



5340 Skylane Boulevard
Santa Rosa, CA 95403-8246
(707) 524-2600 ■ www.scoe.org

Dear Appellant:

This packet has been prepared to assist you in filing an appeal of the denial of an interdistrict attendance permit to the Sonoma County Board of Education. The following materials are enclosed:

“Interdistrict Attendance Appeal and Request for Hearing” form;
Interdistrict Attendance Appeal: A Brochure for Parents; and
Sonoma County Board of Education Policy 5117(a)

It is the County Board’s expectation that interdistrict attendance requests be handled at the local level between the districts involved. Before requesting an appeal hearing with the County Board, you must exhaust any established appeal process of the district denying your request.

If resolution is not possible, the enclosed handbook should guide you through the interdistrict attendance appeal process. Fully complete the enclosed “Interdistrict Attendance Appeal and Request for Hearing” form, attach a copy of your original interdistrict attendance request and denial, and submit it to the Sonoma County Office of Education, 5340 Skylane Blvd., Santa Rosa, California 95403-8246, attention Safe Schools Unit.

The County Board understands that the process for filing an appeal is probably a new and complex experience which can be confusing. The written materials enclosed in this packet have been designed to assist you. The Sonoma County Office of Education staff is available to address your questions about the appeal process. If you believe your appeal requires the services of an advocate, you may engage an attorney or other advocate to present your case to the Board.

Please be advised that the "Interdistrict Attendance Appeal and Request for Hearing" form must be fully completed and in the physical possession of the Sonoma County Office of Education within thirty (30) days of the district's action to deny your request for an interdistrict attendance permit.

Please feel free to call 524-2802 if you have any further questions.

Sincerely,

Lynn Garric, Project Director, Safe Schools
Alternative Education / Student Support

Enclosures

Rev. 9-2011



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INTERDISTRICT ATTENDANCE APPEAL AND REQUEST FOR HEARING

Must be filed within 30 calendar days of denial of request for interdistrict attendance permit or failure to issue a permit; must be submitted with a copy of the original request for interdistrict attendance permit and denial

DATE: _____

TO: SONOMA COUNTY BOARD OF EDUCATION
5340 Skylane Blvd.
Santa Rosa, CA 95403
Attn: Lynn Garric

In accordance with Education Code Section 46601 and the Sonoma County Board of Education Policy 5117(a), an interdistrict attendance appeal hearing is hereby requested.

(Please print or type; additional pages may be attached, if necessary)

Pupil's name: _____

Birthdate: _____ Grade: _____

School Presently Attending or Last Attended: _____

How Long? _____

Parent/Legal Guardian: _____

Address: _____

Telephone number (Home): _____ (Work): _____

School District of Residence: _____

School District of Desired Attendance: _____

Date *Request for Interdistrict Attendance Permit* submitted to District of Residence: _____

School District Denying Request: _____ Date: _____

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**What is/are your reason(s) for requesting an interdistrict attendance permit?
(copy of *Request for Interdistrict Attendance Permit* must be attached)**

What is your understanding of the reason your request was denied?

What have you done to appeal the decision to deny your request at the district level?

I certify that I have received and read the *Interdistrict Attendance Appeal Handbook* and understand that there are certain requirements I must comply with in proceeding with this appeal. I further certify that this information is true and correct to the best of my knowledge.

X _____
Signature of Parent/Legal Guardian Date

Interdistrict Attendance Appeal

A Brochure for Parents



Sonoma County Office of Education
Steven Herrington, Ph.D., Superintendent of Schools

Alternative Education / Student Support
Safe Schools Unit

A Message from the Sonoma County Board of Education

One of the duties and responsibilities of the Sonoma County Board of Education is to rule on interdistrict transfers when either the district of residence or the district of desired attendance objects to the transfer, and the child's legal guardian appeals. The County Board has developed this brochure to explain in detail the steps of an interdistrict attendance appeal, and to assist you to present the best case possible.

