

# PLACER COUNTY OFFICE OF EDUCATION

*Gayle Garbolino-Mojica, County Superintendent of Schools*

## INTERDISTRICT ATTENDANCE TRANSFER APPEAL HANDBOOK

*TO AID PARENTS OR LEGAL  
GUARDIANS IN FILING A  
COMPLETE AND TIMELY APPEAL  
OF THE DENIAL OF AN  
INTERDISTRICT ATTENDANCE  
TRANSFER REQUEST*



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## **A MESSAGE FROM THE PLACER COUNTY BOARD OF EDUCATION**

A statutory responsibility of the Placer County Board of Education (“County Board”) is to schedule and hear appeals when either the district of residence or the district of requested attendance has denied a request for an interdistrict attendance transfer. The County Board has developed this handbook to help explain the interdistrict attendance transfer appeal process. Additional information is contained within Board Bylaw 9510 which is included in this handbook for reference. We hope that this handbook will be useful in describing the appeal process and will help prepare you for the appeal hearing.

# WHAT IS THE JURISDICTION OF THE COUNTY BOARD OF EDUCATION?

## **Jurisdiction of the County Board**

The County Board has jurisdiction over interdistrict attendance transfer appeals that have been properly requested pursuant to Ed Code § 46600 *et seq.*

The Board may take action to:

1. Grant the appeal and order the student enrolled in the district of requested attendance.
2. Deny the appeal.
3. In certain circumstances, remand the appeal back to the district for reconsideration as a result of new evidence and/or grounds supporting the appeal being introduced.

## **Limitations on the Jurisdiction of the County Board**

The County Board may only hear an appeal of the denial of an interdistrict attendance transfer request made pursuant to Education Code §§ 46600 *et seq.* The following are actions by school districts that may not be appealed to the County Board:

1. The denial of a request to attend a “school of choice.” (Ed. Code §§ 48300 *et seq.*)
2. The denial of an interdistrict transfer request based upon a parent’s or legal guardian’s employment within the district. (Ed. Code § 48204(b))
3. The denial of an interdistrict transfer request by a pupil under consideration for expulsion or who has been expelled. (Ed. Code § 46601(e))
4. The denial of an *intradistrict* transfer between schools within the same district. (Ed. Code § 35160.5(b))
5. The denial of a request by a student attending a “low achieving school” to transfer to another school that has a higher Academic Performance Index (“API”) made pursuant to the Open Enrollment Act. (Ed. Code §§ 48350 *et seq.*)
6. Any dispute over a request to transfer to a higher performing school when such a sanction has been imposed on a program improvement school or district. (Ed. Code § 52055.57 (c) (5); 20 U.S.C. §§ 6301 *et seq.*)
7. Any dispute over the placement or services provided to a special education student. Such a dispute should be handled by the district of residence through special education procedures. (Ed. Code §§ 56505(g)-(i); 20 U.S. Code § 1415(f))
8. The determination by a school district regarding the validity of a caregiver affidavit. (Ed. Code § 48204(d) and Family Code §§ 6550, *et. seq.*)

## WHEN MAY I REQUEST AN INTERDISTRICT ATTENDANCE TRANSFER APPEAL HEARING?

Under the following two circumstances you may request an appeal hearing with the County Board when the request is for an interdistrict attendance transfer in the **current** academic school year (starts on the first day of instruction in the district)

1. After your request for an interdistrict transfer has been formally denied *AND* you have exhausted the appeal process of the denying district(s);
2. If the district(s) has/have failed to respond to your written request for a transfer within thirty (30) calendar days of formally making the request.

Under the following circumstance you may request an appeal hearing with the County Board when the request for an interdistrict attendance transfer is for the **next** academic school year:

1. If the request was made at least thirty (30) days prior to the beginning of instruction in the district of requested attendance.
  - a. A school district must act upon such a request within fourteen (14) calendar days of the beginning of the academic school year in the requested district.
  - b. Such a request may be appealed after it has been denied or if the district has not responded within 14 days after the request.

All appeal requests must be filed with the County Board within thirty (30) calendar days of the final denial of the interdistrict attendance transfer request or of the school district's failure to timely respond to the request.

Failure to file an appeal after thirty (30) calendar days is good cause for the County Board to deny the appeal. Appeals filed after 30 calendar days but before 75 calendar days following the denial or failure to issue a permit must include the reason(s) why the appeal is late. The County Board may deny the appeal for being late without first considering the reasons for the appeal. Please note: appeals filed 75 calendar days after any denial or refusal to issue a permit are deemed late by the County Board and will not be scheduled for hearing.

