

SAN MATEO COUNTY BOARD OF EDUCATION

**INTERDISTRICT ATTENDANCE
APPEAL HANDBOOK**

Board Regulation – BR 5110

Adopted SMCBE 11/10/76

Revised SMCBE 2/20/80, 4/7/82, 4/5/95, 9/6/06, 5/7/08, 11/05/08, 06/17/09, 9/2/09, 6/20/12, 12/12/12, 3/20/19

**TO ASSIST PARENTS, GUARDIANS, STUDENTS
AND SCHOOL DISTRICTS IN UNDERSTANDING
THE INTERDISTRICT ATTENDANCE
APPEAL PROCESS**

SAN MATEO COUNTY BOARD OF EDUCATION
INTERDISTRICT ATTENDANCE APPEAL
HANDBOOK

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INTERDISTRICT ATTENDANCE APPEAL HANDBOOK

I. Introduction

The San Mateo County Board of Education has prepared this Handbook to provide direction and information to pupils 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 constitutes the official procedures adopted by the San Mateo County Board of Education for conducting interdistrict attendance appeals.

The San Mateo County Board of Education is committed to an objective review and consideration of appeals for pupils 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 46600-46611*, as well as the local school district's policies and administrative regulations for interdistrict attendance, apply in these appeals. Pupils and/or their parents/guardians have the right to review pupil 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 rejected or failed to rule on a pupil's interdistrict attendance request. The County Board of Education will determine whether to grant or deny an interdistrict attendance agreement after reviewing the relevant facts from the pupil, parent/guardian, and local school district(s) involved.

Limitations on County Board Authority

There are limitations on the types of appeals 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 pupil will be enrolled. The authority to determine a specific school assignment is reserved for the administration of the school district of attendance *only*;
2. Denial of an interdistrict transfer request by a pupil under consideration for expulsion or who has been expelled [Education Code Section 46601(e)];
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 pupil or the services provided to a special education pupil 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(d) or 48204(a)(4), and Family Code Section 6550, *et seq.*].

An appeal submitted on these grounds will be rejected by the County Superintendent's office.

III. County Board Authority in Appeals Involving Two Counties

If the interdistrict attendance involves school districts located in different counties, the appeal will be heard by the County Board of Education for the district denying an agreement or refusing or failing to enter into an agreement. If both districts in different counties deny an agreement, or refuse or fail to enter into an agreement, the County Board of Education for the district of residence shall hear the appeal. If the appeal is granted, the County Board for the other district will be asked to agree. If the two County Boards do not then agree, the pupil's appeal shall be denied.

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

The County Board of Education's review of the appeal may result in:

1. Granting the interdistrict attendance appeal and enrolling the pupil in the new school district;
2. Denying the appeal and ordering the pupil 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 within thirty (30) calendar days of the interdistrict transfer request as to whether the request is approved or denied. If the interdistrict request is denied, 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. If the district of residence or the district of proposed enrollment does not act within thirty (30) calendar days of receipt of the interdistrict transfer application, the district of residence shall notify the parent/guardian of the appeal process to the County Board of Education as specified in Education Code section 46601.

In general, pupils and/or their parents or guardians must request an appeal hearing within thirty (30) calendar days of the date the interdistrict attendance request was denied by the school district. 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 starts.

District Denies Request

1. 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 rejected by either the school district of residence or the school district of proposed enrollment, or both. For example, if a school district denies the request at a school board meeting on April 1st, and the district sends a letter notifying the parent/guardian on April 2nd, which is received by the parent/guardian on April 5th, the deadline to submit the appeal to the County Board of Education is May 1st, which is 30 days from the date of the school board's action to deny the request.

District Fails to Act on Request for the Next School Year

2. If an interdistrict attendance agreement for the next school year has been requested and the school district(s) fail to respond to the request, the pupil and/or parent or guardian must wait at least thirty (30) calendar days from the

date of the request for a response from either of the school districts. If a response is not received from either the district of residence or the district of proposed enrollment after thirty days have passed from the date of receipt of the interdistrict transfer application, the pupil and/or parent or guardian may appeal to the County Board of Education. Please note that if an interdistrict transfer application has been filed within thirty (30) days of the start of the new school year, an additional fourteen (14) days for either district to act upon the application must be observed before an appeal to the County Board of Education.

District Fails to Act on Request Filed During the School Term:

3. If an interdistrict attendance agreement for the current school year has been requested and the school district(s) fail to respond the pupil and/or parent or guardian must wait thirty (30) calendar days from the request date for a response from the school district(s). If the district does not respond during that time, an additional thirty (30) more days are allotted to file an appeal with the County Board of Education.