The County Board seeks to make fair and equitable decisions, based on application of its procedures and the information presented. The more completely a case is prepared, the less stressful the presentation, and the more satisfied all parties will be with the Board's decision.

The information that follows is not intended to be your only source of information. You are encouraged to review California Education Code Section 46601, the school districts' policies and administrative procedures for approving or denying interdistrict transfers, and the County Board's policy for interdistrict attendance appeals.

We sincerely hope that this brochure will be useful to you in understanding your rights and the best way to prepare your case.

Alex Bantis
Karen Bosworth
Pat Hummel
Jill Kaufman
Helga Lemke
Ray Peterson
Kathleen Willbanks

When May I Request an Interdistrict Attendance Appeal Hearing?

You may request an appeal hearing with the Sonoma County Board of Education:

1. After your request for an interdistrict transfer has been denied by either your district of residence or the district of desired attendance **AND** you have exhausted the appeal process of the denying district(s);

Note: The appeal process for each district may vary. You will need to check with the district denying your request and follow its procedures.

OR

2. **For an interdistrict transfer during the current school year:** When either district fails to respond to your request within thirty (30) calendar days;

OR

3. **For an interdistrict transfer for the next school year:** When either district fails to respond to your request within fourteen (14) days after the start of the new school year, and you have made the request thirty (30) days or more prior to the start of that school year.

You may not appeal the denial of an interdistrict attendance request if your child is under consideration for expulsion or has been expelled.

How Do I Request an Interdistrict Attendance Appeal Hearing?

You may begin the appeal process by obtaining an Interdistrict Attendance Appeal packet form from the Sonoma County Office of Education. This request may be made:

By phone:
(707) 524-2888

In person:
5340 Skylane Boulevard
Santa Rosa, CA

Online:
www.scoe.org

The appeal form must be requested, completed, signed, and returned within thirty (30) days of the denial of your *Request for Interdistrict Attendance Permit* or may be submitted when the districts fail to respond within thirty (30) days.

Complete all sections of the form legibly. The reasons for requesting an interdistrict transfer stated on the appeal form should closely approximate those stated on the original request form. If the reasons have changed substantially, you will be referred back to the district denying the request for further consideration.

Submit your completed appeal form with a copy of your original *Request for Interdistrict Attendance Permit*, and any supporting documents that you wish the County Board to consider, to the Sonoma County Office of Education at the previously stated address, attention Safe Schools Unit.

If you have any questions about completing the appeal form, you may contact the Safe Schools Unit at 524-2888.

What Happens Next?

After you have filed your appeal, the County Office's Supervisor of Child Welfare and Attendance will contact you to discuss details of your appeal. The Supervisor will:

- Attempt to facilitate a satisfactory resolution between you and the district(s) involved prior to scheduling a hearing;
- Determine that all legal rights and legal timelines have been honored;
- If a hearing is necessary, act as advisor to all parties before and during the appeal hearing; and
- Be available to explain your rights and the procedures for your case.

The County Board has thirty (30) days after you file to conduct a hearing and make a decision about where your child will attend school. The Board may extend this period an additional five (5) days for "good cause."

What Happens at the Hearing?

Hearings are conducted during regular or special meetings of the County Board, held at:

Sonoma County Office of Education
5340 Skylane Boulevard
Santa Rosa, CA 95403.

The hearing will be conducted in **open** session unless one or more of the following circumstances exists, in which case that portion will be conducted in closed session:

- When the case includes allegations against identifiable district staff members
- When the case includes information of a personal/confidential nature concerning another identifiable student
- When the case includes information of a personal/confidential nature concerning your child, and you request a closed session

It is the intent of the County Board to conduct interdistrict attendance appeal hearings in a fair and sufficiently informal manner to encourage open communication and understanding of the system. The hearing will also be conducted in such a manner that no special legal expertise is necessary and that all parties have the opportunity to present their cases fairly and completely. The law does provide that you may be represented by legal counsel or an advocate if you wish, although formal hearing procedures are not in effect.

Families with appeals on behalf of more than one child will be heard as one, although each student's situation will be considered on an individual basis.

