



INTERDISTRICT ATTENDANCE APPEAL HANDBOOK

Adopted May 16, 2018
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TO ASSIST PARENTS, GUARDIANS, STUDENTS
AND SCHOOL DISTRICTS IN UNDERSTANDING
THE INTERDISTRICT ATTENDANCE
APPEAL PROCESS

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INTERDISTRICT ATTENDANCE APPEAL HANDBOOK

Introduction

The Trinity County Board of Education has prepared this Handbook to provide direction and information to students and/or their parents/guardians who wish to appeal a school district's decision not to grant an interdistrict attendance agreement and to school districts who may be involved in the appeal process.

This Handbook and Trinity County Board of Education Board Policy 5117.1 which is included in the appendices to this Handbook, constitute the official procedures adopted by the Trinity County Board of Education for conducting interdistrict attendance appeals.

The Trinity County Board of Education is committed to an objective review and consideration of appeals for students denied interdistrict attendance agreements from local school districts.

The laws on interdistrict attendance computation, interdistrict attendance agreements, and interdistrict attendance appeals found in the California Education Code, Sections 46600-46610, as well as the local school district's policies and administrative regulations for interdistrict attendance, also apply in these appeals. Students and/or their parents/guardians have the right to review student records at the school district, and the right to consult with and engage the services of an advocate or an attorney at their own expense.

II. What Is the Purpose of an Appeal?

The County Board of Education has legal authority to hear an appeal of an interdistrict transfer application after the school district(s) have denied or failed to timely rule on a student's interdistrict attendance request [Education Code Sections 46601(a) and 46600.1(d)(1)]. The County Board of Education will determine whether to grant or deny an interdistrict attendance agreement after reviewing the relevant facts from the student, parent/guardian, and local school district(s) involved.

Limitations on County Board Authority

There are limitations on the types of appeals and issues the County Board of Education can hear. For example, the County Board has no authority to consider the following interdistrict attendance appeals or issues:

1. To determine the specific school within the school district where the student will be enrolled. The authority to determine a specific school assignment is reserved for the administration of the school district of proposed enrollment only;

2. Denial of an interdistrict transfer request or rescission of an interdistrict transfer permit for a student under consideration for expulsion or who has been expelled while expulsion proceedings are pending or during the term of the expulsion [Education Code Section 46601(b)(4)];
3. Denial of an *intradistrict* transfer between schools within the same district [Education Code Section 35160.5(b)];
4. A dispute over the nature of the placement of a special education student or the services provided to a special education student pursuant to state and federal laws and regulations governing the Individualized Education Plan (IEP) process. Such a dispute should be handled by the district of residence through special education procedures [Education Code Section 56505; 20 U.S. Code Section 1415(f)];
5. A determination by a school district regarding the validity of a caregiver affidavit [Education Code Section 48204(a)(5), and Family Code Section 6550, et seq.];
6. Denial of enrollment in a school district based exclusively upon parent physical employment within the district under Education Code Section 48204(b). Section 48204 is a statute regarding ways that a student may *establish residency* in a school district, and therefore is outside the purview of interdistrict transfer appeals;
7. Revocation or rescission of an existing interdistrict transfer permit that has been revoked or rescinded in accordance with the policy of the governing board of the school district of enrollment or school district of residence [Education Code Section 46600.1(d)(2)(B)];
8. Denial of interdistrict transfer request by the school district of proposed enrollment when no permit has been first issued by the school district of residence [Education Code Section 46600.1(d)(2)(C)];
9. Denial of or failure by a school district to act upon an interdistrict transfer request due to the failure of the parent/guardian to meet any timelines for interdistrict transfer requests established by the school district [Education Code Sections 46600.1(d)(2)(A) and 46600.2(a)(4)];
10. Denial of an interdistrict transfer request based on the Open Enrollment Act under Education Code section 48350, et seq; and
11. Denial of an interdistrict transfer request based on School District of Choice under Education Code section 48300, et seq.

IV. What Are the Actions the County Board of Education May Take?

Under Education Code Section 46601(b)(1), the County Board of Education's review of the appeal may result in:

1. Granting the interdistrict attendance appeal and enrolling the student in the new school district;
2. Denying the appeal and ordering the student returned to the school district of residence; or
3. In rare cases, returning the case to the local school district(s) for further consideration of new evidence or new grounds for the request for interdistrict attendance.

V. When May an Appeal Be Filed?

Subject to the appeal process set forth below, the Superintendent or designee of the district of residence and the district of proposed enrollment shall notify the parent/guardian as to whether the request is approved or denied, within:

- Thirty (30) calendar days for a current year request; or
- As soon as possible, but no later than fourteen (14) calendar days after the commencement of instruction in the school year for which interdistrict transfer is sought, for a future year request [Education Code Section 46600.2(a)(5)(A)-(B)].

“Current year request” means a request for interdistrict transfer received beginning fifteen (15) calendar days before the commencement of instruction in the school year for which interdistrict transfer is sought [Education Code Section 46600.1(c)].

“Future year request” means a request for interdistrict transfer received up until fifteen (15) calendar days before the commencement of instruction in the school year for which interdistrict transfer is sought [Education Code Section 46600.1(e)].

If the interdistrict request is denied, the district denying the request shall notify the parent/guardian in writing of the appeal process to the County Board of Education as specified in Education Code section 46601 [Education Code Section 46600.2(b)]. If the district of residence or the district of proposed enrollment does not act within of the timelines Education Code Section 46600.2(a)(5)(A)-(B) following receipt of the interdistrict transfer application, the district denying the request shall notify the parent/guardian of the appeal process to the County Board of Education as specified in Education Code section 46601 [Education Code Sections 46600.1(d)(1) and 46600.2(b)].

In general, students and/or their parents or guardians must request an appeal hearing within thirty (30) calendar days of when the interdistrict attendance request was denied by the school district [Education Code Section 46601]. Sometimes the school district does not respond to the request in a timely manner or simply fails to respond at all. Listed below are three different situations and a description of when the thirty (30) calendar day timeline to file an appeal starts.

1. District Denies Request

In most situations, a school district will act on an interdistrict attendance request either orally or in writing. The appeal must be filed with the County Board of Education within thirty (30) calendar days from the date that the request was denied by either the school district of residence or the school district of proposed enrollment, or both [Education Code Section 46601(a)].