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## HOW DO I REQUEST AN APPEAL HEARING?

Once either the district of residence or the district of requested attendance has denied your interdistrict transfer request, the person having legal custody of the pupil can begin the appeal process by requesting an "Appeal of Denial of Interdistrict Attendance Transfer Appeal" form from the Placer County Office of Education ("PCOE"). This request may be done:

**IN PERSON**

**OR**

**BY PHONE**

360 Nevada Street  
Auburn, CA 95603

(530) 889-5941

This original form must be requested, completed, signed, and returned within thirty (30) calendar days of the final denial by either of the districts of your written request for an interdistrict attendance transfer or it will be considered late and subject to denial for being late.

Complete all sections of the form legibly. The reason(s) for your appeal must be the same as those stated on the original "Request for an Interdistrict Attendance Transfer" form submitted to the district(s) of residence. Should any of the reason(s) or "grounds" to request a transfer be different from the reasons submitted to the district(s) or change substantially, you may be asked by PCOE to return and reapply with the district that denied the attendance transfer request.

Along with your original completed appeal form you must also submit to the County Board a copy of the original request for an interdistrict attendance transfer, a copy of the district(s) denial of your transfer request, and any written documentation submitted to the district supporting your request. Any new reasons and or documentation not previously shared with the district(s) but that you would like the County Board to consider must be submitted with your request for an Interdistrict Attendance Transfer Appeal. Please note: if new evidence or grounds for the appeal are introduced at the hearing, the County Board may remand the matter back to the district for further consideration.

## WHAT HAPPENS BEFORE THE APPEAL HEARING?

PCOE will notify you and the districts involved of the date, time, and place of the appeal hearing. The County Board has thirty (30) calendar days after you file your appeal to conduct a hearing. This 30-day period may be extended for an additional five (5) school days for good cause, or longer if you waive the timeline.

After you have filed your appeal, you will be contacted by the County Superintendent's Designee. Before the hearing:

1. The Designee will determine whether the denial of the interdistrict attendance request by the district is final.
2. The Designee will review the appeal to determine that all timelines have been met prior to the hearing.
3. If a hearing is necessary, the Designee will provide any information and/or documents to the County Board that were used by the district at the hearing or which otherwise may be deemed useful to the decision-making process.
4. If any new written evidence and/or reasons will be presented to support the request that was not presented to the district, the designee may ask you to return to the district that denied the request to present the new evidence and/or reasons now being provided by you to support the request.
5. The Designee may act to facilitate a resolution between you and the district(s) involved prior to the hearing.
6. Interdistrict attendance appeal hearings are held in open session unless confidential student information is introduced that may be significant to the County Board's determination of your appeal. The Designee will ask you if any confidential student information that may be significant to the County Board's decision making will be disclosed during the hearing. If so, the hearing may be held in closed session.

## HOW DO I PREPARE FOR THE APPEAL HEARING?

Adequate documentation is helpful when presenting your appeal. You will find that 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 persons can rely on to make decisions in the conduct of serious affairs such as an appeal hearing.

The County Board will specifically review the stated reasons for your request, the basis for the denial by the district(s), and any other information or documentation that was presented to the district(s) which was relied upon to deny your request. You may support your appeal with witness testimony and/or documentation that was presented prior to the denial.

The County Board may also consider evidence or new grounds for appeal, especially if it could not have been presented to the district prior to the final denial of your request. If new evidence or reasons to support the request are presented, the County Board may decide to remand your appeal back to the district for consideration.

### **Confidential Student Information and Closed Session**

There are numerous laws which protect the release of confidential student information. For example, there are certain laws regarding the privacy and confidentiality of pupil records (See Ed. Code §§ 49060 *et seq.*) There are also laws regarding the confidentiality of juvenile court records, special education, and medical records.

If as part of the appeal you wish to have the County Board consider what is deemed under state and federal law to be confidential student information, either by testimony and/or by the submission of documents, the hearing may be held in closed session under Education Code Section 35164 if the confidential information may be significant to the County Board's determination of your appeal. The decision to hold the hearing in closed session may be made by the County Superintendent or designee before the hearing or by the County Board before or at any time during the hearing.



