responsible persons rely in the conduct of serious affairs. Hearsay is admissible, but cannot be the sole basis for a finding.

Evidence may include witnesses and documentary materials.

The Presiding Officer of the Board may recognize any concerned parties at any time during the hearing to ask questions or to add information.

3. The procedures shall be substantially as follows:
 - a. The Presiding Officer of the Board will briefly explain the procedures to be followed in the hearing.
 - b. The person appealing will be given an opportunity to speak regarding the appeal.
 - c. The representative of the school district which originally denied the request will be given an opportunity to speak regarding the appeal.
 - d. The representative of the other district involved will be given an opportunity to speak regarding the appeal.
 - e. The Board may call for additional testimony or documentary evidence as it deems necessary. In the event the Marin County Office of Education staff, at the request of the Board, has gathered information on the appeal, this information will be heard at this point.
 - f. The person appealing will be given the opportunity to present a summary and the same opportunity will be offered to the school district representatives.
 - g. The Board will then deliberate the matter and make a decision as to the disposition of the appeal.
 - h. If new evidence or grounds for the request are introduced, the County Board of Education may remand the matter for further consideration by the district or districts.
4. A written statement of the Board's action will be mailed to the person appealing and to each of the districts involved in the request.

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II. GUIDELINES AND CRITERIA

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.

It is noted that the changing of schools due to family moves often produces anxiety in children. This is viewed as a normal situation that is a natural part of growing up and that often results in positive social and emotional growth. It is not cause, in and of itself, for the granting of an interdistrict attendance request.

Other 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 should 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.

It should be noted that each school district establishes its own policy regarding interdistrict attendance requests. In considering appeals, the County Board of Education follows its own policy as stated in this document and not the policies of the districts concerned.

Primary considerations of this Board in acting on an appeal from the denial for a request for interdistrict attendance include:


1. Exceptional circumstances regarding the health, safety, emotional development, social development and/or academic development of the child concerned.
2. Exceptional circumstances regarding other family members that are relevant to the child's school attendance.
3. The effect that the granting of the appeal would have upon the districts concerned.

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4. The ability of the requested district to meet the stated needs of the child concerned.
5. The child care needs of the pupil.

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APPEAL REGARDING DENIAL OF INTERDISTRICT ATTENDANCE REQUEST

The District of Residence and the District of Desired Attendance must act on the transfer request prior to appeal to the Marin County Board of Education.

Parent/Guardian making appeal: _____

Address: _____

Phone: (Home) _____ (Work) _____ Email Address: _____

Student Name: _____ Age: _____ Grade Level (for year requested): _____

District of Residence: _____ Number of Years: _____

District board approved _____ denied _____ the request for interdistrict attendance.

Date of board action: _____

Have all appeals within the district been exhausted? Yes _____ No _____

District of desired attendance: _____

District board approved _____ denied _____ the request for interdistrict attendance.

Date of board action: _____

Have all appeals within the district been exhausted? Yes _____ No _____

State the Reason for Request: (Attach additional sheets if necessary. Also attach any supporting documentation.)

Request for Closed Session:

The hearing will be in a public meeting of the Board unless one or both of the following circumstances exists (check one/both).

_____ The appeal includes allegations against staff members and/or other students.

_____ The case is such that it will require using information of a personal/confidential nature concerning the student for whom transfer is requested.

Date: _____ Signature: _____

Parent will attend meeting: Yes _____ No _____

Please submit completed form to: Marin County Office of Education
P.O. Box 4925/1111 Las Gallinas Avenue
San Rafael, CA 94913
(415) 499-5801

This form must be submitted within 30 calendar days of the failure or refusal to issue a permit allowing the attendance, to the County Board of Education. Failure to appeal within the required time is good cause for denial of an appeal.

California Education Code 46601 (a)(b)(c): Appeal to County Board

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 interdistrict attendance in the current term, or, in the absence of an agreement between the districts, fails or refuses to enter into an agreement, the district denying the permit, or, in the absence of an agreement, the district of residence, shall advise the person requesting the permit of the right to appeal to the county board of education.

If, within 14 calendar days after the commencement of instruction in a new term in each of the school districts, respectively, when the person having legal custody of a pupil has so requested separately of each district not later than 30 calendar days prior to the commencement of instruction in that term in that district, the governing board of either district fails to approve interdistrict attendance in that term, or, in the absence of an agreement between the districts to permit that attendance, fails or refuses to enter an agreement, the district denying the permit, or, in the absence of an agreement, the district of residence, shall advise the person requesting the permit of the right to appeal to the county board of education.

Notifying districts shall also, in all instances, advise persons making unsuccessful requests for interdistrict attendance of all of the following:

- (a) The person having legal custody may appeal, within 30 calendar days of the failure or refusal to issue a permit, or to enter into an agreement allowing the attendance, to the county board of education having jurisdiction over the district of residence of the parent or legal guardian or person having legal custody. Failure to appeal within the required time is good cause for denial of an appeal. An appeal shall be accepted only upon verification by the county board's designee that appeals within the districts have been exhausted. 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 its merits.
- (b) The county board of education shall, within 30 calendar days after the appeal is filed, determine whether the pupil should be permitted to attend in the district in which he desires to attend and the applicable period of time. In the event that compliance by the county board within the time requirement for determining whether the pupil should be permitted to attend in the district in which he or she desires to attend is impractical, the county board or the county superintendent of schools, for good cause, may extend the time period for up to an additional 5 school days. 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. The county board rules may provide for the granting of continuances upon a showing of good cause.
- (c) The county supervisor of attendance, or other designee of the county superintendent of schools, 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 in reaching a decision.