NOTE: Before filing an appeal, an appellant should check the policies of the local school districts to see if there is any type of internal appeal procedure (e.g., if the decision by the district superintendent may be appealed to the district school board). If there is an internal appeal procedure, an appellant must use that procedure **before** filing an appeal with the County Board of Education. In that case, the 30-day time period for filing an appeal does not begin until the final decision is made by the district or its governing board. An appeal to the County Board of Education will be rejected by the County Superintendent's office unless the appellant provides verification, such as copies of letters from the district, that the entire process with the district that denied the interdistrict transfer request was completed.

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:

Erica Ng
Coordinator, English Learner Support Services
San Mateo County Office of Education
101 Twin Dolphin Drive
Redwood City CA 94065
Telephone: (650) 802-5659
Fax: (650) 802-5564

The form may also be submitted electronically to: eng@smcoe.org

Please read the entire Handbook before completing the form. We especially recommend reading the section "Facts the County Board Will Consider" that begins on page 8 of this Handbook before completing the section of the form entitled, "Reason for Request for Appeal."

This form must be completed, signed, and returned within the applicable time limits (refer to pages 3 and 4). Please complete all sections of the form legibly.

The completed appeal form should be accompanied by: (1) a written statement of the reason(s) for the appeal; (2) a copy of the original interdistrict transfer request; (3) any letters from the district of residence regarding the request; (4) any letters from the denying district regarding the request; and (5) 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 (see pages 3 and 4).

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 County Superintendent's office will not accept the appeal and the appellant will be asked to reapply for an interdistrict transfer with the district of proposed enrollment.

Questions about completing the form should be directed to Erica Ng at the San Mateo County Office of Education at (650) 802-5659.

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. Incomplete appeal submissions will not be accepted.

VII. What If the Appeal Is Late?

Failure to appeal within the required time will result in rejection of the appeal by the County Superintendent's office unless the appellant can show "good cause for the late appeal." The explanation of "good cause" must be filed with the appeal and it must demonstrate why the appeal could not be filed within the required time period. If the appellant submits an explanation of good cause for the late appeal, the matter will be forwarded to the Board for consideration at a Board meeting. The appellant will be allowed to present evidence to demonstrate good cause for the late appeal, and the district(s) will be given an opportunity to respond. The Board will then vote to determine whether the appellant has demonstrated good cause for failing to file the appeal within the required time period. If the Board finds that the appellant has demonstrated good cause, the appeal will be accepted, and the hearing will proceed with a brief verbal presentation by the appellant and the district(s), as set forth on page 8 of this Handbook.

VIII. Under What Circumstances May the County Superintendent's Office Reject an Appeal?

An interdistrict transfer appeal will not be accepted by the County Superintendent's office under the following circumstances:

1. When the County Board has no authority to consider the appeal, as set forth in Section II above.
2. When the appeal is submitted more than 30 calendar days after the date that the request was rejected by either the school district of residence or the school district of proposed enrollment, unless the appellant has submitted an explanation of good cause for the late submission.

3. When the interdistrict transfer request process with the school district(s) denying the request has not been exhausted.
4. When the appeal is based on new reasons or grounds than those presented to the school district(s) for consideration of the interdistrict transfer request.
5. When the appeal fails to provide information or evidence in support of any of the factors set forth in Section XI below.

Prior to rejecting an appeal, the County Superintendent's designee will confer with the Board President, the County Superintendent, and the County Board's legal counsel to confirm the basis for rejecting the appeal. If there is disagreement regarding whether to accept or reject an appeal, it will be forwarded to the County Board for a hearing. Any time an appeal is rejected by the County Superintendent's office, a written explanation of the basis for the rejection will be provided to the appellant and forwarded to the County Board.

IX. 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. The County Superintendent's office will verify whether the pupil is subject to expulsion. A parent cannot appeal the denial of an interdistrict attendance agreement if the pupil is being considered for expulsion or is currently serving an expulsion term [Education Code Section 46601(e)].

The County Superintendent's office will also check to see if the appellant has exhausted all appeal processes in the local school districts. If all of the local appeal options have not been used, the appellant will be directed to complete the local appeal process before submitting a request for an interdistrict appeal hearing before the County Board of Education.

Misinformation and/or falsified 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. The County Board may extend this thirty (30) day period an additional five (5) calendar days for good cause [Education Code Section 46601(b)(1)]. 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. A postponement by a party extends the timeline by no more than twenty-one (21) days for the County Board of Education to make a decision.

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. Normally, the notice will be sent at least fifteen (15) calendar days before the date of the hearing. If the circumstances dictate notice of fewer than fifteen (15) calendar days, the timelines for written statement will also be adjusted.

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.

X. 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 fifteen (15) 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 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 was 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 and submitted at least fifteen days prior to the appeal hearing.