## WHAT HAPPENS AT THE APPEAL HEARING?

The Board President will open the hearing by describing how the hearing will be conducted. All of those presenting to the County Board during the hearing will be sworn in at the beginning of the hearing. You, as the Appellant, then will be given up to five minutes to present your appeal. You may take this time to make a statement and present any written documentation and/or oral statements by others in support of the appeal. The County Board may then ask you and/or other presenters questions. The district that is the subject of the appeal, as the Respondent, will then also be given up to five minutes to make a statement and present any written documentation and/or oral statements by others in support of the denial of the transfer request. The County Board may ask questions of the Respondent district's representative after his/her presentation. The County Board may also permit the district that is not the Respondent party to make a presentation of up to three minutes about its position on the appeal and then respond to any questions by the County Board.

Following the questions by the County Board, you will be given up to five minutes to make a closing statement. Thereafter, the Respondent district will be given up to five minutes to make a closing statement. Following closing statements, the County Board will vote to close the hearing in order to begin deliberations. Once the hearing is closed, the County Board will take no further comments from you or from either district. The County Board usually completes its deliberations and makes a decision at the meeting but may take up to three schooldays to render its decision.

Please note: the County Board may later take action to rescind its decision and re-hear the appeal if it makes a finding that new evidence, which in the exercise of reasonable diligence could not have been produced at the hearing, if introduced, may have resulted in the Board making a different decision on the appeal. The County Board may also rescind its prior decision and re-hear the appeal if a finding is made that there is sufficient evidence that a person falsified information while under oath and as a result, a different decision may have been made by the County Board if the falsification(s) had not been made. Any request to place an action item on the County Board's agenda to rescind the prior decision on an interdistrict transfer appeal must be received by the County Office no later than the conclusion of a student's first semester or first trimester of the school the student is attending during the school year following the decision by the County Board.

**INTERDISTRICT ATTENDANCE APPEALS**

The County Board shall consider an appeal against any school district within the county for its failure or refusal to issue an interdistrict transfer permit to a student, or for its failure or refusal to enter into an interdistrict transfer agreement with another school district for the student's attendance. (Education Code 46601)

If the request for interdistrict transfer involves a school district located within the county and a school district located in a different county, the County Board shall have jurisdiction if the denial of the permit, or the refusal or failure to enter into an agreement, is by the school district within the county. If both school districts deny the permit or refuse or fail to enter into an agreement, the County Board shall have jurisdiction only if the school district within the county is the student's district of residence. (Education Code 46601)

1. Per Education Code 46600, an appeal to the County Board may be requested:
  - a. After a request for an interdistrict transfer has been denied by a student's district of residence or by the district of requested attendance and the student has exhausted the appeal process of the denying district(s), or;
  - b. When the district(s) has failed to respond to a request within 30 calendar days during the current academic school year, or;
  - c. When the district(s) has failed to respond to a written request for a transfer for the next academic school year:
    - i. 14 days after both districts' next academic school year begins, and
    - ii. 30 or more calendar days prior to the commencement of instruction for the next academic year after a written request was submitted separately to each district.
2. Appeals must be filed within 30 calendar days of the failure or refusal to issue a permit or enter into an agreement allowing the requested interdistrict attendance. Failure to appeal within 30 calendar days of the failure or refusal to issue a permit or enter into an agreement is good cause for denial of the appeal. Appeals filed after 30 calendar days but before 75 calendar days following the denial or failure to issue a permit must include the reasons(s) why the appeal is late. The County Board will first review the reason(s) provided to determine whether there is good cause to hear the appeal before considering the merits of the appeal. Appeals filed on or after 75 calendar days following the denial or failure of a district to issue a permit are deemed late by the County Board and will not be scheduled for hearing.
3. Students who are under consideration for expulsion or who have been expelled may not appeal interdistrict attendance denials while expulsion proceedings are pending, or during the term of their expulsion.
4. The procedure to request an appeal is as follows:
  - a. The appeal shall be made in writing on a form prepared by the County Superintendent.

The appeal shall include a copy of the original “Request for Interdistrict Attendance Permit” submitted to the district, and a copy of the denial of the request by the district.

- b. The appeal shall be accepted only upon verification by the County Superintendent or designee that appeals within the districts have been exhausted.
- c. If the appeal contains new evidence or grounds supporting the request, the County Superintendent or designee may advise the person to provide the new evidence or grounds to the district(s) that denied the request.

