Students BP 5117(a)

INTERDISTRICT ATTENDANCE APPEAL PROCESS

The Yolo County Board of Education shall consider an appeal against any school district within the county for its failure or refusal to issue an interdistrict attendance permit to a student, or for its failure or refusal to enter into an interdistrict attendance agreement with another school district for the student's attendance. (Education Code 46601)

If the request for interdistrict attendance involves a school district located within the county and a school district located in a different county, the County Board 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 the county. If both school districts deny the permit or refuse or fail to enter into an agreement, the County Board shall have jurisdiction only if the school district within the county is the student's district of residence. (Education Code 46601)

The appeal shall be filed in writing, by a person having legal custody of the student, within 30 calendar days of the district failure or refusal to issue a permit, or to enter into an agreement allowing the interdistrict attendance. Failure to appeal within the required time is good cause for denial of an appeal. (Education Code 46601)

The appeal shall be accepted only upon verification by the County Superintendent of Schools or designee that appeals within the district have been exhausted. (Education Code 46601)

YCOE Appeals Process

- 1. Pursuant to Education Code 46601 *et seq*, the Yolo County Board of Education ("County Board") shall hear and resolve interdistrict attendance appeals that involve school districts within Yolo County or certain appeals that involve a district in Yolo County and a district in another county.
- 2. The County Board is given authority by law to adopt rules and regulations establishing procedures for interdistrict attendance appeals. In an effort to make such legal procedures understandable to parents, guardians, students and school districts, the County Board has reviewed and adopted the contents of the "Interdistrict Attendance Appeal Process Handbook" dated 08-25-15. The Handbook is established as an administrative regulation to govern interdistrict attendance appeals filed with the County Board.
- 3. The County Board has established limits on the types of appeals it will consider regarding interdistrict attendance agreements. These limitations are set forth in detail in E5118.00: Interdistrict Attendance Appeal Process Handbook.

4. Although the law allows total discretion by the County Board to determine whether to grant or deny an interdistrict attendance agreement on appeal, the County Board has adopted certain criteria to guide its decision. The County Board believes that it is the responsibility of the person filing the appeal to provide facts which meet one or more of the criteria. Even if the parent/guardian submits such facts, the County Board will also consider any adverse impacts to the school district(s) in question and balance the competing factors. The criteria to be considered by the County Board is set forth in the Handbook.

Hearing

No later than 10 days prior to the hearing, the secretary to the County Board shall serve upon all parties involved, a notice by certified mail, return receipt requested. The notice shall include details of the date, time and place of the hearing, and of the opportunity to submit written statements and documentation, and to be heard on the matter.

The County Board shall conduct a hearing within 30 calendar days after the appeal is filed, to determine whether the student should be permitted to attend school in the district of his/her choice. If it is impractical for the County Board 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. (Education Code 46601)

Final Order of the County Board

Hearing Officer or Administrative Panel without Authority to Render Final Decision

The County Board shall render a decision within 10 days of receiving the hearing officer/administrative panel's recommended decision. (Education Code 46601)

The County Board shall either grant or deny an appeal on its merits. However, if new evidence or grounds for the request are introduced, the County Board may remand the matter for further consideration by the district or districts.

If the County Board determines that the student should be permitted to attend school in the district of choice, the County Board shall fix the length of time for the student's attendance in that district, and the student shall be admitted to a school in that district without delay. (Education Code 44601, 46602)

All parties shall be notified in writing of the decision of the County Board. (Education Code 46602)

Legal Reference: (see next page)

Legal Reference:

EDUCATION CODE

46600-46611 Interdistrict attendance agreements

48204 Residency requirements for school attendance

48209-48209.17 Student attendance alternatives

48660-48666 Community day schools

48900-48926 Suspension and expulsion

48950 Speech and other communication

49073-49079 Privacy of student records

GOVERNMENT CODE

11455.20 Contempt

Adopted: August 25, 2015

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

Students E 5117(a)

INTERDISTRICT ATTENDANCE APPEAL PROCESS

INTERDISTRICT ATTENDANCE APPEAL HANDBOOK

Adopted: August 25, 2015 by the Yolo County Board of Education

County Board Authority

The Yolo County Board of Education has legal authority to review the procedures and reasoning followed by the school district (s) after the school district (s) have rejected or failed to rule on a student's interdistrict attendance request. The County Board will determine whether to grant or deny an interdistrict attendance agreement after reviewing the relevant facts from the student, parent/guardian, and local school district(s) involved.

