

**INTERDISTRICT ATTENDANCE APPEALS**

- A. **Authority.** The Monterey County Board of Education is authorized by law to decide interdistrict appeals and to adopt rules and procedures in the conduct of the appeal hearings.
- B. **School Assignment.** By law, pupils are required to attend the schools of the school district in which their parents or legal guardians reside. If there are special circumstances for the pupil to attend a school outside his / her assigned school district and if the receiving district is willing to accept the transfer, then the parent or the person having legal custody of the pupil must file a request for an interdistrict transfer with the pupil's home district.
- C. **Right of Appeal.** If, within 30 calendar days of filing a request for interdistrict transfer, the governing board of either school district denies or refuses or fails to act on the request for interdistrict transfer, the district denying the request shall advise the person requesting the transfer of the right to appeal to the County Board of Education. Failure to appeal within thirty (30) days of the decision to deny the transfer is cause for denial of the appeal.

If the interdistrict attendance involves school districts located in different counties, the county board of education having jurisdiction over the district denying the transfer, or refusing or failing to act, shall have jurisdiction for the purpose of the appeal. If both districts deny the transfer, the county board of education having jurisdiction over the district of residence shall have jurisdiction for purposes of an appeal and, upon granting a pupil's request, shall seek concurrence in the decision by the county board of education of the other county. If the two county boards of education do not then concur, the pupil's appeal shall be denied.

An appeal shall be accepted by the Monterey County Board of Education only upon verification by the Board's designee that appeals within the districts have been exhausted. [Education Code Section 46601(a)]. It is the expectation of the Monterey County Board of Education that the district governing board would render the final decision in these matters.

Students who are under consideration for expulsion, or who have been expelled, may not appeal interdistrict attendance denials while the expulsion proceedings are pending or during the term of the expulsion.

- D. **Appeal Process.** The appeal shall be initiated by filing the appeal using the form provided in Addendum 1 of this Policy, or an equivalent written document, with the Secretary of the County Board of Education (i.e., the County Superintendent of Schools), containing the following information:

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1. Name of person submitting the appeal.
2. Name of student(s), age(s) and grade(s).
3. District in which parents or legal guardian reside.
4. District of desired attendance.
5. Present address and length of time lived there.
6. Previous address and school district.
7. School(s) now attended.
8. Actions by district of residence, including persons contacted, date of request, date of official District School Board action.
9. Actions by district of desired attendance, including persons contacted, date of request, date of official District School Board action.
10. Reasons for the request for transfer.
11. Any other information or documentation bearing on the matter.

a. If the parent/legal guardian wishes to have the Board consider sensitive personal information such as school or medical records, he/she must sign a waiver to that effect. Sensitive personal information which is pertinent to the appeal shall not be disclosed at the open session of the Board hearing, but will be included in the written report and may be discussed at a closed session of the Board hearing (Education Code Section 49076).

The effective date of the appeal shall be the date on which the completed and signed appeal document is received by the Secretary of the County Board of Education. As soon as possible, the Secretary will verify the information contained in the appeal, including the actions of the districts involved. If the written appeal is complete in all respects, the Secretary will place the matter on the agenda of a regular or special meeting of the Board to be held no later than thirty (30) days following the effective date of the appeal.

E. **Preparation for the Appeal Hearing.** The County Board shall conduct a hearing within thirty (30) days after the appeal is filed to determine whether the student should be permitted to attend school in the district of desired attendance. If it is impractical for the County Board to comply with the time requirement for hearing, the County Board may for good cause extend the time period for up to an additional five (5) school days.

No later than ten (10) days prior to the hearing, the Secretary of the County Board shall notify by certified mail, return requested, all parties of the date, time and place of the hearing, the opportunity to submit written statements and documentation, and to be heard on the matter.

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**F. Disposition of Appeal.** Disposition of the interdistrict attendance appeals shall be based upon the following presumptions:

1. A pupil is normally required to attend school in the district in which the parents or legal guardian reside, unless the desired district of attendance offers open enrollment in accordance with Education Code Sections 48209-48209.16.
2. A request for attendance in a district other than the district of residence ordinarily will be settled by the governing board of the two (2) districts involved.
3. Only in extraordinary situations should the County Board of Education reverse the decision of a school district governing board.

**G. Consideration in Regard to Appeal.** In considering interdistrict attendance appeals, the Board will review the basis for local Board precedent actions which gave rise to the appeal and determine whether there are unusual conditions which justify intercession of the Board. Such conditions must involve the educational and/or health interests of the pupil to such a critical degree that substantial and manifest improvement in educational services will result if the appeal is granted.

**H. Criteria Which May Be Used.** The Board will consider the following:

1. Whether all statutory and regulatory requirements have been satisfied including;
  - a. verification by the Board's designee of exhaustion of in-district appeals
  - b. exhaustion of other district remedies
  - c. receipt of an appeal within thirty (30) calendar days of the failure or refusal of a district to issue a permit or enter into an agreement allowing interdistrict attendance
2. The needs of the concerned districts and their communities as a whole in light of space availability and long and short term fiscal impact;
3. The basis for the local board's actions which gave rise to the appeal and determine whether there are unusual conditions which justify the rejection of the request.
4. The district of residence does not offer the particular educational program required by the pupil and the district of desired attendance does offer such a program
5. Severe hardship, in terms of time and/or costs to the person having custody or to the pupil for before-or-after school supervision of the pupil, will result if the pupil is required to attend the district of residence.
6. Child care considerations.