2. District Fails to Act on Request that was Submitted at Least Fifteen (15) Days Prior to the First Day of Instruction for the Next School Year, known as a “Future Year Request”

If an interdistrict attendance agreement for the next school year has been requested at least fifteen (15) calendar days prior to the first day of instruction for that school year, and the school district(s) fail to respond to the request, the student and/or parent or guardian must wait at least fourteen (14) calendar days after the commencement of instruction in the school year for which interdistrict transfer is sought for a response from either of the school districts prior to filing an appeal [Education Code Sections 46600.1(e) and 46600.2(a)(5)(B)]. If a response is not received from either the district of residence or the district of proposed enrollment after fourteen (14) calendar days into the new school year have passed, the student and/or parent or guardian may appeal to the County Board of Education [Education Code Section 46600.2(a)(5)(B)]. For an appeal of a district’s failure to act upon a future year request to be timely, the student and/or parent or guardian must appeal to the County Board of Education within thirty (30) calendar days of the 14th calendar day of the new school year [Education Code Sections 46600.1(e), 46600.2(a)(5)(B), and 46601(a)].

Example: Student submits interdistrict transfer request for the 2021-2022 school year on June 30, 2021. First day of instruction for 2021-2022 school year is August 16, 2021. Districts have until August 30, 2021 to make a final decision on the interdistrict transfer request. If Districts have not made a final decision by August 31, 2021, Student can appeal to the County Board of Education. Student must submit the appeal by August 29, 2021 for the appeal to be timely.

3. District Fails to Act on Request Filed During the School Term or Within Fifteen (15) Calendar Days of the Commencement of Instruction in the School Year for Which Interdistrict Transfer is Sought (“Current Year Request”)

If an interdistrict attendance agreement for the current school year has been requested during the current school year or less than fifteen (15) days prior to the first day of the new school year, and the school district(s) fail to respond, the student and/or parent or guardian must wait thirty (30) calendar days from the request date for a response from the school district(s) appeal [Education Code Sections 46600.1(c) and 46600.2(a)(5)(A)]. If the district(s) do not respond within thirty (30) calendar days of the request date, the student and/or parent or guardian has thirty (30) calendar days from the 30th day after the request date to file an appeal with the County Board of Education.

Example: Student submits interdistrict transfer request for the 2021-2022 school year on August 10, 2021. First day of instruction for 2021-2022 school year is August 16, 2021. Districts have until September 9, 2021 to make a final decision on the interdistrict transfer request. If Districts have not made a final decision by September 10, 2021, Student can appeal to the County Board of Education. Student must submit the appeal by October 10, 2021 for the appeal to be timely.

NOTE: A school district may have a specific time period during which the district will accept and consider applications for interdistrict transfers. This time period should be set forth in the district's Board Policy or Administrative Regulation pertaining to interdistrict transfers and/or available on the district's website [Education Code Section 46600.2(a)]. Students and/or parents or guardians should review the interdistrict attendance Board Policies and Administrative Regulations for both the district of residence and district of proposed enrollment prior to submitting a request for interdistrict attendance. Additionally, before filing an appeal, an appellant should check the policies of the school district of residence and the school district of proposed enrollment to see if there is any type of internal appeal procedure (e.g., decision by the district superintendent may be appealed to the district school board) [Education Code Section 46600.2(a)(3)]. If there is an internal appeal procedure, an appellant must use that procedure before filing an appeal with the County Board of Education [Education Code Section 46601(b)(1)]. In that case, the thirty (30) calendar day time period for filing an appeal does not begin until the final decision is made by the district or its governing board. If a student is under an expulsion order, the denial of the requested district may not be appealed [Education Code Section 46601(b)(4)].

VI. How Does a Person Request an Interdistrict Appeal Hearing?

The appeal process begins with completing and filing a written form called: "Appeal of Denial of Interdistrict Attendance." This form is included in this Handbook. The form may be delivered in person or by placing it in the mail to the following address:

Superintendent of Schools
Trinity County Office of Education
PO Box 1256
Weaverville, CA 96093
Telephone: 530-623-2861

The form may also be submitted electronically to: superintendent@tcoek12.org

Please read the entire Handbook before completing the form. We especially recommend reading the section "What Facts the County Board Will Consider", that begins on page 11 of this Handbook, before completing the section of the form entitled, "Reason for Request for Appeal."

The form must be completed, signed, and returned within the applicable time limits. Please complete all sections of the form legibly.

The completed appeal form should be accompanied by:

- (1) a copy of the original interdistrict transfer request;
- (2) any letters from the district of residence regarding the request;
- (3) any letters from the denying district regarding the request; and
- (4) any other supporting documentation the appellant wants the County Board to consider.

The Board will accept a date-stamped copy of the request for an interdistrict transfer filed with the district as evidence that the appellant has complied with district procedures in the event that the district fails to act on the original request.

The reason(s) for the appeal must be the same as those stated on the original request submitted to the district for an interdistrict transfer. If the reasons on the appeal are substantially different, the appellant may be asked to reapply for an interdistrict transfer with the district of proposed enrollment [Education Code Section 46601(b)(1)]. The effective date of the appeal submission is the date on which the completed and signed appeal document is received by the County Superintendent of Schools.

VII. What If the Appeal Is Late?

Failure to appeal within the required time is good cause for the rejection of an appeal [Education Code Section 46601(b)(1)].

VIII. How Is a Request for an Interdistrict Appeal Hearing Processed?

County Superintendent's Designee Will Verify Information

After receiving an appeal request, the County Superintendent's office will review it and seek to verify certain information before a hearing date is scheduled [Education Code Section 46601(b)(1)]. The County Superintendent's office will verify whether the student is subject to expulsion. Student who are under consideration for expulsion, or who have been expelled pursuant to Sections 48915 and 48918, may not appeal interdistrict attendance denials or rescissions while expulsion proceedings are pending, or during the term of the expulsion [Education Code Section 46601(b)(4)].

