

8000 COUNTY BOARD OF EDUCATION

8600 APPELLATE FUNCTIONS

8610 INTERDISTRICT ATTENDANCE

It is the policy of the Marin County Board of Education that, with few exceptions, children should attend school in the district of residence.

The Board shall adopt rules and regulations governing the appellate process when an interdistrict attendance agreement has been denied. These rules and regulations shall include the criteria the Board will consider in rendering its decision.

The district denying an interdistrict attendance permit or, in the absence of an agreement, the district of residence, shall advise the person requesting the permit of the right of appeal to the Marin County Board of Education.

References: Education Code 46601

Approved as to form:

Deputy County Counsel

Approved by
Marin County Board of Education – 9/26/89

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MARIN COUNTY BOARD OF EDUCATION
ADMINISTRATIVE REGULATIONS AND PROCEDURES

APPEALS FROM DENIAL OF INTERDISTRICT ATTENDANCE REQUESTS

Legal provisions for interdistrict attendance agreements are contained in California Education Code Sections 46600-46609. Section 46601 provides, upon a district's refusal to enter into such an agreement that a person having legal custody of child may appeal to the County Board of Education. Interpretations by County Counsel indicate that the County Board of Education has broad powers in relation to such an appeal and that its decision is binding on all parties.

The following procedures and criteria have been developed in order to guide the Marin County Board of Education and to provide clarification and explanation to those involved in such an appeal.

I. PROCEDURE

A. CONDITIONS UNDER WHICH AN APPEAL MAY BE MADE

1. Permit sought for current term.

If the governing board of either district neglects or refuses to enter into an interdistrict attendance agreement within 30 calendar days after the person having legal custody of a pupil has requested the board so to do, an appeal may be made to the County Board of Education.

2. Permit sought for subsequent term.

If, at least 30 calendar days prior to the commencement of a new term, the person having legal custody or the pupil requests each of the districts to grant an interdistrict permit and such permit is not granted, an appeal may be made to the County Board of Education within 14 calendar days of the commencement of the new term.

3. An appeal shall be accepted only upon verification by the Marin County Superintendent of Schools, or his/her designee, that appeals within the districts have been exhausted.

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B. FILING AN APPEAL

The written appeal should be filed on a form provided by the district office or the County Office of Education within 30 calendar days after either district fails or refuses to issue a permit. The appeal must include at least the following information:

1. Name(s), address and telephone number of the parent(s), guardian(s) or custodian(s) of the student(s).
2. Student(s) name(s), age(s), grade(s) and school(s) currently attending (or previously attended, if request is made when school is not in session).
3. Name of districts involved.
4. Actions taken on the request.
5. Reasons for requesting the interdistrict attendance agreement.

The County Board of Education shall, within 30 calendar days after the written appeal is filed, determine whether the pupil should be permitted to attend in the district in which he/she desires to attend and for what period of time. The County Board of Education or the County Superintendent of Schools may, for good cause, extend the time period for up to five (5) school days.

C. PREPARATION FOR HEARING THE APPEAL

1. Upon receiving the appeal, the County Superintendent, or his/her designee, will inform the person appealing concerning procedures by which the appeal will be heard.
2. The County Superintendent, or his/her designee, shall verify that appeals within the district have been exhausted.
3. A date will be set for the appeal to be heard. Normally, appeals will be heard at regular meetings and must be filed at least one week prior to a regular meeting in order to be placed on the agenda for that meeting.

4. Both school districts concerned will be informed of the appeal, of the date for the hearing, and of the appeal procedure and will be invited to have representatives at the hearing to speak regarding the appeal, if they so desire.
5. The person appealing may retain private legal counsel, if he/she so desires. The districts involved may also be represented by legal counsel.

D. CONDUCT OF THE HEARING

1. The hearing will be in a public meeting of the Board unless one of both of the following circumstances exists, in which case that portion of the hearing will be in closed session:
 - a. When the case of the person appealing includes allegations identifiable staff members and/or other identifiable students.
 - b. When the case is such that it will require using information of a personal/confidential nature concerning the student(s) for whom transfer is requested and the parent(s), guardian(s) or custodian(s) request a closed session.
2. The Board will consider all evidence presented to it and render its decision in public session.

Strict rules of evidence as required in court proceedings will not be applied. Evidence to be admissible must be related to the issue and be the type of evidence on which responsible persons rely in the conduct of serious affairs. Hearsay is admissible, but cannot be the sole basis for a finding.

Evidence may include witnesses and documentary materials.

The presiding Officer of the Board may recognize any concerned parties at any time during the hearing to ask questions or to add information.

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3. The procedures shall be substantially as follows:
 - a. The Presiding Officer of the Board will briefly explain the procedures to be followed in the hearing.
 - b. The person appealing will be given an opportunity to speak regarding the appeal.
 - c. The representative of the school district which originally denied the request will be given an opportunity to speak regarding the appeal.
 - d. The representative of the other district involved will be given an opportunity to speak regarding the appeal.
 - e. The Board may call for additional testimony or documentary evidence as it deems necessary. In the event the Marin County Office of Education staff, at the request of the Board has gathered information on the appeal, this information will be heard at this point.
 - f. The person appealing will be given the opportunity to present a summary and the same opportunity will be offered to the school district representatives.
 - g. The Board will then deliberate the matter and make a decision as to the disposition of the appeal.
 - h. If new evidence or grounds for the request are introduced, the County Board of Education may remand the matter for further consideration by the district or districts.
4. A written statement of the Board's action will be mailed to the person appealing and to each of the districts involved in the request.

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II. GUIDELINES AND CRITERIA

With few exceptions, children should attend school in the district of residence. Any request for attending school in another school district should be based upon exceptional circumstances unique to the child concerned.

It is noted that the changing of schools due to family moves often produces anxiety in children. This is viewed as a normal situation that is a natural part of growing up and that often results in positive social and emotional growth. It is not cause, in and of itself, for the granting of an interdistrict attendance request.

Other frequently stated reasons for requesting out of district attendance includes a parent's perception that one school district is better than another, convenience of transportation, continuance of social contacts and the proximity of a parent's work place. None of these should be cause for granting such a request unless it can be clearly demonstrated that there are exceptional circumstances unique to the child concerned that justify disrupting the normal pattern of school attendance.

It should be noted that each school district establishes its own policy regarding interdistrict attendance requests. In considering appeals, the County Board of Education follows its own policy as stated in this document and not the policies of the districts concerned.

Primary considerations of this Board in acting on an appeal from the denial for a request for interdistrict attendance include:

1. Exceptional circumstances regarding the health, safety, emotional development, social development and/or academic development of the child concerned.
2. Exceptional circumstances regarding other family members that are relevant to the child's school attendance.
3. The effect that the granting of the appeal would have upon the districts concerned.

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4. The ability of the requested district to meet the stated needs of the child concerned.
5. The child care needs of the pupil.

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