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 or community of proposed attendance may be supportive evidence.

Any written statement or evidence provided by a party after that party's deadline for submission, (15 days prior to the hearing for appellants, and 10 days prior to the hearing for districts), will not be considered by the County Board unless that party has demonstrated good cause for the late submission. Under no circumstances will a written statement or evidence be accepted after 12:00 p.m. the day of the appeal hearing.

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 pupil records. [See Education Code Section 49060, *et seq.*] 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, the appellant must notify the County Board at least two days prior to the hearing.

Translation Services at the Hearing

The appellant may request that the County Board provide a translator for the hearing. Such requests should be made when the appeal is filed with the County Superintendent's office, and no later than three days before 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 focus on the factors that are relevant under the Board's policy and this Handbook 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 pupil. 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.

XI. 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 pupil is generally required to attend school in the district of residence. That presumption may be rebutted if the appellant 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 the appellant has 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 Support Granting an Appeal:

- (1) **The pupil'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 pupil'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 pupil'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 pupil for attendance for the current school year by the district of proposed attendance when requiring the pupils 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 pupil's psychological or physical well-being will be seriously adversely impacted by remaining in the district of residence.** Problems with a pupil'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 pupil.

- (5) **A substantial danger to the pupil's health or safety exists by remaining in the district of residence.** A danger to the pupil'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) **The pupil has been the victim of an act of bullying.** "Bullying" has been defined as any severe or pervasive physical or verbal act(s), conduct, or written communication(s) (including electronic communication(s)), committed by a pupil or group of pupils that would cause a reasonable pupil to experience:
- a) Fear of harm to that pupil or those pupils' person or property;
 - b) Substantial detriment to that pupil's physical or mental health;
 - c) Substantial interference with his or her academic performance; and/or
 - d) Substantial interference with his or her ability to participate in or benefit from the services, activities or privileges provided by a school.
- Appellants are strongly encouraged to provide written documentation to support any argument made on appeal under these sections.

Written documentation that the pupil has been found to be the victim of an act of bullying by either personnel of the district of residence or the district of proposed enrollment would be conclusive proof of this factor.

- (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 pupil, 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 pupil'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 or a law enforcement agency/staff that, due to documented cases of serious home or community issues, it is inadvisable for the pupil 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 pupil 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 pupil would result if the pupil 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.
- (11) **Whether the district of residence 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 section 46601. For example, did the district of residence or the district of proposed enrollment act within thirty (30) days of receipt of the interdistrict transfer application? 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 30-day timeline? Appellants are strongly encouraged to provide any documentation that relates to this factor.

- (12) **Other exceptional or extraordinary circumstances, which would weigh heavily in favor of the pupil.** For example, has the district followed its own policy? Appellants must specify and describe the type of exceptional or extraordinary circumstance and its effect on the pupil, and provide any relevant evidence in support of this position.

B. Adverse Impacts Upon District(s)

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 pupil’s transfer would place an undue hardship on the district’s operations and/or resident pupils 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 pupil’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 pupil 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 pupil in the receiving district.** The district of proposed enrollment is strongly encouraged to demonstrate in writing that the pupil’s transfer would result in an undue hardship on the district’s resident pupils 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.

XII. Conducting the Appeal Hearing

Hearings are conducted in closed session during regular or special San Mateo County Board of Education meetings held at the:

**SAN MATEO COUNTY OFFICE OF EDUCATION
101 Twin Dolphin Drive
California Suite
Redwood City, CA 94065**

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. The law provides that an appellant may have legal counsel or an advocate present if so desired. If legal counsel will attend the hearing, the appellant must notify the County Board at least two days in advance. Hearing proceedings are recorded.

During an appeal hearing, the parent or guardian, the pupil (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 parent or guardian requests in writing that it be in open session. 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 pupil, and/or representative of the pupil, 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 therefor.
4. The district of proposed enrollment will be given an opportunity to describe the action taken by that district, if any, and the reasons therefor.
5. The appellant will have an opportunity to respond to the district(s) reasons, 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.
6. Members of the Board may question any of the parties to the hearing, and the staff, and consult with legal counsel, if necessary.
7. 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.

If the appellant fails to attend the appeal hearing, the appeal will be deemed withdrawn and the County Board will not proceed with the hearing.

XIII. 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'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 pupil will be admitted to the school district of proposed enrollment without delay [Education Code Section 46602]. The County Board may order attendance in a district, but not in a specific school.

**APPENDICES TO THE
INTERDISTRICT APPEAL HANDBOOK**

Board Policy 5110 Interdistrict Attendance Appeals

Appeal of Denial of Interdistrict Attendance

Resource List: Free or Low-Cost Legal Services in San Mateo County

San Mateo County Board of Education Policy

Students

BP 5110

Interdistrict Attendance Appeals

Pursuant to Education Code Section 46601 *et seq.*, the San Mateo County Board of Education shall hear and resolve interdistrict attendance appeals.