The County Superintendent's office will also check to see if the appellant has exhausted all appeal processes in the local school districts [Education Code Section 46601(b)(1), (3)]. If all of the internal school district appeal options have not been used, the appellant will be asked to complete the internal school district appeal process before going forward with a request for an interdistrict appeal hearing before the County Board of Education [Education Code Section 46601(b)(1)].

The County Superintendent's office will review the case to determine that all timelines have been honored prior to setting a hearing. Misinformation and/or falsification of information may cause rejection of an appeal.

Setting a Hearing Date

If the written appeal is complete and appropriate, the County Superintendent will place the matter on the County Board of Education's agenda for a regular or special meeting to be held no later than thirty (30) calendar days following the effective date of the appeal [Education Code Section 46601(b)(2)(A)(i)]. The County Board or the County Superintendent may extend this thirty (30) calendar day period an additional five (5) schooldays for good cause [Education Code Section 46601(b)(2)(B)]. The County Superintendent, or designee, has discretion to approve a request for postponement filed by the appellant or by the school district for good cause, provided the request is filed in writing at least five (5) calendar days prior to the hearing date, except in an emergency [Education Code Section 46601(b)(2)(B)].

Notification of Hearing Date

The County Superintendent's office will notify the appellant, the district of residence, and the district of proposed enrollment of the date, time, and place of the appeal hearing and of the opportunity to submit written statements and documentation and to be heard on the matter [Education Code Section 46601(b)(2)(B)].

Other Issues

After an appeal has been filed, the County Superintendent's office may contact the appellant for the following reasons:

1. To explain the appellant's rights and the procedures for the case.
2. To request that certain documents be made available to assist the County Board of Education in making its determination.

IX. Preparing for the Interdistrict Appeal Hearing

Filing a Written Statement Is Important

The County Board recommends that the parent/guardian or a representative file a pre-hearing written statement with the County Board of Education (please submit a typewritten statement if at all possible). Any written statement must be filed at least ten (10) calendar days prior to the date set for the hearing before the County Board of Education. Send or deliver copies of the statement to the school district of residence and the school district of proposed enrollment when the written statement is filed with the County Board of Education. An appellant may employ an attorney or other advocate, at the appellant's expense, to prepare a written statement for the hearing. (See Resource List in Appendices.) An appellant may also employ a translator, at the

appellant's expense, to assist in preparing a written statement and with the oral presentation at the hearing. An appellant should be prepared to orally present his or her case and to answer questions from members of the Board.

District Written Response

Both the district of residence and the district of proposed enrollment may each submit a written response statement. The school districts' statements must be filed at least ten (10) calendar days prior to the hearing date. The school districts shall deliver a copy to the parent and the other district no later than the date upon which the statement is filed with the County Board of Education.

Attach Documentation to Written Statement

Adequate documentation is helpful in presenting the case. Evidence is most effective when it is provided in writing, related to the issue(s) at hand, and is the type of evidence upon which reasonable persons can rely in the conduct of serious affairs. If the written statement makes reference to documents, even documents previously submitted with the appeal, they should be attached to the written statement.

Some examples of documentary evidence include:

1. A copy of the original request for an interdistrict attendance permit or agreement and any written denial(s).
2. Documents to support the request for an interdistrict transfer. For example, in reviewing the factors that the County Board will consider, certain documents may support the appellant's position. Those documents could be professional recommendations by doctors, educators, psychologists, or others. Verification of participation or non-availability of childcare providers, transportation providers, teachers, or others could be helpful. Brochures or written information about special programs in the school district may be submitted as well.

Privacy of Documents Provided

There are numerous laws that protect the release of confidential records. For example, there are certain laws regarding the privacy and confidentiality of student records. [See Education Code Section 49060, et seq.; 20 U.S.C. § 1232g; 34 CFR Part 99.] There are also laws regarding the confidentiality of juvenile court records and medical records. If the appellant wants the County Board to consider material from confidential records, the appellant may wish to consult legal counsel regarding such documents.

Multiple Appeals

Families with multiple appeals may have the appeals heard separately or together as one appeal. If all the appeals are heard as one, there will still be a separate vote on each child, but only one written decision from the County Board of Education.

Legal Advocate at the Hearing

Although the hearing is informal, legal counsel or a legal advocate may attend. The use of any legal counsel will be at the appellant's expense. If legal counsel will attend the hearing on the appellant's behalf, it is our local requirement that the appellant must notify the County Board, the school district of residence, and the school district of proposed enrollment at least five (5) calendar days prior to the hearing.

A Brief Verbal Presentation

The County Board of Education will have read and considered the written information that was provided prior to the hearing. In addition, participants should be prepared to make a brief oral presentation of their case and to respond to any questions the County Board may have during the hearing. Participants should be prepared to make a brief oral presentation focusing on the factors that are relevant under the Board's policy for deciding interdistrict transfer appeals. If relevant to the case, or in the case of translation needs, a witness or witnesses may make a statement on behalf of the student. Please make sure any witnesses are prepared to make a brief presentation and that the information they provide relates to the factors considered by the Board under its policy.

X. What Facts Will the County Board Consider?

In its discussion and deliberations on an appeal, the County Board of Education will consider the conditions of, and the reasons for, a request for a transfer.

The County Board of Education recognizes a presumption that a student is generally required to attend school in the district of residence. That presumption may be rebutted if the parent/guardian presents evidence satisfying one or more criteria favoring a transfer to the district of proposed enrollment. If the appellant is unable to present sufficient evidence to justify a transfer, the County Board may rule against the appeal request without considering the school district's evidence of an adverse impact. If the County Board of Education determines that appellants have sufficiently proved that one or more of the criteria favoring transfer applies, the County Board will then consider whether there are any adverse impacts presented by the district of residence or the district of proposed enrollment.

The appellant would then have an opportunity to respond, including offering evidence to show how some or all of the adverse impacts on the school district(s) do not apply or could be alleviated.

Misinformation and/or falsification of information provided by either party shall be good cause for deciding against that party.

A. Factors Which May Support Granting an Appeal:

(1) **The student's desire to remain in his/her school of current attendance for the balance of the semester or school year despite his/her or parent's change of residence.** The student'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 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.** Appellants are strongly encouraged to provide written documentation supporting 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 a similar document.

