

**CLASSIFICATION: Students****ADOPTED: 10/25/88****REVISED: 8/10/16****REVIEWED: 8/10/16****SUBJECT: Interdistrict Attendance Appeals****PAGE: 1 of 8**

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The governing boards of two or more school districts may enter into an agreement for interdistrict attendance to authorize the admission of a student to a district other than the student's district of residence. A parent/guardian or person with legal custody of a student (parent/guardian) who has been denied an interdistrict attendance permit by the district of residence or by the district in which attendance is requested (district of attendance) may appeal the denial to the San Diego County Board of Education (County Board). The County Board is the body charged by law to act on interdistrict attendance appeals within its jurisdiction and, at its discretion, may approve or deny an appeal.

If the request for interdistrict attendance involves a school district located within San Diego County and a school district located in a different county, the San Diego County Board of Education shall have jurisdiction if the denial of the permit, or the refusal or failure to enter into an agreement, is by the school district within San Diego County. If both school district governing boards deny the permit or refuse or fail to enter into an agreement, the San Diego County Board of Education shall have jurisdiction only if the school district within San Diego County is the student's district of residence.

### PREHEARING PROCEDURES

#### Request for Hearing, Appeal of Interdistrict Attendance Denial

To initiate an interdistrict attendance appeal, a parent/guardian shall file a "Request for Hearing, Appeal of Interdistrict Attendance Denial" form (Exhibit 1) with the County Superintendent of Schools (County Superintendent) or designee. The following documents must be submitted with the form:

1. A copy of the original request for an interdistrict attendance permit, if available
2. A one-page brief or summary outlining the reasons for the appeal
3. Copies of all correspondence between the parent and the school district(s) denying the permit, including a copy of the final letter of denial

The Request for Hearing must be received by personal delivery, U.S. mail, fax, or email no later than the 30th calendar day following the failure or refusal of a school district to

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issue a permit. Forms not received by the County Superintendent or designee during normal business hours and within 30 calendar days will not be accepted. If the 30th calendar day falls on a weekend or holiday, the appeal must be received by the County Superintendent or designee on the prior business day.

#### Grounds for Rejection or Denial without a Hearing

An appeal shall be accepted only upon verification by the County Superintendent or designee that appeals within the districts have been exhausted. These efforts should include a personal conference between the parent/guardian and a representative of the school district(s) in a higher level position than the administrator who initially denied the request.

Failure to appeal within the required time is good cause for denial of an appeal. The County Board authorizes the County Superintendent or designee to deny without a hearing any interdistrict attendance appeal that is not filed within 30 calendar days of the final denial by the school district(s).

An interdistrict attendance appeal shall not be accepted if the designee of the County Superintendent determines that the student is under consideration for expulsion and expulsion proceedings are pending or that the appeal has been filed during the term of the student's expulsion.

#### Hearing Date

A hearing on the appeal shall be conducted within 40 school days after the appeal is filed to determine whether the student should be permitted to attend school in the district for which attendance is requested. Written notice of the date and time of the hearing shall be provided to all parties at least ten calendar days prior to the date of the hearing.

If it is impractical to comply with the time requirement for the hearing, the County Board may extend the time period for up to an additional five school days. The County Superintendent or designee may grant a continuance upon a showing of good cause by either party.

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### Fact-Finding Session

Upon receiving a completed Request for Hearing, the County Superintendent or designee will appoint a hearing consultant, who will schedule a meeting to conduct a fact-finding session. The fact-finding session shall be held within 20 school days of receipt of the Request for Hearing. The purpose of the fact-finding session is to gather evidence to be used during the hearing of the appeal. All parties shall be notified in writing of the date, time, and place of the fact-finding session and the procedures for fact-finding.

If it is impractical to comply with time requirements for the fact-finding session, the hearing consultant may extend the time period for up to an additional five school days. A postponement of the session may be granted for good cause. The hearing consultant will rule on matters of procedure.

### Documentation

Within five school days of initiating the appeal, the parent/guardian may submit any additional supporting documents, limited to ten pages, to support the request for an interdistrict attendance permit.

No later than five school days before the fact-finding session, the school district governing board(s) shall submit:

1. A one page brief or written response to the appeal, along with supporting documentation
2. A copy of the local board policy/policies and district procedures regarding the processing of interdistrict attendance appeals
3. A copy of any agreement between the district of residence and the district of attendance regarding the processing of interdistrict attendance appeals
4. A copy of the original request for an interdistrict attendance permit
5. Any additional documentation, limited to ten pages, that may be required to support the decision of the district(s)

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### HEARING PROCEDURES

The County Board may hear the appeal or may choose to authorize an impartial administrative panel (administrative panel) to hear the appeal and make a decision on its behalf. The hearing consultant will make a recommendation to the County Board on a case-by-case basis as to whether to activate an administrative panel.