Within 10 days of receipt of an appeal, the County Office will notify the parents/guardians, the district of residence and the district of requested attendance of the date, time, and place of the appeal hearing. The County Board has 30 days after an appeal is filed to conduct a hearing and determine if the student shall attend the requested district. The County Superintendent or the County Board may extend this period an additional five school days for good cause. (Education Code 46601(b)) Additionally, the County Board may grant a continuance to the parent/guardian upon a showing of good cause. Such continuances shall result in an extension of the time line for a determination on the appeal by the County Board equal to the number of days of the granted extension.

Upon appeal to the County Board, the governing board of the district of requested attendance may provisionally admit the student whose parent/guardian has filed the appeal. (Education Code 46603)

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

PLACER COUNTY OFFICE OF EDUCATION  
360 Nevada Street  
Auburn, California 95603

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 the appeal will be conducted in closed session:

- When the appeal includes student information of a confidential nature that will be presented during the hearing concerning the student for whom the transfer is requested, and if such confidential student information could be significant in the County Board’s determination of the appeal.
- When the appeal includes information of a confidential nature concerning another identifiable student.
- When appeal includes complaints or charges against identifiable staff members.

It is the intent of the County Board to conduct the hearing in a fair and sufficiently informal manner to encourage open communication and understanding. The hearing will be conducted in such a manner so that no special legal expertise will be necessary and so that all parties have the opportunity to present their case fairly and completely. All persons presenting during the hearing shall do so under oath. A description of the appeal hearing process is included in the County Office’s “Interdistrict Attendance Transfer Appeal Handbook” which shall be provided to every person requesting an appeal. Below is a brief description of the hearing process.

The time allocated for presentations will be regulated by the President. Presentations by the parent/guardian (“Appellant”), the district that denied the transfer request which is the party subject to the appeal (“Respondent”), and if present, by the other district involved in the transfer request (“Non-Party”) shall be limited as indicated below. Ordinarily, the order of presentation will be as follows:

- a. Presentation by Appellant (up to five minutes)
- b. Questions by the County Board
- c. Presentation by Respondent district (up to five minutes)
- d. Questions by the County Board
- e. Presentation by Non-Party district (up to three minutes)
- f. Questions by the County Board
- g. Closing statement by Appellant (up to five minutes)
- h. Closing statement by Respondent (up to five minutes)

Following closing statements, the President will ask for a motion to close the hearing. The County Board will deliberate the matter in open session except when the hearing is held in closed session, the County Board will deliberate in closed session. The County Board may remand, grant or deny the appeal after considering the facts of the request and the merits of the appeal.

In reaching a decision, the County Board will consider the following:

- a. Whether all statutory and regulatory requirements have been satisfied including:
  - i. Verification by the County Superintendent or designee of exhaustion of in-district appeals;
  - ii. Completion by the district(s) of the procedures established in its interdistrict transfer policy and/or administrative regulation(s) including, but not limited to, giving priority to transfer requests to any student who, as determined by district personnel, has been the victim of an act of bullying committed by a student of the district of residence.
  - iii. Receipt of an appeal within thirty (30) calendar days of the failure or refusal of a district to approve an interdistrict attendance transfer;
  - iv. Compliance with state laws governing interdistrict attendance requests.
- b. The burden of proof and presenting evidence in the matter of an interdistrict attendance appeal shall rest with the party requesting the interdistrict transfer.
- c. Whether or not the transfer is necessary for any/or all of the followings reasons:
  - i. A specialized and specific academic program or service, unavailable in the district of residence, and available in the district of requested attendance, but necessary to the student’s career or academic objectives. Such a program or service must be related to the student’s career objectives or academic advancement and not based solely on the student’s interests or desires, or on extracurricular activities or athletics.

- ii. To remedy a specific and serious existing or reasonably imminent threat to a student's health, physical safety, or well-being; and/or,
  - iii. To accommodate a specific, serious family crisis or medical condition for which no reasonable alternatives exists.
- d. The needs of the concerned districts and their communities as a whole in light of space availability and of potential short term and/or long term fiscal impact; and,
  - e. Other exceptional or extraordinary circumstances which would weigh heavily in favor of the Appellant student or the affected school district. The parent/guardian or school district must specify and describe the type of exceptional or extraordinary circumstance and its effect on the Appellant student or the resident students of the district.

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.

If the County Board determines that the interdistrict appeal should be approved, the student shall be admitted to the district of requested attendance without delay. (Education Code 46602) The County Board may only order attendance in the requested district and not in a specific school of the district.