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7. A substantial danger to the pupil's health or safety will be removed or greatly mitigated by granting the appeal.
8. Such other condition exist which will result in substantial and manifest improvement in educational services for the pupil by attending the district requested.
9. Whether good cause otherwise exists; and
10. Information deemed useful to the Board as disclosed by the County Superintendent's investigation.

**I. Hearing Procedure.** The Board will consider the appeal in an open session. In order to prevent disclosure of the confidentiality of the student's record information, the hearing may be closed only for that portion of the hearing (Education Code Section 49076). The President of the Board, or designee, shall conduct the proceedings. All discussion shall be directed to the President or to a Board member in response to an inquiry. The following procedures will be followed:

1. Introduction of all interested parties.
2. The parent/guardian, or the pupil, and/or a representative of the pupil will present the reasons for applying for an interdistrict attendance agreement to the district of desired attendance and other actions, if any, taken by the respective school districts.
3. The district of residence will be given an opportunity to describe the action taken by the district and the reasons therefore.
4. The district of desired attendance will be given an opportunity to describe the action taken by that district and the reason therefore.
5. Members of the Board may question any of the parties, the staff and/or legal counsel at any time during the hearing.
6. When all parties have completed their presentations, the President will declare the hearing ended. The County Board shall then deliberate and determine its position on the appeal.
7. The Board shall either grant or deny the appeal on its merits. However, if new evidence or grounds for the request are introduced, the County Board may remand the matter to the district(s) for further consideration.
8. An affirmative vote of four (4) members of the Board is required to grant the appeal.

**Final Order of the Board.** All parties will be notified in writing of the decision of the County Board of Education. If the County Board of Education determines that the student should be permitted to attend school in the district of desired attendance:

1. the attendance is for any school in the district, not a specific school;

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2. the student's attendance in that district shall not exceed one (1) school year (unless the district agrees to a longer period); and
3. the student shall be admitted to a school in that district without delay.

The decision of the County Board shall be final and binding upon the appellant and the districts. The order shall become final when rendered.

## Legal Reference:

## EDUCATION CODE

35160 Governing board powers and duties

46600-46611 Interdistrict attendance appeals and agreements

48204 Residency requirements for school attendance

48209-48209.17 Student attendance alternatives

49073-49079 Privacy of student records

## GOVERNMENT CODE

54950-54962 Ralph M. Brown Act (re: closed sessions)

Adopted: 3/16/1994

Revised: 1996; 8/04/1999; 2/04/2009; 3/21/2012

Reviewed: 8/1987; 1996; 1999; 1/7/2009, 3/14/2012

STUDENTS  
**INTERDISTRICT ATTENDANCE APPEALS**

BP 5117

**Addendum A**

**APPEAL OF A DENIAL OF AN INTERDISTRICT TRANSFER REQUEST**

(Please print or type all material except signature)

TO: Monterey County Board of Education  
901 Blanco Circle  
Salinas, Ca. 93901-0851  
(831) 755-0303

ATTN: Secretary to the Board of Education  
Superintendent's Office

In accordance with Education Code § 46601, and the Monterey County Board of Education Policy, we hereby request a hearing for the purpose of Appealing an Interdistrict Transfer Denial.

Date \_\_\_\_\_

Appellant Parent(s) or Guardian(s) \_\_\_\_\_

Residence \_\_\_\_\_

Telephone \_\_\_\_\_ Business Telephone \_\_\_\_\_

I am / we are requesting that the Monterey County Board of Education hear an appeal of the denial by the Governing Board of the \_\_\_\_\_ 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 \_\_\_\_\_

Student \_\_\_\_\_ Age \_\_\_\_\_ Grade \_\_\_\_\_

Student \_\_\_\_\_ Age \_\_\_\_\_ Grade \_\_\_\_\_

1. How many other children in the home? \_\_\_\_\_ Give ages: \_\_\_\_\_

2. Do they attend school in the district of residence? Yes \_\_\_\_\_ No \_\_\_\_\_

Explain if answer to number 2 is "No": \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**(over)**

Explain why you have requested an interdistrict transfer. If you need more space, please attach a sheet to this form. \_\_\_\_\_

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Should the parent/legal guardian wish to have the County Board consider sensitive personal information such as pupil or medical records, he/she must sign a waiver to that effect. Sensitive personal information which is pertinent to the appeal shall not be disclosed at the open session of the Board hearing, but will be included in the written report and may be discussed at a closed session of the Board hearing.

**I understand that the Monterey County Board of Education will rely upon this information to decide my appeal. I hereby certify that is information is true and correct to the best of my knowledge.**

\_\_\_\_\_  
**Signature of Parent/Guardian or Adult Pupil Filing Appeal**

\_\_\_\_\_  
**Date**

*This information will be received by all County Board members to help them arrive at a decision regarding your appeal. Include any facts that you believe will help your appeal. You are invited to explain your request in more detail to the County Board when your appeal is considered.*

**Please attach to this form any documentation denying your interdistrict transfer request:**

- (1) Your transfer request;
- (2) Any governing board notification from your district of residence regarding your request;
- (3) Any governing board notification from the denying district regarding your request;
- (4) Any additional documentation that is pertinent to your request.