(3) **The acceptance of a sibling of the student for attendance for the current school year by the district of proposed enrollment when requiring the students to attend different districts would cause a hardship on the family.** Appellants are strongly encouraged to submit written documentation of the sibling's enrollment and to demonstrate a hardship based upon childcare needs, transportation issues, employment location, or other significant factors.

(4) **The student's psychological or physical well-being will be seriously adversely impacted by remaining in the district of residence.** Adverse impacts on a student's psychological or physical well-being must be supported by the written statement of a qualified medical or behavioral professional having a professional relationship with the student. If the student and/or parent/guardian do not have access to a qualified medical or behavioral professional, the County Board may consider other documentation of adverse impacts to psychological or physical well-being, such as a letter from a school counselor.

(5) **A substantial danger to the student's health or safety exists by remaining in the district of residence.** 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. Substantial danger based upon transportation issues may be included under this criteria.

(6) **Bullying:** There are certain protections for victims of bullying under the Education Code in regards to transfers:

- 46600(b): A pupil who has been determined by personnel of either the school district of residence or the school district of proposed enrollment to have been the victim of an act of bullying, as defined in subdivision (r) of Section 48900, committed by a pupil of the school district of residence shall, at the request of the parent, be given **priority** for interdistrict attendance.
- 46600(d)(2): A school district of residence shall approve an intradistrict transfer request for a victim of an act of bullying unless the requested school is at maximum capacity, in which case the school district shall accept an intradistrict transfer request for a different school in the school district. Notwithstanding any

other law, and regardless of whether an agreement exists or a permit is issued pursuant to this section, if the school district of residence has only one school offering the grade level of the victim of an act of bullying and therefore there is no option for an intradistrict transfer, the victim of an act of bullying may apply for an interdistrict transfer and the school district of residence **shall not prohibit the transfer if the school district of proposed enrollment approves the application for transfer.**

- 46600(d)(4)(B): A “victim of an act of bullying” means a pupil that has been determined to have been a victim of bullying by an investigation pursuant to the complaint process described in Section 234.1 and the bullying was committed by any pupil in the school district of residence, and the parent of the pupil has filed a written complaint regarding the bullying with the school, school district personnel, or a local law enforcement agency

(7) A specialized and specific district academic program or service in grades 7-12 is unavailable in the district of residence and is critical to the educational well-being of the student, because of special circumstances. An academic program is defined as a series of classes in a single subject or in related subjects extending over more than one (1) year in grades 7-12.

(8) A need to change the student’s social environment, as recommended by juvenile authorities, such as School Attendance Review Board, county child welfare, and/or social service agency staff. Appellants are strongly encouraged to provide written documentation from a social services agency/staff, a law enforcement agency/staff, or the School Attendance Review Board that, due to documented cases of serious home or community issues, it is inadvisable for the student to remain in the school district of residence.

(9) A severe and demonstrated hardship, in terms of time and/or costs to the person having physical custody, will result if the student is required to attend the district of residence. Appellants should provide any relevant evidence and documentation in support of this position.

(10) A severe and demonstrated hardship in obtaining before-school and/or after-school supervision of the student would result if the student is required to attend the district of residence. Appellants are strongly encouraged to provide any relevant evidence in support of this position. A written, signed statement attesting to the efforts the appellants have made to obtain suitable supervision should be included in the evidence.

B. Factors Which Do Support Granting an Appeal

(11) Whether the district of residence and/or the district of proposed enrollment followed the proper procedure and timeline in consideration of the parent/guardian’s application for the interdistrict transfer in accordance with

Education Code sections 46600.2(a)(5)(A)-(B) and 46601. For example, did the district of residence or the district of proposed enrollment act within the required legal timelines? If not, was the parent/guardian notified of the appeal procedures to the County Board of Education and/or did the parent/guardian agree to waive the thirty (30) calendar day timeline? Appellants are strongly encouraged to provide any documentation that relates to this factor.

(12) Whether the district of residence and/or the district of proposed enrollment followed their own respective policies in deciding whether to grant the interdistrict transfer request. Appellants must specify which part of the relevant policy was not followed and provide any relevant evidence in support of this position.

(13) Whether the district of residence and/or the district of proposed enrollment violated the law in denying a request for an interdistrict transfer. There are certain situations in which a district is legally required to grant an interdistrict transfer request. For example, under Education Code Section 46600(d)(1), a school district of residence shall not prohibit the transfer of a student who is a child of an active duty military parent to a school district of proposed enrollment if the school district of proposed enrollment approves the application for transfer. Additionally, under Education Code Section 46600(d)(2) if a district of residence has only one school offering the grade level of the victim of an act of bullying and therefore there is no option for an intradistrict transfer, the victim of an act of bullying may apply for an interdistrict transfer and the school district of residence shall not prohibit the transfer if the school district of proposed enrollment approves the application for transfer. Appellants must identify which law the appellant believes the school district of residence or school district of proposed enrollment did not abide by and provide any relevant evidence in support of this position.

(14) Other exceptional or extraordinary circumstances, which would weigh heavily in favor of the student. Appellants must specify and describe the type of exceptional or extraordinary circumstance and its effect on the student and provide any relevant evidence in support of this position.

C. Adverse Impacts Upon District

The County Board, in its discretion, may determine that evidence provided by the affected district(s) to justify one of the adverse impacts listed below outweighs facts supporting one or more of the above criteria justifying granting the appeal.

(1) The negative financial impact of granting the transfer. The impacted district(s) are strongly encouraged to provide specific written documentation and supporting evidence that the student's transfer would place an undue hardship on the district's operations and/or resident students in terms of costs, reduced services, or other unacceptable outcomes. A written statement, signed by the Superintendent, attesting that he or she has reviewed and verified the accuracy of the factual information submitted, should be included in the evidence.

(2) **The student's demonstrated failure to meet reasonable standards relating to behavior, attendance, or diligence to studies.** Demonstration of such failure by the district of proposed enrollment must be based on a written explanation of the district's previous experience with the student 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 student in the receiving district.** The district of proposed enrollment is strongly encouraged to demonstrate in writing that the student's transfer would result in an undue hardship on the district's resident students in terms of overcrowding or priority for enrollment in a specific program and/or would be a violation of law, district policy, or a collective bargaining agreement regarding class sizes or facilities use.

