

**INTERDISTRICT APPEAL
HANDBOOK
KINGS COUNTY OFFICE
OF EDUCATION**

A Message From the Kings County Board of Education:

A legal responsibility of the Kings County Board of Education (“the County Board”) is to rule on interdistrict transfers when either the district of residence or requested district of attendance do not enter into an agreement. Under these circumstances, the parent or guardian has a legal right to appeal that decision to the County Board for review.

County Board members have found that the appeal process may seem complicated, intimidating, and sometimes overwhelming. As a result, the County Board decided to develop this brochure to explain, in detail, the steps involved in an interdistrict appeal. The goal is to inform community members of the required procedures, decision-making criteria and other aspects of the interdistrict appeal process.

The County Board strives to make fair and equitable decisions based on the application of the decision-making criteria to the case presented to the County Board. The County Board recommends that parents who believe they are justified in requesting that their child(ren) attend a school district other than the district of residence present to the board of the district of residence a request in writing, preferably before the opening of school, so that the school board may promptly render a decision on their request.

When May I Request An Interdistrict Attendance

Appeal? When the pupil’s parent or guardian has requested that the pupil be permitted to attend school in a district other than the district of residence, and when either district governing board has neglected or refused to enter into an agreement within thirty (30) calendar days after the request has been received, the parent or guardian may appeal the matter to the County Board having jurisdiction over the district of residence of the parent/guardian. (Education Code section 46601.)

Failure to file an appeal within (30) calendar days may be cause for denial of an appeal hearing. An appeal shall be accepted only upon verification by the County Board’s designee, the Kings County Superintendent of Schools, that appeals within the school districts have been exhausted.

The County Board shall, within thirty (30) calendar days after the appeal is filed, determine whether the pupil should be permitted to attend in the district in which the pupil desires to attend and the applicable period of time. In the event that compliance by the County Board within the time requirement for determining whether the pupil should be permitted to attend in the district in which the pupil desires to attend is impractical (i.e., within thirty (30) calendar days after the appeal is filed), the County Board or the County Superintendent of Schools, for good cause, may extend the time period for up to an additional five (5) school days. The County Board of Education shall provide to all parties adequate notice of the date and time of any scheduled hearing and the opportunity to submit written statements and documentation and to be heard (testify) on the matter according to the rules and regulations of the County Board. The County Board may grant a continuance upon a showing of good cause.

If new evidence or grounds for the interdistrict transfer request are introduced, the County Board may remand the matter for further consideration by the district(s). In all other cases, appeals shall be granted or denied on their merits.

How Do I Request A Hearing? The person having legal custody of the pupil can begin the appeal process by requesting an “Appeal For Interdistrict Attendance Agreement” form, from the Kings County Office of Education, 1144 W. Lacey Boulevard, Hanford, CA 93230 or by calling (559) 589-2506.

What Happens Next? No less than 72 hours prior to the hearing, an administrative representative of the Kings County Office of Education shall notify you and the district(s) involved of the date, time and place of the appeal hearing. The County Board has thirty (30) calendar days after you file an appeal to conduct a hearing and determine in which district the pupil shall attend school. The County Board may extend this period an additional five (5) days for good cause. (Education Code section 46601).

After you have filed your appeal, you will be contacted by the County Superintendent’s staff.

1. An administrative representative will attempt to facilitate a resolution between you and the districts involved prior to the hearing.
2. An administrative representative will review the case to determine that all rights and time lines have been honored prior to the hearing.

3. If a hearing is necessary, an administrative representative will act as an advisor to all parties if hearing is necessary. (EC Section 46601).
4. An administrative representative will explain your rights and the procedures for your case.
5. The administrative representative will recommend or request that you make certain materials or documents available for consideration or for the hearing to assist the board of education in making its determination.

What Will Happen At The Hearing? Hearings are conducted in open session during regular or special sessions of the County Board.

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. You may have legal counsel or an advocate if you wish, although formal hearing procedures are not in effect.

When your appeal comes up on the agenda, you, the student (optional) and the administrative representative of the district, will take seats in front of the Board. The County Superintendent will act as an advisor to all parties and you may feel free to ask the Superintendent for assistance if you have concerns or questions during the hearing.

Consideration Of Appeal: The County Board will consider the appeal in open session. The President of the County Board shall conduct the proceedings, which may include the following steps:

1. Introduction of all interested parties.
2. The appellant (parent or representative) shall present his/her case, including the presentation of any additional relevant evidence.
3. A representative from the district of residence will be given an opportunity to present its case, including the presentation of any additional relevant evidence.
4. A representative from the district of desired attendance will be given an opportunity to present its case, including the presentation of any additional relevant evidence.
5. Members of the County Board may question any of the parties to the hearing concerning the evidence presented or arguments made.
6. Following oral presentation by all parties, including the presentation of evidence, the County Board shall deliberate and render a decision within three (3) school days following the hearing.

