

KINGS COUNTY BOARD OF EDUCATION BOARD POLICY

BP 5117
Students

APPEAL FROM DENIAL OF INTERDISTRICT AGREEMENT REQUEST

Pursuant to the provisions of Chapter 5 commencing with Education Code section 46600, it is the responsibility of the County Board of Education (the "Board") to hear and resolve interdistrict attendance appeals for pupils requesting permission to attend school in a district other than the pupil's district of residence.

Time Limits to File Notice of Appeal

If, within 30 calendar days after the person having legal custody of a pupil has so requested, the governing board of either school district fails to approve interdistrict attendance in the current term or, in the absence of an agreement between the districts, fails or refuses to enter into an agreement, the district denying the permit or, in the absence of an agreement, the district of residence, shall advise the person requesting the permit of the right to appeal to the Board as provided in Education Code section 46601.

Failure to file a notice of appeal within the required time constitutes sufficient good cause for denial of an appeal.

Filing of Notice of Appeal

An appeal and request for hearing must be made in writing to the Secretary of the Board containing the following:

1. Name, address and telephone number of parent or guardian and representative, if any.
2. Name of pupil.
3. Grade of pupil.
4. District of residence.
5. District of desired attendance.
6. Date interdistrict attendance denied.
7. Brief statement of reason(s) for appeal.
8. Any other written statement(s) or documentation related to the matter.

An appeal shall be accepted only upon verification by the County Superintendent of Schools or designee that all appeals within the school district have been exhausted.

Notification of Hearing

The hearing shall be set for a regular or special meeting of the Board within 30 calendar days after the notice of appeal is filed.

The Board shall provide adequate notice (i.e., no less than 72 hours prior to the meeting) to all parties of the date and time of any hearing scheduled and of the opportunity to submit written statements and documentation and to be heard by the Board. Written notice shall be provided to both parties by certified mail (return receipt requested) and regular first class mail.

Considerations and Scope of Review

Generally, disposition of interdistrict appeals shall be based upon the following rebuttable presumptions:

1. Children should attend school in their district of residence.
2. Requests to permit attendance in a district other than the district of residence will ordinarily be effectively resolved by the two districts in question.
3. Generally, in cases which satisfy one or more of the reasons listed below, the Board will reverse the decision(s) of the district(s).

In any case where the Board reverses the decision of the district, it shall be based upon a “demonstrable hardship” on the part of the pupil or parent or both. Preference or convenience of parents or pupils alone does not constitute such necessity.

School districts cannot refuse to grant interdistrict attendance agreements on the basis of race, ethnicity, gender, parental income, scholastic achievement or any other arbitrary and/or capricious consideration. However, the Board shall not limit a school district’s authority to deny an interdistrict attendance request on the basis of other legitimate, non-arbitrary/capricious considerations including, but not limited to, the following:

1. When the pupil’s transfer would negatively impact a court-ordered or voluntary desegregation plan of the district.
2. When the district determines that the additional cost of educating the pupil would exceed the amount of additional state aid received as a result of the transfer.
3. When the pupil’s transfer would result in a violation of a collective bargaining agreement between the school district and its employees.
4. When the pupil’s transfer may result in the imposition of class-size reduction penalties.
5. When there is no classroom space available for the pupil in the district of proposed attendance.

6. When the school district of residence determines that the transfer of pupils out of a district will exceed three (3) percent of its current year estimated average daily attendance or an aggregate of ten (10) percent of its average daily attendance for the period January 1, 1994, to date. (Education Code section 48307; see Legislative Counsel's opinion.)
7. When a Charter School District denies enrollment under the provisions of Education Code section 47605.
8. When the pupil, or the parent/guardian, has not exhausted the interdistrict appeal process in the denying district.
9. When the pupil, or the parent/guardian, has failed to file a notice of appeal within 30 calendar days of district denial.

On the other hand, an appeal may be granted and interdistrict attendance may be approved for the following reasons:

1. When the student has been determined by staff of either the district of residence or district of proposed attendance to be a victim of an act of bullying as defined in Education Code 48900(r). Such a student shall be given priority for interdistrict attendance under any existing interdistrict attendance agreement or, in the absence of an agreement, shall be given consideration for the creation of a new permit.
2. To meet the child care needs of the student. Such a student may be allowed to continue to attend district schools only as long as he/she continues to use a child care provider within district boundaries.
3. To meet the pupil's special mental or physical health needs as certified by a physician, school psychologist or other appropriate school personnel.
4. When the pupil has brother(s) or sister(s) attending school in a different district and the purpose of the request is to avoid splitting the children between two districts.
5. Allow a pupil to complete a school year when parents/guardians have moved out of the district during that year.
6. Allow a pupil to remain with a class graduating that year from an elementary, junior or senior high school.
7. Allow seniors to attend the same school they attended as juniors, even if their families moved out of the district during the junior year.
8. When the parent/guardian provides written evidence that the family will be moving to the receiving district in the immediate future and would like the pupil to start the year in that district.
9. When the student will be living out of the district for one year or less.

10. 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.
11. When there is valid interest in a particular educational program not offered in the district of residency.
12. To provide a change in school environment for reasons of personal and social adjustment.
13. Where the resident school district has not tried, to the extent practicable, to establish an interdistrict transfer agreement with the receiving school district if all the resident district's Title I schools have been identified as needing either program improvement, corrective action or restructuring under federal law.

Hearing and Decision

Following oral presentation by both parties, including the presentation of evidence by both parties, the Board shall render a decision within three (3) schooldays following the hearing unless the person who filed the appeal requests a postponement.

If new evidence or grounds for the request are introduced, the Board may remand the matter for further consideration by the district or districts. In all other cases, the appeal shall be granted or denied on its merits.

If the Board determines that the pupil should be permitted to attend in the district in which he or she desires to attend, the pupil shall be admitted to school in the district without delay. The Board shall also determine the applicable period of time.

Written notice of the decision by the Board shall be delivered to the pupil and the parent or guardian, or person having custody of him or her, and to the governing boards of the districts (i.e., certified, return receipt requested and regular first class mail).

Both the hearing and the deliberation of the Board shall be conducted in public session unless the disclosure would violate any right of privacy and/or confidentiality guaranteed by Constitutional, statutory or case law.

Legal References:

EDUCATION CODE

46600, 46601, 46602; Opinion of the Legislative Counsel of California, June 29, 2007, #0721044; *Butler v. Compton Junior College Dist.* (1947) 77 Cal.App.2d 719; 57 Ops.Cal.Atty Gen. 189; 71 Ops.Cal.Atty.Gen. 96.

Adopted By Board:	<u>September 17, 1973</u>
Revised By Board:	<u>October 7, 1974</u>
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Revised By Board:	<u>September 4, 1985</u>
Revised By Board:	<u>September 6, 1989</u>
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Reviewed By Board:	<u>April 7, 1999</u>
Revised By Board:	<u>September 1, 1999</u>
Revised By Board:	<u>January 5, 2005</u>
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Revised by Board:	<u>May 5, 2010</u>
Revised by Board:	<u>September 7, 2011</u>
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