(4) **Other exceptional or extraordinary circumstances, which would weigh heavily in favor of the affected school district.** The school district must specify and describe the type of exceptional or extraordinary circumstance.

XI. Conducting the Appeal Hearing

Hearings are conducted in closed session, pursuant to Education Code Section 35146, during regular or special Trinity County Board of Education meetings held at the:

Trinity County Office of Education
Board Room (Granite Room)
PO Box 1256
Weaverville, CA 96093

It is the intent of the County Board of Education to conduct the hearing in a fair and sufficiently informal manner to encourage open communication and understanding. The hearing will also be conducted in such a manner that no special legal expertise is necessary and so that all parties have the opportunity to present their case fairly and completely. An appellant may have legal counsel or an advocate present if so desired, at the appellant's own expense. If legal counsel will attend the hearing, the appellant must notify the County Board, the school district of residence, and the school district of proposed enrollment at least five (5) calendar days in advance. Hearing proceedings may be recorded.

During an appeal hearing, the parent or guardian, the student (optional), and the representatives of the districts, will take seats at a table in front of the County Board.

The hearing is conducted as follows:

The Board will consider the appeal in closed session, unless the student or parent/guardian requests in writing, within 48 hours after receipt of written notice of the County Board's intention to consider the appeal in closed session, that the appeal be considered in open session

[see Education Code Section 35146]. The President of the Board shall conduct the proceedings, which generally will include the following steps:

1. Introduction of all interested parties.
2. The parent or guardian, or the student, and/or representative of the student, will present their case.
3. The district of residence will be given an opportunity to describe the action taken by that district and the reasons therefore.
4. The district of proposed enrollment will be given an opportunity to describe the action taken by that district, if any, and the reasons therefore.
5. Members of the Board may question any of the parties to the hearing, and the staff, and consult with legal counsel, if necessary.
6. When the President deems that all parties have completed their presentations, the President shall call for a motion and the Board shall make its decision. The County Board reserves the right to discuss the appeal in Executive Session before reaching a decision. Any motion shall require four affirmative votes for passage.
7. Whether the appeal is considered in closed or open session, the final action of the County Board shall be taken in open session and the result of such action shall be a public record [Education Code Section 35146].

XII. What Happens at the Conclusion of the Appeal Hearing?

Following action by the County Board, a written decision incorporating the County Board's rationale will be mailed to all parties. The County Board shall render a decision within three (3) schooldays of any hearing conducted by the County Board unless the parent or guardian requests a postponement [Education Code Section 46601(b)(2)(B)]. The County Board's decision is final, and there is no process for administrative reconsideration or appeal.

If the County Board determines that the interdistrict attendance appeal should be approved, the student will be admitted to the school district of proposed enrollment without delay [Education Code Section 46602(a)]. The County Board may order attendance in a district, but not in a specific school.

XIII. Provisional Attendance Pending Hearing Outcome

For a period not to exceed two school months, the governing board of a school district of proposed enrollment may provisionally admit a student who resides in another school district, pending a decision of the governing boards of the two school districts, or by the County Board

upon appeal, regarding the interdistrict attendance. A student shall be eligible for provisional attendance only upon providing reasonable evidence that a final decision for a request for interdistrict transfer is pending either with the school district of residence, the school district of proposed enrollment, or the county board of education [Education Code Section 46603(a)(1)].

The period of provisional attendance begins on the first day of the student's attendance in the school in the district of proposed enrollment [Education Code Section 46603(a)(2)].

If a decision by the school districts or the County Board has not been rendered by the conclusion of two school months, and the school districts or the County Board are still operating within the prescribed timelines, the student shall not be allowed to continue attendance at the school district of proposed enrollment. The student is subject to compulsory full-time education pursuant to Section 48200 and shall enroll in the school district of residence or in another educational program [Education Code Section 46603(a)(3)].

Provisional attendance shall not guarantee that a school district or County Board will approve a request for interdistrict transfer [Education Code Section 46603(a)(4)].

Regardless of whether the decision on interdistrict attendance is allowed, the provisional attendance may be counted by the school district of proposed enrollment for state apportionment purposes [Education Code Section 46603(b)].

APPENDICES TO THE INTERDISTRICT APPEAL HANDBOOK

Board Policy 5117.1
Interdistrict Attendance Appeals

Education Code Sections 46600-46603

Appeal of Denial of Interdistrict Attendance (Form)

INTERDISTRICT ATTENDANCE APPEALS

When a school district within the jurisdiction of the County Board of Education fails or refuses to issue an interdistrict attendance permit to a student or fails to provide written notification of its decision within prescribed timelines, the student's parent/guardian may appeal the decision to the County Board. (Education Code 46601)

An appeal shall be filed in writing, by a person having legal custody of the student, within 30 calendar days of the district's final denial of the transfer. An appeal shall be accepted only upon verification by the County Superintendent of Schools or designee that appeals in the district have been exhausted. (Education Code 46601)

Failure to appeal the district decision to the County Board within 30 days is good cause for rejection of the appeal. (Education Code 46601)

An appeal that is not filed within 30 days may, at the discretion of the County Board, be considered on its merits if it includes the reason(s) that the appeal is late and the County Board determines that the reasons provided are good cause to conduct the hearing.

In addition, the County Board shall not consider appeals of any of the following:

1. An interdistrict attendance request that was deemed abandoned due to the parent/guardian's failure to meet district timelines (Education Code 46600.1)
2. An existing interdistrict transfer permit that has been revoked or rescinded in accordance with the policy of the district's governing board (Education Code 46600.1)
3. The denial of a request by the district of proposed enrollment when no permit has first been issued by the district of residence (Education Code 46600.1)
4. An interdistrict attendance request submitted for a student who is being considered for expulsion or has been expelled, while expulsion proceedings are pending or during the term of the expulsion (Education Code 46601)

Hearing

Prior to making its determination, the County Board shall hold a hearing at which the district(s) and the student's parent/guardian will have an opportunity to present their positions on the denial of the interdistrict attendance permit.