When your appeal comes up on the agenda, you, your child (optional), and the representative of the district denying your request will take seats at a table in front of the Board. A court reporter will make a record of the hearing.

The hearing is conducted generally as follows:

1. The Board President will call the hearing to order and introduce the matter for the record; all parties present will identify themselves.
2. The Board President will review the scope of the Board's role and receive written evidence regarding the matter.
3. You will be invited to present your reasons for requesting an interdistrict transfer; an opportunity for questions will be provided.
4. The representative of the district denying your request will be invited to describe actions taken by the district, including the reason(s) for the denial; an opportunity for questions will be provided.
5. The representative of the other district involved will be invited to present information; an opportunity for questions will be provided.
6. The Supervisor of Child Welfare and Attendance will be asked to present any factual information not already covered.
7. Members of the Board may ask additional questions to further clarify the issues.
8. At the conclusion of presentations and questioning, the Board President will declare the hearing closed.
9. The Board will immediately deliberate the matter in open session and make a decision with a role call vote. The Board will do one of the following:
 - Grant the appeal
 - Deny the appeal
 - Return the matter to the local district for reconsideration

If the Board votes to grant the appeal, your child will be admitted to the district of desired attendance without delay. The Board may order attendance in the district, but **not a specific school**. Attendance will be ordered only for the school year for which the interdistrict attendance transfer was requested. **The decision of the County Board of Education is final.**

How Do I Prepare For the Hearing?

Adequate documentation is helpful when presenting your case. Evidence is most effective when it is provided in writing, is related to the issue(s) at hand, and is the type of evidence upon which reasonable people can rely in the conduct of serious affairs. In addition to a copy of your original *Request for Interdistrict Attendance Permit* form (must be included with your appeal), some examples of what might be included for consideration are:

- Professional recommendations by doctors, educators, psychologists, juvenile court or others, when relevant
- Brochures of written information about special programs in the district or community of the district of desired attendance which relate to your child's interests or needs
- Documentation related to your child's safety to and from school
- A summary of childcare or substantial family needs
- Report cards or other indicators of your child's performance
- Maps
- Materials of a sensitive nature

It may also be helpful to bring a witness or someone who might make a special statement on behalf of your child.

What Will the County Board Consider?

The County Board will consider evidence presented by all parties and the Supervisor of Child Welfare and Attendance. If new evidence or grounds for the request are introduced, the Board may return the matter for further consideration by the district(s). In all other cases, the appeal will be granted or denied on its merits. The Board has broad discretion in deciding an appeal, but considers the following factors:

- Welfare of the student
- Impact upon the family
- Impact upon the district(s)

Please see SCOE Board Policy 5117(a) for more details on the *Scope of the Review and the Decision of the Board* and on *Judicial Review*.

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**BP 5117(a)****Interdistrict Attendance Appeals**

Education Code Section 48200 provides that students should attend school in the district where their parents or guardians reside. At the same time, Education Code Sections 46600 et. seq. authorizes parents or guardians to request a permit to attend a district other than the district of residence. A parent or legal guardian may appeal the failure or refusal to approve an interdistrict attendance request to the Sonoma County Board of Education. The Board shall grant or deny an appeal on its merits.

A. Conditions Under Which an Appeal May be Made**1. Interdistrict attendance permit sought for current school year:**

If, within thirty (30) calendar days after the parent or legal guardian of a student has so requested, the governing board of either school district fails or refuses to approve an interdistrict attendance request, an appeal may be made to the County Board of Education.

2. Interdistrict attendance permit sought for subsequent school year:

If, within fourteen (14) calendar days after the start of the new school year in each school district, and the parent or legal guardian of a student has requested of each district thirty (30) calendar days or more prior to the start of that school year, the governing board of either district fails or refuses to approve an interdistrict attendance request, an appeal may be made to the County Board of Education.

