

INTERDISTRICT ATTENDANCE APPEALS

Authority. The Monterey County Board of Education (County Board) is authorized by law to decide interdistrict appeals and to adopt rules and procedures in the conduct of the appeal hearings.

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.

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. 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 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 County Board only upon verification that appeals within the districts have been exhausted. [Education Code (EC) Section 46601(a)]. It is the expectation of the County Board 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.

Appeal Process. The appeal shall be initiated by filing the appeal using the form provided on page seven of this Policy, or an equivalent written document, with the Secretary of the County Board, who is also the Monterey County Superintendent of Schools (County Superintendent), containing the following information:

1. Name of parent or legal guardian submitting the appeal.
2. Present address of parent or legal guardian
3. District in which parents or legal guardian reside.
4. District of desired attendance.
5. Name of student(s), age(s) and grade(s).
6. School(s) now attended.
7. Actions by district of residence.
8. Actions by district of desired attendance.
9. Reasons for the request for transfer.
10. Any other information or documentation bearing on the matter.

If the parent/legal guardian wishes to have the County 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 County Board hearing, but will be included in the written report and may be discussed at a closed session of the County Board hearing. [EC 49076]

The effective date of the appeal shall be the date on which the completed and signed appeal document is received by the County Superintendent. As soon as possible, the County Superintendent 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 County Superintendent will place the matter on the agenda of a regular or special meeting of the County Board to be held no later than thirty (30) days following the effective date of the appeal. Appellants shall be given a copy of the Interdistrict Appeal Handbook (BP 5117 Exhibit), which explains the appeal process.

Schedule 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 County Superintendent is required by law to notify by certified mail—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.

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 48350-48361.
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 reverse the decision of a school district governing board.

Consideration in Regard to Appeal. In considering interdistrict attendance appeals, the County 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 County 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.

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

1. Determination that all legal requirements for the appeal have been met;
2. The needs of the concerned districts and their communities as a whole in light of space availability and 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. A substantial danger to the pupil's health or safety will be removed or greatly mitigated by granting the appeal;
7. Such other condition exists which will result in substantial and manifest improvement in educational services for the pupil by attending the district requested;
8. Determination if the student is a child of an active military duty parent/guardian. If so, that student shall not be prohibited from attending a school district outside his/her residence if the other school district approves the application for transfer; [EC 48301]
9. A district may deny a transfer of their student to a school district of choice if the local school board determines that the transfer would negatively impact a court-ordered or voluntary desegregation plan of the district; [EC 48301]
10. Whether good cause otherwise exists; and

11. Information deemed useful to the County Board as disclosed by the County Superintendent's investigation.

Hearing Procedure. The County 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. [EC 49076] The County Board President, or designee, shall conduct the proceedings. All discussion shall be directed to the County Board President or to a County 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 that rejected the transfer will be given an opportunity to explain the reason for the action taken by the district.
4. Each party will be given the opportunity for rebuttal, and to provide a closing statement starting with the appellant.
5. Members of the County Board may question any of the parties, the staff and/or legal counsel at any time during the hearing.
6. The County Superintendent or the County Board's legal counsel may, at this time, present any factual information or other consideration not already covered by others present.
7. When all parties have completed their presentations, the County Board President will declare the hearing ended. The County Board shall then deliberate and determine its position on the appeal.
8. The County 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.
9. An affirmative vote of four (4) members of the County 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. If the County Board 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;
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*
46600-46610 *Interdistrict attendance appeals and agreements*
48204 *Residency requirements for school attendance*
48301 *Interdistrict transfers; restrictions upon pupil transfers*
48303 *Annual outbound transfers of pupils; school district limits*
48350-48361 *Open Enrollment Act*
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; 1/04/2017; 04/05/17

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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, I/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 _____

Email Address _____

Student _____ Age _____ Grade _____

Student _____ Age _____ Grade _____

School district of residence _____

School district the student(s) wishes to attend _____

School district which denied your request _____

Does the student(s) attend the school in the district of residence now? Yes _____ No _____

Explain if answer is "No":

(over)

Explain why you have requested an interdistrict transfer. Include any facts that you believe will help your appeal. If you need more space, please attach a sheet to this form.

The appeal hearing will be held in open session. Should the parent/legal guardian wish to have the County Board consider sensitive personal information such as medical records in closed session, please sign a request to that effect.

I hereby request a closed session to consider sensitive personal information.

Signature of Parent/Guardian Filing Appeal

Date

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 Filing Appeal

Date

Please attach any documentation denying your interdistrict transfer request:

- (1) Your transfer request form;
- (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.

This information will be received by all County Board members to help them arrive at a decision regarding your appeal.