As authorized for any county with 180,000 or more countywide ADA, the County Board may appoint a hearing officer or impartial administrative panel of three or more certificated persons who are not County Board members or employees of any school district involved in the requested transfer to hear the appeal. In hearing the appeal, the hearing officer/administrative panel shall adhere to the law and this policy. (Education Code 46601)

No later than 10 days prior to the hearing, the secretary to the County Board shall serve a notice of the hearing upon the student's parents/guardians, the district of residence, and the district of proposed enrollment, by certified mail with return receipt requested. The notice shall include details of the date, time, and place of the hearing. It shall also notify the parents/guardians of the opportunity to be heard during the hearing and to

submit written statements and documentation to the County Board prior to the hearing, including the deadline by which the parties may submit such statements and documentation.

The hearing shall be conducted in open session except when any information to be presented about the student is determined by the County Superintendent or designee prior to the hearing to be confidential information. The County Board may also decide at any time during open session to reconvene in closed session if necessary to protect confidential information about the student that may be presented during the hearing.

Regardless of whether the hearing is conducted in open or closed session, any action related to the hearing shall be taken in open session and shall be a matter of public record. No information shall be released in violation of student privacy rights provided in law. (Education Code 35146; 20 USC 1232)

Families with multiple appeals may have them heard separately or as one appeal. Regardless of the hearing format, the County Board may decide to issue more than one decision.

Final Decision of the County Board

The County Board shall, within 30 calendar days after the appeal is filed, determine whether the student should be permitted to enroll in the district of proposed enrollment. The County Board or the County Superintendent may extend the time period for up to an additional five school days for good cause. The County Board may permit additional continuances for good cause. (Education Code 46601)

A decision shall be rendered on the appeal within three school days of the hearing unless the student's parent/guardian requests a postponement. (Education Code 46601)

The County Board shall either grant or deny an appeal on its merits. However, if new evidence or grounds for the request are introduced, the County Board may remand the matter to the district for further consideration. (Education Code 46601)

When the County Board determines that a student should be permitted to attend school in the district of proposed enrollment, the County Board shall also determine the applicable period of attendance and the student shall be admitted to school in that district without delay. (Education Code 44601, 46602)

Written notice of the decision by the County Board shall be delivered to the parent/guardian of the student and to the governing boards of both districts. (Education Code 46602)

EDUCATION CODE SECTIONS 46600-46603

46600. (a) (1) The governing boards of two or more school districts may enter into an agreement, for a term not to exceed five school years, for the interdistrict attendance of pupils who are residents of the school districts. The agreement may provide for the admission to a school district other than the school district of residence of a pupil who requests a permit to attend a school district of proposed enrollment that is a party to the agreement and that maintains schools and classes in transitional kindergarten, kindergarten, or any of grades 1 to 12, inclusive, to which the pupil requests admission. Once a pupil in transitional kindergarten, kindergarten, or any of grades 1 to 12, inclusive, is enrolled in a school pursuant to this chapter, the pupil shall not have to reapply for an interdistrict transfer, and the governing board of the school district of enrollment shall allow the pupil to continue to attend the school in which the pupil is enrolled, except as specified in paragraphs (2) and (4).

(2) The agreement shall stipulate the terms and conditions under which interdistrict attendance shall be permitted or denied. The agreement may contain standards for reapplication agreed to by the school district of residence and the school district of enrollment that differ from the requirements prescribed by paragraph (1). The agreement may stipulate terms and conditions established by the school district of residence and the school district of enrollment under which the permit may be revoked.

(3) The designee of the superintendent of the school district of residence shall issue an individual permit verifying the school district's approval, pursuant to policies of the governing board of the school district and terms of the agreement for the transfer. A permit shall be valid upon concurring endorsement by the designee of the governing board of the school district of proposed enrollment. The stipulation of the terms and conditions under which the permit may be revoked is the responsibility of the school district of enrollment.

(4) Notwithstanding paragraph (2), a school district of residence or school district of enrollment shall not rescind existing transfer permits for pupils after June 30 following the completion of grade 10, or for pupils in grade 11 or 12.

(b) A pupil who has been determined by personnel of either the school district of residence or the school district of proposed enrollment to have been the victim of an act of bullying, as defined in subdivision (r) of Section 48900, committed by a pupil of the school district of residence shall, at the request of the parent, be given priority for interdistrict attendance.

(c) In addition to the requirements of subdivision (e) of Section 48915.1, and regardless of whether an agreement exists or a permit is issued pursuant to this section, any school district may admit a pupil expelled from another school district in which the pupil continues to reside.

(d) (1) Notwithstanding any other law, and regardless of whether an agreement exists or a permit is issued pursuant to this section, a school district of residence shall not prohibit the transfer of a pupil who is a child of an active duty military parent to a school district of proposed enrollment if the school district of proposed enrollment approves the application for transfer.

(2) A school district of residence shall approve an intradistrict transfer request for a victim of an act of bullying unless the requested school is at maximum capacity, in which case the school district shall accept an intradistrict transfer request for a different school in the school district.

Notwithstanding any other law, and regardless of whether an agreement exists or a permit is issued pursuant to this section, if the school district of residence has only one school offering the grade level of the victim of an act of bullying and therefore there is no option for an intradistrict transfer, the victim of an act of bullying may apply for an interdistrict transfer and the school district of residence shall not prohibit the transfer if the school district of proposed enrollment approves the application for transfer.

(3) A school district of proposed enrollment that elects to accept an interdistrict transfer pursuant to this subdivision shall accept all pupils who apply to transfer under this subdivision until the school district is at maximum capacity. A school district of proposed enrollment shall ensure that pupils admitted under this subdivision are selected through an unbiased process that prohibits an inquiry into or evaluation or consideration of whether or not a pupil should be enrolled based on academic or athletic performance, physical condition, proficiency in English, family income, or any of the individual characteristics set forth in Section 220, including, but not limited to, race or ethnicity, gender, gender identity, gender expression, and immigration status.

(4) (A) For purposes of this subdivision, “active military duty parent” means a parent with full-time military duty status in the active uniformed service of the United States, including members of the National Guard and the State Guard on active duty orders pursuant to Chapter 1209 (commencing with Section 12301) and Chapter 1211 (commencing with Section 12401) of Part II of Subtitle E of Title 10 of the United States Code.