- 3. Students 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 while expulsion proceedings are pending, or during the term of the expulsion.**
- 4. Students who are denied a transfer to a district within the boundaries of which the student's parent or guardian is employed under Education Code Section 48204(b) may not appeal the denial by the district of employment.**
- 5. Students who are denied a transfer to a School District of Choice (also known as an "open enrollment district") under Education Code Section 48300 et seq. may not appeal the denial by the receiving district.**
- 6. Students who are denied a transfer under the Open Enrollment Act (also known as the "Romero Bill") pursuant to Education Code sections 48350 et seq. may not appeal the denial to the County Board.**



Students

7. Revocation of an interdistrict attendance permit may not be appealed to the County Board.

B. Procedures for Filing an Appeal

1. An appeal shall be made within thirty (30) calendar days after either district fails or refuses to approve an interdistrict attendance request. Failure to appeal within the required time is good cause for denial of an appeal.
2. The appeal shall be made in writing on a form prescribed by the County Superintendent of Schools. The appeal shall include a copy of the original "Request for Interdistrict Attendance Permit."
3. The appeal shall be accepted only upon verification by the County Office Supervisor of Child Welfare and Attendance that appeals within the districts have been exhausted.
4. If the appeal contains new evidence or grounds for the request, the County Office Supervisor of Child Welfare and Attendance shall refer the person appealing back to the district denying the request for further consideration and/or board action. Following further consideration by the district, the parent retains the right to appeal to the County Board.

C. Hearing Date

1. The County Board of Education shall, within thirty (30) calendar days after the appeal is filed, hear the appeal and determine whether the student should be permitted to attend in the district of desired attendance and the applicable period of time.
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) schools 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.

D. Preparation for Hearing the Appeal

1. The County Office Supervisor of Child Welfare and Attendance shall be designated by the County Superintendent of Schools to serve as the contact person and liaison



Students

among the student's representative, the districts involved, and other appropriate parties.

2. Upon receiving the appeal, the County Office Supervisor of Child Welfare and Attendance shall inform the person appealing of their rights and the procedures by which the appeal will be heard.
3. The County Office Supervisor of Child Welfare and Attendance shall inform both school districts involved of the appeal and invite them to have representatives at the hearing to speak on their position regarding the appeal.
4. The County Office Supervisor of Child Welfare and Attendance 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.
5. The County Office Supervisor of Child Welfare and Attendance shall investigate and provide any additional information deemed useful to the Board in reaching a decision.
6. The County Supervisor of Child Welfare and Attendance will assist all parties to obtain local resolution prior to the hearing. If a hearing is necessary, the County Office Supervisor of Child Welfare and Attendance shall, no later than one week prior to the hearing, provide the County Board with the following information to assist the Board in reaching a decision:
 - a. Copies of the original interdistrict attendance request, local governing board minutes pertaining to action taken on the 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
 - d. Case summary and results of conferences pertaining to the case
7. Copies of all information provided to the County Board shall be distributed to all parties involved prior to the hearing.

E. Conduct of the Hearing

1. The Board President shall preside over the hearing which will be conducted in open session unless one or more of the following circumstances exists, in which case that portion will be conducted in closed session:



Students

- a. When the case of the person appealing includes allegations against identifiable staff members.
 - b. When the case includes information of a personal/confidential nature concerning another identifiable student.
 - c. When the case includes information of a personal/confidential nature concerning the student for whom the transfer is requested and the parent or legal guardian requests a closed session.
2. A verbatim transcription of the hearing shall be made.
 3. Strict rules of evidence as required in court proceedings shall not be applied. Evidence may include witnesses and written materials. Hearsay evidence is admissible, but cannot be the sole basis for a finding. All evidence and testimony must be relevant to the issue.
 4. The Board President may recognize any concerned parties at any time during the hearing to ask questions or to add information.
 5. All parties are expected to conduct themselves in a courteous and businesslike manner.
 6. The format for the hearing shall be substantially as follows:
 - a. The Board President will introduce the matter for the record and all parties present will identify themselves.
 - b. The Board President will review the scope of the County Board's role and receive written evidence regarding the matter.
 - c. The student's representative will be invited to make a presentation. An opportunity to ask questions of the representative will be provided.
 - d. The representative of the district which failed or refused to approve the interdistrict attendance request will be invited to make a presentation. An opportunity to ask questions of the representative will be provided.
 - e. The representative of the other district involved will be invited to make a presentation. An opportunity to ask questions of the representative will be provided.
 - f. The County Office Supervisor of Child Welfare and Attendance will be given the opportunity to present any factual information on the record not already



Students

covered by the other parties. The Board may ask additional questions to further clarify issues.