Disposition of interdistrict attendance appeals shall be based on the following guidelines:

1. It is presumed that a pupil is generally required to attend school in the district of residence of either the parent or legal guardian.
2. That a request for attendance in a district other than the district of residence, whenever possible, should be resolved by the governing boards of the two districts involved.

The County Board is given authority by law to adopt rules and regulations establishing procedures for interdistrict attendance appeals. In an effort to make such legal procedures understandable to parents, guardians, students and school districts, the County Board has reviewed and adopted the contents of the “Interdistrict Attendance Appeal Handbook” dated March 20, 2019. The Handbook is established as a board regulation to govern interdistrict attendance appeals filed with the County Board.

The County Board has established limits on the types of appeals it will consider regarding interdistrict attendance agreements. These limitations are set forth in detail in Board Regulation 5110: Interdistrict Attendance Appeal Handbook.

Although the law allows total discretion by the County Board to determine whether to grant or deny an interdistrict attendance agreement on appeal, the County Board has adopted certain criteria to guide its decision. The County Board believes that it is the responsibility of the person filing the appeal to provide facts that meet one or more of the criteria. Even if the appellant submits such facts, the County Board may also consider any adverse impacts to the school district(s) in question and balance the competing factors. The criteria to be considered by the County Board are set forth in the Handbook.

Legal References:

Education Code 46601-46604 Interdistrict Attendance Computation

Education Code 48204 Residency requirements for school attendance

Adopted 11/10/76; Revised 01/20/82, 10/02/85, 08/21/91, 04/05/95, 09/06/06, 05/07/08,
12/12/12, 3/20/19

APPEAL OF DENIAL OF INTERDISTRICT ATTENDANCE

(Please print or type all material except signature)

In accordance with Education Code Section 46601, and the San Mateo 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 communicated to the County Board of Education within thirty (30) calendar days following the date of denial of the request for an interdistrict transfer or a failure of the district to enter into an agreement.]

IDENTIFYING INFORMATION

Date: _____

Name of Parent/Guardian (Appellant): _____

Address of Residence: _____

How long at this address? _____ Resident School District _____

Residence Telephone: _____ Business Telephone: _____

E-mail _____

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

Translator Requested: Yes: _____ No: _____ Language: _____

I am/we are requesting that the San Mateo County Board of Education hear an appeal of the denial by _____ School District of an interdistrict attendance transfer request for my/our son(s)/daughter(s) to attend school in the _____ School District.

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

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

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

2. List prior schools attended and dates of attendance: _____

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

4. Do they attend school in the resident school district? Yes: _____ No: _____

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

6. Is this the first year an interdistrict attendance agreement has been requested from the district for this student? Yes: _____ No: _____

7. If an interdistrict attendance agreement was approved in prior years for the pupil(s), please indicate the first year the agreement was granted: _____ (school year, e.g., 2017-2018)

8. Pupil's grade level during the first year agreement was granted: _____
9. Reason parent requested interdistrict attendance the first year the agreement was approved:

10. Has parent been required to submit a new interdistrict attendance request each year since the first year? Yes: _____ No: _____
11. If the current request is for reasons related to childcare located within the district of proposed enrollment:
- A. Does the pupil still receive childcare services within the boundaries of the district of proposed enrollment? 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 district of proposed enrollment? _____ (year)
12. Does the pupil have any brothers or sisters who are attending school in the district of proposed enrollment under an interdistrict agreement? Yes: _____ No: _____
13. Explain parent's understanding of the reason(s) for denial of permit: (Please attach a copy of the notice of denial from the district.)

14. Reason for Request for Appeal [Note: The request for appeal ***will not be accepted*** without a complete statement of reasons. See Section A, pages 9-11 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 pupil will attend. **If the County Board grants a transfer to a district, then the district makes the decision about which school the pupil 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 #14 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.

RESOURCE LIST

Free or Low-Cost Legal Services in San Mateo County

Legal Aid Society of San Mateo County

www.legalaidsmc.org

The Natalie Lanam Justice Center

Sobrato Center for Nonprofits - Redwood Shores

330 Twin Dolphin Drive, Suite 123

Redwood City, CA 94065

(650) 558-0915

(800) 381-8898 (toll-free)

(650) 517-8973 (fax)

Community Legal Services in East Palo Alto

www.clsepa.org

1861 Bay Road, East Palo Alto, CA 94303

(650) 326-6440 (main)

San Mateo County Bar Association

Lawyer Referral Service

(650) 369-4149, press "3" at the prompt

(Small fee applies for consultation with lawyer.)