

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 Skyline Blvd., Santa Rosa, California 95403-8246, attention Kristen Johnson.

The County Board understands 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 (707) 524-8402 should you have any further questions.

Sincerely,

Kristen Johnson, Public Information Assistant/Interagency Liaison
Sonoma County Office of Education

Enclosures

Rev. 11-2016

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: Kristen Johnson

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: _____

(Continued – Page 2)

**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

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.

Gina Cuclis
Herman Hernandez
Peter Kostas
Andrew Leonard
Lisa Wittke Schaffner

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) 524-8402

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 Kristen Johnson at (707) 524-8402.

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 roll 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*.

Board Policy

Interdistrict Attendance Appeals

BP 5117

Students

Education Code 48200 provides that students should attend school in the district where their parents or guardians reside. At the same time, Education Code 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. Other transfer options may be available to students, so parents and legal guardians are encouraged to consult with their district of residence or district of desired attendance to obtain additional information about these options.

The Board strongly believes that the Interdistrict Attendance process should be a thoughtful and consistent one for all parties involved. The Board anticipates that local school districts will comply with the district's and County Office's Interdistrict Attendance Permit Procedures. The Board assumes that parents and legal guardians will be making transfer requests in the best interest of their student and the district(s) will be considering the student's best interests and the best interests of the district as a whole in making their determinations. The Board will take these aspects into consideration when making its determination to grant or deny an appeal.

New Board members will be given the opportunity to attend training on the interdistrict attendance appeal process prior to their first appeal hearing.

(A) Conditions Under Which an Appeal May be Made

1. Interdistrict attendance Permit Appeal Notification Timeline:

(a) If the governing board of either school district fails or refuses to approve an interdistrict attendance request, the district denying the request or the district of residence must inform the parent or legal guardian, within thirty (30) calendar days after the parent or legal guardian has made the request, of their right to an appeal to the County Board of Education..

(b) If a parent or legal guardian makes an interdistrict attendance request to each school district not later than thirty (30) calendar days prior to the start of the school year, and the governing board of either school district fails or refuses to approve the transfer request, the district denying the request or the district of residence must inform the parent or legal guardian, within fourteen (14) calendar days after the start of the new school year in each school district, of their right to an appeal to the County Board of Education.

2. The Board recommends that parents or legal guardians seek approval of the interdistrict attendance request from the district of residence prior to applying for approval from the district

of attendance. The Board assumes that the district of residence and the district of attendance will expeditiously process the interdistrict attendance request and provide the parent or legal guardian with a determination in a timely manner.

3. If a student is provisionally admitted to a school district pursuant to Education Code 46603, the Board anticipates that the district of attendance will immediately notify the student's district of residence and both districts will expeditiously process the interdistrict attendance request. The Board will not give considerable weight to a governing board's decision if the notification to the other district is delayed by more than three (3) school days unless there is good cause for the delay.

4. Students who are under consideration for expulsion or who have been expelled pursuant to Education Code 48915 and 48918 may not appeal interdistrict attendance denials while expulsion proceedings are pending, or during the term of the expulsion.

5. Transfer Requests Not Subject to Appeal

As set forth in the Education Code certain requests for transfer are not subject to the appeal process:

(a) Students who seek attendance at a district based on the location of the student's parents or legal guardians' employment under Education Code 48204(b), may not appeal the denial by the district of employment.

(b) Students who seek a transfer to a School District of Choice (also known as an "open enrollment district") under Education Code 48300 et seq. may not appeal the denial by the receiving district.

(c) Students who seek a transfer under the Open Enrollment Act (also known as the "Romero Bill") pursuant to Education Code 48350 et seq. may not appeal the denial to the County Board.

(d) 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 Superintendent of Schools or designee that appeals within the districts have been exhausted.

4. If the appeal contains new evidence or new grounds for the request or new evidence/information is provided prior to the hearing, the County Superintendent of Schools or designee, shall refer the person appealing back to the district or districts denying the request for further consideration and/or board action. The district or districts shall have ten (10) calendar days to consider the new evidence. The Board shall retain jurisdiction over the matter and the parent or legal guardian may appeal to the County Board if they are not satisfied with the district or districts' subsequent decision(s). The second appeal will be subject to all appeal procedures set forth herein and the appeal process timelines will start over. If the district or districts do not consider the new evidence/information within ten (10) calendar days the request will automatically 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 his/her designee may, for good cause, extend the time period for an additional five (5) school days.

3. The County Board of Education may grant a continuance to any party upon a showing of good cause. Such continuances shall result in an extension of the time line for a determination by the County Board equal to the number of days of the granted extension.

(D) Preparation for Hearing the Appeal

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

2. Upon receiving the appeal, the County Superintendent of Schools or designee shall inform the person appealing of their rights and the procedures by which the appeal will be heard.