- g. At the conclusion of presentations and questioning, the Board President will declare the hearing closed. The Board will deliberate the matter in open session then render a decision and issue an order accordingly

F. Scope of Review and Decision of the Board

1. The Board shall consider evidence and information presented by all parties and the County Office Supervisor of Child Welfare and Attendance in granting or denying the appeal. The party requesting the interdistrict transfer shall have the burden of proof and the responsibility to present sufficient evidence to justify the transfer. The requesting party shall be required to provide clear and convincing evidence that the transfer is necessary based upon certain criteria including, but not limited to, the following:

- To meet the child care needs of the student;
- To meet the student's special mental or physical health needs as certified by a physician, school psychologist, or other appropriate school personnel;
- When the student has a sibling attending school in the receiving district, to avoid splitting the family's attendance;
- To allow the student to complete a school year when his/her parents/guardians have moved out of the district during that year;
- To allow the student to remain with a class graduating that year from an elementary, junior, or senior high school;
- To allow a high school senior to attend the same school he/she attended as a junior, even if his/her family moved out of the district during the junior year;
- When the parent/guardian provides written evidence that the family will be moving into the district in the immediate future and would like the student to start the year in the district;
- When the student will be living out of the district for one year or less;
- When recommended by the school attendance review board or by county child welfare, probation, or social service agency staff in documented cases of serious home or community problems which make it inadvisable for the student to attend the school of residence;
- When there is valid interest in a particular educational program not offered in the district of residence; and/or
- To provide a change in school environment for reasons of personal and social adjustment.

The Board shall retain the right to decide the appeal on its merits. The Board will not grant an appeal solely on the basis of the appellant's preference for another school district.



Students

2. If new evidence or grounds for the request are introduced, the 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.
3. Without limiting its discretion in deciding the appeal on its merits, the Board may consider the following factors:
 - a. Welfare of the student
 - b. Impact upon the family
 - c. Impact upon the district(s)
4. Failure to appeal within the required time is good cause for denial of an appeal
5. If the Board determines that the student should be permitted to attend in the desired district, the student shall be admitted without delay for the school year for which the interdistrict attendance transfer was requested. The Board may order attendance in a district, but not a specific school.
6. If the appeal is granted, attendance in the desired district shall be subject to the interdistrict attendance policies and regulations of the district in which the interdistrict attendance permit was requested and any applicable interdistrict attendance agreement. If no such interdistrict policies, regulations and/or attendance agreement exist, attendance in the desired district shall be governed by applicable state and federal laws.
7. Written notice of the decision by the Board shall be mailed to the parent or legal guardian and to the governing boards of each district within three school days of the closure of the hearing unless the person who filed the appeal requests a postponement of the issuance of the decision.
8. The administrative decision of the Board shall be final, and no reconsideration or rehearing by the Board shall be permitted.



Students

9. In the notification of the administrative decision the parties shall be advised that should either party desire to seek a judicial review of the county board's administrative decision that such judicial review must be requested within ninety (90) calendar days of the date of the Board's determination.

cf. BP 5119(a), 9320(a), 9321(a), 9321.1(a), 9323(a)

Legal Reference: Education Code sections 46600, 46601, 46602; 48350 et seq., Code of Civil Procedure section 1094.6; CA Atty. General Opinion No. 96-906

Adopted: (Adopted as Rule 109.1)

Revised: March 2, 2000; August 4, 2005; April 5, 2007; June 25, 2009; February 4, 2010; May 5, 2011

Effective: July 1, 2011