#### Administrative Panel

The County Board may activate the use of an administrative panel to hear one or more appeals under the following circumstances:

1. The County Board determines that it cannot practically hear the number of appeals filed.
2. It is not feasible to schedule a meeting of the County Board to hear the appeal(s) within the required time period.

The administrative panel shall consist of three or more certificated persons employed by the County Superintendent and selected by the hearing consultant from a list approved by the County Board. The hearing consultant for an appeal shall not serve on the administrative panel that will render a final decision on the matter.

The hearing by the administrative panel shall be conducted in accordance with the procedures presented below. The administrative panel shall assign one member to be the presiding officer. The hearing consultant shall rule on matters of procedure.

A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made.

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### Conduct of the Hearings

A closed hearing will be conducted by the County Board/administrative panel, unless the parent/guardian requests, at least five calendar days prior to the date of the hearing, that it be held in open session. The parent/guardian will be notified of the right to have the hearing in an open session at the time the appeal is filed.

Regardless of whether the appeal is heard in open or closed session or whether it is heard by the County Board or an administrative panel, final action shall be taken in open session.

The President of the County Board or the presiding officer of the administrative panel, as applicable, shall preside over the hearing. The hearing shall be conducted as follows:

1. All parties will be allowed to present testimony and provide evidence.
2. Only testimony and/or evidence that is strictly relevant to the case, as determined by the President/presiding officer, shall be admitted.
3. The order of presentation and the amount of time allocated for presentations will be regulated by the President/presiding officer. Ordinarily, the order of presentations and time limits will be as follows:
  - a. Brief summary of case by the hearing consultant
  - b. Presentation by parent/guardian – up to ten minutes
  - c. Presentation by representatives of the school district(s) – up to ten minutes
  - d. Response by parent/guardian – up to five minutes
  - e. Response by school district(s), at the discretion of the Board President/presiding officer – up to five minutes

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4. During and after the presentations, members of the County Board/administrative panel may be recognized by the President/presiding officer for the purpose of directing questions to any party; however members are encouraged and will generally be asked to wait until all presentations are over before asking questions.
5. After hearing all parties, the President/presiding officer will declare the hearing ended.
6. The County Board/administrative panel shall discuss, deliberate, and make a decision on the appeal.

#### SCOPE OF REVIEW BY COUNTY BOARD/ADMINISTRATIVE PANEL

The County Board/administrative panel shall determine to grant or deny an interdistrict attendance appeal on its merits, basing their decision upon the facts presented in evidence, including such considerations as the County Board deems appropriate, as they apply to the fundamental issues involved in the appeal. The County Board/administrative panel shall act in the interest of fairness to the student seeking the transfer and the school district(s) denying it, giving due consideration to the impacts on the individual student being denied interdistrict attendance and the students remaining in the affected district(s). In deciding whether to grant or deny the appeal, the County Board/administrative panel must also consider procedural compliance and the conduct of both parties.

The County Board shall not grant an appeal that requires a district of residence to issue an interdistrict attendance permit under either of the following circumstances:

1. The district has a negative certification of its fiscal status in the current year.
2. The district has experienced a negative financial impact resulting from a loss of enrollment greater than 10 percent over the prior three years as demonstrated by the last four second period (P-2) attendance reports filed by the district.

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DECISION OF THE COUNTY BOARD/ADMINISTRATIVE PANEL

If the County Board or administrative panel finds that new relevant and material evidence has been produced or if new grounds for the request for interdistrict attendance are introduced, the matter shall be referred back to the school district governing board(s) for reconsideration.

If the appeal is heard by the County Board, the County Board shall enter an order within three school days of the hearing, either granting the request for interdistrict attendance or denying the appeal, unless the parent/guardian requests a postponement.

If the County Board has authorized an administrative panel to hear the appeal, the administrative panel shall render a final decision on behalf of the County Board. The administrative panel's decision, together with the record of proceeding, shall be filed with the County Superintendent within three days after the decision is rendered. All parties shall be notified in writing of the decision of the County Board/administrative panel.

If the request for interdistrict attendance is granted, attendance is granted for any school in the district and not for a specific school; school placement shall be determined by the district of attendance. The student shall be enrolled without delay.