(B) For purposes of this subdivision, a “victim of an act of bullying” means a pupil that has been determined to have been a victim of bullying by an investigation pursuant to the complaint process described in Section 234.1 and the bullying was committed by any pupil in the school district of residence, and the parent of the pupil has filed a written complaint regarding the bullying with the school, school district personnel, or a local law enforcement agency.

(5) (A) Upon request of the parent or guardian on behalf of a pupil eligible for transfer pursuant to this subdivision, a school district of enrollment shall provide transportation assistance to a pupil who is eligible for free or reduced-price meals.

(B) A school district of enrollment may provide transportation assistance to any pupil admitted under this subdivision.

(C) It is the intent of the Legislature that the amount of transportation assistance provided to a pupil pursuant to subparagraph (A) or (B) not exceed the supplemental grant received, if any, for the pupil pursuant to subdivision (e) of Section 42238.02.

(Amended by Stats. 2020, Ch. 97, Sec. 1. (AB 2193) Effective January 1, 2021.)

46600.1. For purposes of this chapter, the following terms have the following meanings:

(a) “Class 1 county” and “class 2 county” have the same meanings as defined in subdivision (e) of Section 48919.5.

(b) “County board of education” means the county board that has jurisdiction over the school district denying the permit.

(c) “Current year request” means a request for interdistrict transfer received beginning 15 calendar days before the commencement of instruction in the school year for which interdistrict transfer is sought.

(d) (1) For purposes of appealing to the county board of education, a “denial” includes a school district’s failure to provide written notification of the school district’s decision within the timelines prescribed in this chapter.

(2) A “denial” shall not include any of the following:

(A) A request that has been deemed abandoned, as described in paragraph (4) of subdivision (a) of Section 46600.2.

(B) An existing interdistrict transfer permit that has been revoked or rescinded in accordance with the policy of the governing board of the school district.

(C) A denial by the school district of proposed enrollment when no permit has been first issued by the school district of residence.

(e) “Future year request” means a request for interdistrict transfer received up until 15 calendar days before the commencement of instruction in the school year for which interdistrict transfer is sought.

(f) “Parent” means the natural or adoptive parent or guardian, the person having legal custody, or other educational rights holder.

(g) “School district of proposed enrollment” means a school district other than the school district in which the parent of a pupil resides, but in which the parent of the pupil nevertheless intends to enroll the pupil pursuant to this chapter.

(h) “School district of residence” means a school district in which the parent of a pupil resides and in which the pupil would otherwise be required to enroll pursuant to the compulsory education requirements as specified in Section 48200.

(Added by Stats. 2018, Ch. 550, Sec. 2. (AB 2826) Effective January 1, 2019.)

46600.2. (a) Each school district of residence and school district of proposed enrollment shall post on its Internet Web site the procedures and timelines, including a link to the policy of the governing board of the school district, regarding a request for an interdistrict transfer permit in a manner that is accessible to the public without a password. The information posted on the Internet Web site shall include, but need not be limited to, all of the following:

(1) The date upon which the school district will begin accepting and processing interdistrict transfer requests for the subsequent school year.

(2) The reasons for which the school district may approve or deny a request, and any information or documents that must be submitted as supporting evidence.

(3) If applicable, the process and timelines by which a denial of a request may be appealed within the school district before the school district renders a final decision.

(4) That failure of the parent to meet any timelines established by the school district shall be deemed an abandonment of the request.

(5) Applicable timelines for processing a request, including statements that the school district shall do both of the following:

(A) Notify a parent submitting a current year request, as defined in Section 46600.1, of its final decision within 30 calendar days from the date the request was received.

(B) Notify a parent submitting a future year request, as defined in Section 46600.1, of its final decision as soon as possible, but no later than 14 calendar days after the commencement of instruction in the school year for which interdistrict transfer is sought.

(6) The conditions under which an existing interdistrict transfer permit may be revoked or rescinded.

(b) A school district that denies a request for an interdistrict transfer shall advise the parent, in writing, of the right to appeal to the county board of education within 30 calendar days from the date of the final denial.

(c) Any written notice to parents regarding a school district's decision on a request for interdistrict transfer shall conform to the translation requirements of Section 48985 and may be provided using any of the following methods:

(1) Regular mail.

(2) Electronic format, if the parent provides an email address.

(3) By any other method normally used to communicate with parents in writing.

(Added by Stats. 2018, Ch. 550, Sec. 3. (AB 2826) Effective January 1, 2019.)

46601. (a) A parent may appeal a school district's decision regarding a request for interdistrict transfer, within 30 calendar days of the date of the school district's final denial, to the county board of education.

(b) (1) Failure by the parent to appeal within the required time is good cause for rejection of an appeal. An appeal shall be accepted only upon verification by the county board of education's designee that appeals within the school districts have been exhausted within the timelines provided pursuant to Section 46600.2. If new evidence or grounds for the request are introduced, the county board of education may remand the matter for further consideration by the school district or districts. In all other cases, the appeal shall be granted or denied on its merits.

(2) (A) (i) The county board of education shall, unless clause (ii) or clause (iii) applies, within 30 calendar days after the appeal is filed, determine whether the pupil should be permitted to attend the school district of proposed enrollment and the applicable period of attendance.

(ii) Until July 1, 2023, the county board of education in a class 1 county shall, within 60 calendar days after the appeal is filed, determine whether the pupil should be permitted to attend the school district of proposed enrollment and the applicable period of attendance.

(iii) Until July 1, 2019, the county board of education in a class 2 county shall, within 45 calendar days after the appeal is filed, determine whether the pupil should be permitted to attend the school district of proposed enrollment and the applicable period of attendance.

(B) In the event that compliance by the county board of education within the time requirement for determining whether the pupil should be permitted to attend the school district of proposed

enrollment is impractical, the county board of education or the county superintendent of schools, for good cause, may extend the time period for up to an additional five schooldays. The county board of education 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 in accordance with this chapter. The county board of education's rules may provide for the granting of continuances upon a showing of good cause. The county board of education shall render a decision within three schooldays of any hearing conducted by the county board of education unless the parent requests a postponement.