7. Written notice of the decision shall be delivered to the pupil, the parent/guardian and any representative, and to the governing boards of the school districts.
8. If the Board determines the pupil should be permitted to attend in the district of requested attendance, then the pupil will be admitted without delay (EC Section 46602). The board may order attendance in a district, but not in a specific school.

Following action by the County Board of Education, written notice of the decision shall be delivered to the pupil and the parent/guardian, or the person having custody of pupil, and to the governing boards of the districts, by the secretary of the board or his/her designee.

HOW DO I PREPARE FOR THE HEARING?

Documentation is helpful when presenting your case. Evidence is more effective when it is in writing, related to the issue(s) in question and is the type of evidence which a reasonable person can rely upon in the conduct of serious affairs. Some examples are:

1. A copy of your original request for interdistrict transfer and the written response received from the school district(s).
2. Professional recommendations by doctors, educators, psychologists, or others, when relevant (i.e., necessary if you are seeking approval for reasons of physical or emotional well-being of the child).
3. Brochures or written information about special programs in the requested district of attendance.
4. Documentation related to your child's safety.
5. Report cards or other indicators of student performance.
6. Letters from childcare givers, teachers or other persons who can provide relevant information/evidence about the issue in question.

When preparing your argument in support of an interdistrict transfer, you should focus on those reasons that the County Board will consider in approving an appeal (see "WHAT THE COUNTY BOARD WILL AND WILL NOT CONSIDER" below).

In addition to documentary evidence, it may be helpful to bring a witness to testify to a significant reason/justification for the interdistrict transfer.

WHAT THE COUNTY BOARD WILL AND WILL NOT CONSIDER

In any case where the County Board reverses the decision of the district, it shall be based upon a "demonstrable hardship" on the part of the pupil and/or parent/guardian or both. Preference or convenience of parent(s) or pupil(s) alone does not constitute such necessity. In those cases where considerations support both the parent/pupil and the district, the determining factor in weighing and deciding the case shall be "demonstrable hardship" to the pupil and/or the parent/guardian.

POSSIBLE DENIAL: If the County Board finds that any of the following legitimate, non-arbitrary considerations exist in your case, then it may deny your appeal.

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 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 from March 4, 2004 to date.
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 thirty (30) calendar days of district denial

In any case where the County Board reverses the decision of the district, it shall be based upon a "demonstrable hardship" on the part of the pupil and/or parent/guardian or both. Preference or convenience of parents or pupils alone does not constitute such necessity. In those cases where considerations support both the parent/pupil and the district, the determining factor in weighing and deciding the case shall be "demonstrable hardship" to the pupil and/or the parent/guardian.

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

1. Subject to the provisions of section 6 above, (1) where at least one parent or the legal guardian of the pupil is physically employed within the boundaries of the non-resident district, or (2) before or after school child care of the pupil will result in severe hardship to the pupil or parent/guardian in terms of the time and/or cost if the pupil attends school in the district of residence.
2. To address a pupil's particular serious mental or physical health needs as certified by a physician, school psychologist or other appropriate professional.
3. 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.
4. Allow a pupil to complete a school year when parents/guardians have moved out of the district during that year.
5. Allow a pupil to remain with a class graduating that year from an elementary, junior or senior high school.
6. Allow seniors to attend the same school they attended as juniors even if their families moved out of the district during the junior year.
7. 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.
8. When there is a valid interest in a particular educational program not offered in the district of residency.
9. To provide a change in school environment for reasons of personal and social adjustment.
10. 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.

BOARD POLICY 5117

BP 5117

Students

APPEAL FROM DENIAL OF INTERDISTRICT TRANSFER 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 transfer 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 transfer 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 transfer 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 transfer 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 parent(s) or pupil(s) alone does not constitute such necessity.

School districts cannot refuse to grant interdistrict transfer 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 transfer 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 pupil(s) 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 from March 4, 2004 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 transfer 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. Subject to the provisions of section 6 above, (1) where at least one parent or the legal guardian of the pupil is physically employed within the boundaries of the non-resident district, or (2) before or after-school child care of the pupil will result in severe hardship to the pupil or parent/guardian in terms of the time and/or cost if the pupil attends school in the district of residence.
2. To address a pupil's particular serious mental or physical health needs as certified by a physician, school psychologist or other appropriate professional.
3. 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.
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6. Allow seniors to attend the same school they attended as juniors, even if their families moved out of the district during the junior year.