Once a pupil in kindergarten or any of grades 1 to 12, inclusive, is enrolled, the pupil shall not have to reapply for an interdistrict transfer, and the governing board of the school district of enrollment shall allow the pupil to continue to attend the school in which he or she is enrolled through the highest grade level of the school, unless an agreement between the district of residence and the district of attendance states otherwise.

An interdistrict attendance permit may be revoked in accordance with terms and conditions stipulated in the interdistrict attendance agreement. An existing interdistrict attendance permit shall not be revoked for a student entering grade 11 or 12 the following school year.

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Finality of Order of County Board/Administrative Panel

The decision of the County Board/administrative panel shall be final and binding upon the parent/guardian and the school district(s). The order shall become final when rendered.

The decision completes the administrative appeal procedure for the school district(s) and the County Board. Any further action desired by the parent/guardian or school district(s) would be at the court level.

All documentation, including maps, letters, petitions, and any other physical evidence received by the County Board or the administrative panel at the hearing of the appeal shall be retained by the County Superintendent as part of the record.

**Derivation: Board Policy 5400, Renumbered and Amended 10/11/95. Amended 2/11/09, 8/10/11. Technical Revision 9/12/11, 5/2/12. Amended (8/10/16).**

**Legal Reference: Education Code  
35146, 46600 – 46610**

**San Diego County Board of Education  
 Request for Hearing - Appeal of Interdistrict Attendance Denial**

The parent/guardian or person having legal custody of a student may appeal to the county board of education having jurisdiction over the student's district of residence the failure or refusal of a school district to issue an interdistrict attendance permit. The appeal must be filed within 30 days of the district's denial.

Requests for hearing an appeal of an interdistrict attendance denial to the San Diego County Board of Education must include the following elements to be deemed complete:

1. The completed copy of this form.
2. A copy of the original application used to request the interdistrict attendance permit, if available. If not included, an explanation of the reason a copy is not available must be included in its place.
3. A one page brief, or summary, outlining the reasons for the appeal.
4. Copies of all correspondence between the parent/guardian and the district(s) denying the permit, including a copy of the final letter of denial from the district.

All of the materials listed above must be received by the designee of the County Superintendent of Schools during normal business hours, no later 30 calendar days following the failure or refusal of the school district to issue the permit. Should the 30<sup>th</sup> calendar day fall on a non-work day, all materials must be received on the prior work day. Materials may be submitted via personal service, delivery service, U.S. mail, fax or email.

San Diego County Office of Education  
 Attn: [name of designee], Room [#]  
 6401 Linda Vista Road  
 San Diego, CA 92111

Phone: [office phone number]  
 Fax: [fax number]  
 Email: [email address]

Parent/Guardian Information			
Parent/Guardian:		Relationship to Student:	
Name of Student:		Grade:	
Primary Phone:		Email:	
Home Address:		Mailing Address if Different:	
District Information			
School District of Residence:			
School District of Desired Attendance:			
Indicate below the district(s) that has denied your request for an interdistrict attendance permit.			
<input type="checkbox"/> District of Residence	<input type="checkbox"/> District of Desired Attendance		
District Appeal			

Indicate the steps you have taken to appeal within the district(s) prior to making this request for hearing?

<input type="checkbox"/>	Submitted letter of appeal to:	(Name, title and district of person who denied your appeal.)
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<input type="checkbox"/>	Had personal conference with:	(Name, title and district of person who denied your appeal.)
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<input type="checkbox"/>	Other (describe):	
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**Request for Appeal**

Having exhausted all means of appeal with the school district(s) named above, pursuant to Education Code 46601(c), I hereby request a hearing before the San Diego County Board of Education to appeal the refusal and/or failure of the district(s) to issue an interdistrict attendance permit to the above-named student.

The student named above is not subject to an expulsion order, and there are no expulsion proceedings pending against him/her.

I declare under penalty of perjury under the laws of the State of California that the information I have provided in making this request is true and correct.

Signature:	Date:
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Print Name:
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**Authorization for Release of Information**

As the parent/guardian of the student named below, pursuant to Education Code section 49075, I hereby authorize the following schools/school districts to permit the San Diego County Office of Education to access any records that may have a bearing on the interdistrict attendance appeal filed on behalf of this student.

Name of Student:	
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School & District Last Enrolled in:	
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School District of Residence:	
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School District of Desired Enrollment:	
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Signature of Parent/Guardian:	Date:
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Print Name of Parent/Guardian:
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