(C) In a class 1 or class 2 county, the county board of education's rules may provide for any hearing pursuant to this section to be conducted by a hearing officer pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Division 2 of Title 3 of the Government Code, or by an impartial administrative panel of three or more certificated persons appointed by the county board of education. Section 27722 of the Government Code applies to a hearing by an impartial administrative panel and, for purposes of this section, the term "hearing officer" in Section 27722 of the Government Code includes an impartial administrative panel. A member of the impartial administrative panel shall not be a member of the county board of education, nor be employed by the school district of residence or the school district of proposed enrollment.

(D) If the hearing officer is not authorized to decide whether the pupil should be permitted to attend in the school district of proposed enrollment, the county board of education, within 10 calendar days of receiving the recommended decision pursuant to subdivision (b) of Section 27722 of the Government Code, shall render a decision.

(3) The 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 of education in reaching a decision.

(4) Pupils who are under consideration for expulsion, or who have been expelled pursuant to Sections 48915 and 48918, may not appeal interdistrict attendance denials or rescissions while expulsion proceedings are pending, or during the term of the expulsion.

(Amended by Stats. 2018, Ch. 550, Sec. 4. (AB 2826) Effective January 1, 2019.)

46602. (a) If the county board of education determines that the pupil should be permitted to attend the school district of proposed enrollment, the pupil shall be admitted to school in the school district without delay and the attendance may be counted by the school district of enrollment for state apportionment purposes.

(b) Written notice of the decision by the county board of education shall be delivered to the parent and to the governing boards of the school districts. Notice shall conform to the requirements of Section 48985 and may be provided using any of the following methods:

(1) Regular mail.

(2) Electronic format, if the parent provides an email address.

(3) By any other method normally used to communicate with parents in writing.

(Amended by Stats. 2018, Ch. 550, Sec. 5. (AB 2826) Effective January 1, 2019.)

46603. (a) (1) For a period not to exceed two school months, the governing board of a school district of proposed enrollment may provisionally admit to the schools of the school district a pupil who resides in another school district, pending a decision of the governing boards of the two school districts, or by the county board of education upon appeal, regarding the interdistrict attendance. A pupil shall be eligible for provisional attendance only upon providing reasonable evidence that a final decision for a request for interdistrict transfer is pending either with the school district of residence, the school district of proposed enrollment, or the county board of education.

(2) The period of provisional attendance begins on the first day of the pupil's attendance in the school.

(3) If a decision by the school districts or the county board of education has not been rendered by the conclusion of two school months, and the school districts or the county board of education are still operating within the prescribed timelines, the pupil shall not be allowed to continue attendance at the school district of proposed enrollment. The pupil is subject to compulsory full-time education pursuant to Section 48200 and shall enroll in the school district of residence or in another educational program.

(4) Provisional attendance shall not guarantee that a school district or county board of education will approve a request for interdistrict transfer.

(b) Regardless of whether the decision on interdistrict attendance is allowed, the provisional attendance may be counted by the school district of proposed enrollment for state apportionment purposes.

(Amended by Stats. 2018, Ch. 550, Sec. 6. (AB 2826) Effective January 1, 2019.)

APPEAL OF DENIAL OF INTERDISTRICT ATTENDANCE

(Please print or type all material except signature)

In accordance with Education Code Section 46601, and the Trinity County Board of Education Policy, BP 5110, 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 County Board of Education within thirty (30) calendar days following the date of denial of request for interdistrict transfer or failure of the district to issue a decision on an interdistrict transfer request.]

IDENTIFYING INFORMATION

Date: _____

Student: _____ Age: _____ Grade: _____ Current School: _____

(Please use a separate appeal form for each student.)

Name of Parent/Guardian (Appellant): _____

Address of Residence: _____

How long at this address? _____ Resident School District _____

Parent/Guardian Phone Number: _____

Parent/Guardian E-mail _____

Attorney or Representative (If Applicable): _____ Telephone: _____

Attorney or Representative Email: _____

Translator (If Applicable): _____ Telephone: _____

I am/we are requesting that the Trinity County Board of Education hear an appeal of the denial by _____

School District of an interdistrict attendance transfer request for my/our child to attend school in the _____ School District.

1. Date of Denial or Failure to Issue Interdistrict Transfer Permit: _____

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

3. Do they attend school in the resident school district? Y: _____ N: _____

4. If the answer is "no" to the question above, please explain: _____

5. Is this the first year an interdistrict attendance agreement has been requested from the district for this student?
Y: _____ N: _____

6. If an interdistrict attendance agreement was approved in prior years for the student(s), please indicate the first year the agreement was granted: _____ (school year, e.g., 2017-18)

7. Student's grade level during the first year agreement was granted: _____

8. Reason parent requested interdistrict attendance the first year the agreement was approved:

9. Has parent been required to submit a new interdistrict attendance request each year since the first year? Y:___ N:___

10. If the current request is for reasons related to childcare located within the requested district:

A. Does the student still receive childcare services within the boundaries of the requested district? Yes: _____ If answering "yes," please provide the name, address and telephone number of the childcare service provider:

Name/Address: _____ Telephone: _____

B. If not, when was the last year the child received childcare services within the boundaries of the requested district? _____ (year)

11. Does the student have any brothers or sisters who are attending school in the requested district under an Interdistrict agreement? Y: _____ N: _____

12. Explain parent's understanding of the reason(s) for denial of permit: (Please attach a copy of the notice of denial from the district.)

13. Reason for Request for Appeal [Note: The request for appeal will not be accepted without a complete statement of reasons. See Section A, pages 8 – 9 of the Appeal Handbook "Factors Which Support Granting an Appeal." Please reference, by number, the factors (1-12) that pertain to the situation. Attach additional pages if more space is needed to complete this item.]

The County Board of Education may grant a transfer to a district but has no authority to determine which school the student will attend. **If the County Board grants a transfer to a district, then the district makes the decision about which school the student will attend.**

I hereby certify that: 1) I understand the limitation of the County Board's authority as stated above; and 2) all the information I have provided in this form and the attached documents is true and correct to the best of my knowledge.

Signature of Parent/Guardian Filing Appeal

Date

Please attach the following items to this "Appeal of Denial of Interdistrict Attendance":

- (1) any additional pages submitted with item #13 above, relating to the reasons for the transfer request;
- (2) any documentation from district of residence regarding request;
- (3) any documentation from the denying district regarding request; and
- (4) any other documentation that parent or guardian believes is pertinent to the request.