3. The County Superintendent of Schools or designee 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 Superintendent of Schools or designee shall provide adequate notice to all parties of the date and time of the scheduled hearing, the opportunity to submit written statements and documentation, the date upon which any documentation is due, and the option of being represented by legal counsel. Within 72 hours of receipt of the notice of the date and time of the scheduled hearing, the parent, legal guardian, or pupil if the pupil is an adult may request in writing that the hearing be conducted in open session. If such written request is served upon the County Superintendent of Schools or designee, the hearing shall be held in open session in accordance with section (E)(1) below.

5. The County Superintendent of Schools or designee shall investigate and provide an executive case summary of the appeal to the Board.
6. The County Superintendent of Schools or designee will assist all parties to obtain local resolution prior to the hearing. The County Superintendent of Schools or designee shall offer to schedule mediation for the parties prior to the hearing. All parties are strongly encouraged to participate in the mediation. No mediation will be held if either party declines the offer.
7. The parties shall be required to provide the County Superintendent of Schools or designee with all information pertaining to the case no later than ten (10) days prior to the hearing. This information will be included in the executive summary. The County Superintendent of Schools or designee will meet and/or talk with the parent/guardian and the appropriate district representatives in order to put the information together for the executive summary.
8. The County Superintendent of Schools or designee may discuss the viability of a case with a particular party.
9. If a hearing is necessary, the County Superintendent of Schools or designee 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) Executive case summary and results of conferences pertaining to the case
10. 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 closed session unless the parent or legal guardian, or the pupil if the pupil is an adult, request in writing that the hearing be held in open session within the time specified in section (D)(4) above.

If the hearing will be held in open session, any discussion at the hearing that might be in conflict with the right to privacy of any pupil other than the pupil requesting the public hearing, or on behalf of whom such hearing is requested, shall be in closed session.
 2. A record 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) Should new evidence or information be presented at the hearing, the Board shall temporarily suspend the hearing to allow the parties the opportunity to discuss and consider the new evidence/information. If no resolution is reached, the Board may remand the matter for further consideration by the district or districts. The district or districts shall have ten (10) calendar days to consider the new evidence or information. The Board shall retain jurisdiction over the matter and the parent or legal guardian may appeal to the County Board if they are unsatisfied with the district or districts' subsequent decision(s). The second appeal will be subject to all appeal procedures and the appeal process timelines will start over. If the district or districts do not consider the new evidence/information within ten (10) calendar days the request will automatically appeal to the County Board. If the matter is not remanded the Board may or may not consider the new evidence/information in making its determination.

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

(F) Scope of Review and Decision of the Board

1. The Board shall consider evidence and information presented by all parties, including the executive case summary provided by the County Superintendent of Schools or designee 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 credible 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.

The Board will give considerable weight to the local district or districts' decision if it is established that the governing board(s) complied with the district's and County Office's Interdistrict Attendance Permit Procedures. The Board will also give considerable weight to the denying district or districts' determination if it is clear that a fair and equitable review of the transfer request has been conducted and the individual needs of the student making the transfer

request has been evaluated.

2. 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)

3. Failure to appeal within the required time is good cause for denial of an appeal

4. If the Board determines that the student should be permitted to attend in the desired district, the student shall be admitted without delay and the student shall be permitted to continue attending the desired district through its highest grade level, subject to the district's policies and procedures and applicable state and federal laws. The Board may order attendance in a district, but not a specific school.

5. 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.

6. 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 (3) school days of the closure of the hearing unless the person who filed the appeal requests a postponement of the issuance of the decision.

7. The administrative decision of the Board shall be final, and no reconsideration or rehearing by the Board shall be permitted.

8. 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. 5119 - Expulsion of Pupil)

(cf. 9320 - Open Meeting Law Requirements)

(cf. 9321 - Closed Session Purposes and Agenda)

(cf. 9321.1 - Reporting Closed Session Actions)

(cf. 9323 - Rules of Order)

Legal Reference:

EDUCATION CODE

35146 Closed sessions for student suspension or disciplinary action

46600-46601 Interdistrict Attendance

46602 County board decision

48350 et seq. Article 10. Open Enrollment Act

49076 Student Records; Access

UNITED STATES CODE, TITLE 20

1232g Family Education Rights and Privacy Act (FERPA)

CODE OF FEDERAL REGULATIONS, TITLE 34

99.30 Part 99-Family Educational Rights and Privacy. Subpart D-May an Educational Agency or institution Disclose Personally Identifiable Information From Education Records?

CODE OF CIVIL PROCEDURE

1094.6 Judicial review of administrative record

ATTORNEY GENERAL OPINIONS

Ops.Cal.Atty.Gen. 96-906

Policy SONOMA COUNTY OFFICE OF EDUCATION

adopted: March 2, 2000 Santa Rosa, California

revised: August 4, 2005

revised: April 5, 2007

revised: June 25, 2009

revised: February 4, 2010

revised: May 5, 2011

revised: March 1, 2012

revised: August 7, 2014