The County Board shall render a decision within three schooldays of the hearing unless the Appellant requests a postponement. (Education Code 46601)

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

The notice of the County Board's decision shall include the statement that the student shall attend the district of requested attendance pursuant to the terms of the interdistrict attendance agreement and/or permit signed by each district. In the instance when an agreement or permit is not signed by both districts, the student shall attend pursuant to the terms of the board policy/regulation of the district of requested attendance.

The decision of the County Board shall be final. However, the County Board may later take action to rescind its decision and re-hear the appeal if it makes a finding that new evidence, which in the exercise of reasonable diligence, could not have been produced at the appeal hearing, and if introduced, may have resulted in the Board making a different decision on the appeal. The County Board may also take action to rescind its prior decision and re-hear the appeal if a finding is made that there is sufficient evidence that a person falsified information while under oath and as a result, a different decision may have been made by the County Board if the falsification(s) had not been made.

A re-hearing may be limited to just the presentation of the newly discovered evidence or to the evidence that a person falsified information under oath if such evidence may have been significant in the County Board's determination of the appeal. Any re-hearing may take place at the same meeting a decision to rescind the prior decision is made but only if all the parties have been notified of the possibility of a re-hearing. Any action to approve a motion to support the prior action of the County Board shall require a majority vote of the Board's total membership or four (4) votes. Any

action to approve a motion to rescind the prior action of the County Board and to re-hear the appeal shall require a 2/3rds vote of the Board's total membership or five (5) votes.

Any request to place an action item on the County Board's agenda to rescind the prior decision of the County Board on an interdistrict transfer attendance appeal must be received by the County Office no later than the conclusion of a student's first semester or first trimester at the school the student is attending during the school year following the decision by the County Board.

*Legal Reference: EDUCATION*

*CODE*

*35164 Closed Session*

*46600 Agreements for Interdistrict Attendance*

*46601 Failure to Approve Interdistrict Attendance; Appeal*

*46602 Admission to School Without Delay Upon Board Approval; Notice of Decision*

*46603 Provisional Attendance Pending an Appeal*

*48204 Residency Based on Employment in District*

*48301 Interdistrict Transfers Accepted by a "School District of Choice"*

*48900 Grounds for Suspension and Expulsion-Bullying*

*48916 Expulsion Orders*

*48917 Suspension of Expulsion Orders*

*GOVERNMENT CODE*

*54957 Closed Sessions Personnel Matters*

*Management Resources:*

*PCOE Interdistrict Attendance Transfer Appeal Handbook*

08-10-2006	Adopted
02-24-2011	Review by Board Policy Committee
03-10-2011	Adopted
04-05-2011	Review by Board Policy Committee
04-14-2011	Adopted
10-11-2012	Review by Board Policy Committee
11-08-2012	Adopted
02-09-2017	Adopted



**TO: District Governing Board**  
**ATTN: Superintendent of \_\_\_\_\_**  
**(District)**

**DISTRICT RESPONSE TO THE  
APPEAL OF DENIAL OF INTERDISTRICT ATTENDANCE TRANSFER**  
(Please print or type all material except signature)

1. \_\_\_\_\_  
Name of Student

2. \_\_\_\_\_ 3. \_\_\_\_\_  
Street Address, City, Zip Current Grade

4. \_\_\_\_\_ 5. \_\_\_\_\_  
School District of Residence Present or Last School Attended

6. \_\_\_\_\_ 7. \_\_\_\_\_  
Name of Parent(s) or Guardian Phone

8. \_\_\_\_\_  
Street Address, City, Zip

9. \_\_\_\_\_ 10. \_\_\_\_\_  
Attorney or Representative (if applicable) Phone

11. Please describe the process up to and including the district's denial of the request for interdistrict attendance transfer:

	<u>Date</u>	<u>Action Taken</u>	<u>By Whom</u>
a)	_____	_____	_____
b)	_____	_____	_____
c)	_____	_____	_____

12. Please provide a summary of the issues presented to the District:  
\_\_\_\_\_  
\_\_\_\_\_

13. Please provide the specific Reason(s) for Denial by the District (attach any applicable Board Minutes, Administrative Summary, Board Policies, Administrative Regulations, and Notice of Denial, etc.):  
\_\_\_\_\_  
\_\_\_\_\_

14. I hereby certify that this information is true and correct to the best of my knowledge.

\_\_\_\_\_  
District Superintendent or Designee Date