Limitations on County Board Authority

There are limits on the types of appeals the County Board can hear. For example, the County Board has no authority to consider the following interdistrict attendance appeals or issues:

- 1. To determine the specific school within the school district where the student will be enrolled. This authority is reserved for the school district of attendance, after the County Board has made its final decision;
- 2. Denial of an interdistrict transfer request based upon parent employment within the district (Education Code 48204(f), commonly referred to as "Allen Bill Transfers"). *Your recourse for denial of attendance is to go to court;*
- 3. Denial of an interdistrict transfer request by a student under consideration for expulsion or who has been expelled [Education Code 46601(e)];
- 4. Denial of an intradistrict transfer between schools within the same district (Education Code 35160.5(b));
- 5. A dispute over the placement of a special education student or the services provided to a special education student. Such a dispute should be handled by the district of residence through special education procedures (Education Code 56505(g)-(i); 20 U.S. Code 1415(f)); or
- 6. A determination by a school district regarding the validity or invalidity of a caregiver affidavit (Education Code 48204(d) and Family Code 6550, et seq.).

County Board Authority in Appeals Involving Two Counties

If the interdistrict attendance involves school districts located in different counties, the appeal will be heard by the County Board of Education for the district denying an agreement or refusing or failing to enter into an agreement. If districts in different counties deny an agreement, or refuse or fail to enter into an agreement, the County Board for the district of residence shall hear the appeal. If the appeal is granted, the County Board for the other district will be asked to agree. If the two County Boards do not then agree, the student's appeal shall be denied.

What Actions the County Board Of Education May Take

The **County Board** of Education's review of the appeal may result in:

- 1. Granting the interdistrict attendance appeal and enrolling the student in the new school district;
- 2. Denying the appeal and ordering the student returned to the school district of residence; or
- 3. In rare cases, returning the case to the local school district for further consideration of new evidence or new grounds for the request for interdistrict attendance.

Requesting an Interdistrict Attendance Appeal Hearing

In general, you must request an appeal hearing within 30 calendar days of when your interdistrict attendance request was denied by the school district. However, sometimes the school district does not respond to your request in a timely manner or simply fails to respond at all. Listed below are three different situations and a description of when your 30 calendar day timeline starts to run:

District Denies Request:

1. In most situations, a school district will act on your interdistrict attendance request either orally or in writing. You must file your appeal with the County Board within 30 calendar days from the date that your request was rejected by either the school district of residence or the school district of requested attendance, or both.

District Fails To Act On Request For Next School Year:

2. If you have asked for an interdistrict attendance agreement for the next school year and the school district(s) fail to respond to your request, you must wait at least 30 calendar days from the date of your request to see if you get a response from either of the school districts. You must also wait fourteen calendar days after both school districts' academic school year begins before the 30 calendar day filing period begins. An academic school year starts on the first day of classes in the school district.

Example: If you filed an interdistrict attendance request on July 1 and you did not hear anything from the school district(s) by July 31, you must still wait until fourteen calendar days into the academic year before you can file an appeal with the County Board. If the academic year for both district begins on August 15, you must file your appeal after August 29 and before September 28.

District Fails To Act On Request Filed During The School Term:

3. If you have asked for an interdistrict attendance agreement for the current school year and the school district(s) fail to respond to your request, you must wait 30 calendar days from the date of your request to see if you get a response from the school district(s). If you do not get a response during that time, you have 30 more days to file an appeal with the County Board of Education.

Example: If you filed an interdistrict attendance request on September 1 and you did not hear anything from the school districts by October 1, you have until October 31 to file your appeal with the County Board of Education. You could not, however, file your appeal on September 15 (too soon) or November 15 (too late).

Before you file your appeal, you must check the policies of the local school districts to see if there is any type of internal appeal procedure (e.g., decision by Superintendent may be appealed to School Board). If there is an internal appeal procedure, you must use that procedure before you file an appeal with the County Board of Education.

Late Appeals

Failure to appeal within the required time will result in denial of your appeal unless you can show "good cause for the late appeal." The explanation of "good cause" must be filed with the appeal. An example of "good cause" would be where the parent appeal is mailed timely, but the parent proves that document was lost by the U.S. mail.

Filing an Appeal and Requesting a Hearing

The appeal process begins with completing and filing a written form called: "Appeal of Denial of Interdistrict Attendance." This form is attached to the Handbook. You may deliver the form in person or by placing it in the mail at the following address:

President, Yolo County Board of Education 1280 Santa Anita Court, Suite #100 Woodland, CA 95776-6127 Attention: County Superintendent

This form must be completed, signed, and returned within the applicable time limits (refer to pages 3 and 4). *Complete all sections of the form legibly*.

Read the entire Handbook before completing the form. We especially recommend that you read the section "Facts the County Board Will Consider" that begins on page 8 before completing the section of the form entitled, "The reasons for this request."

Your completed appeal form should be accompanied by:

- 1. A copy of your original request for an interdistrict attendance agreement;
- 2. The district's denial if there was one; and
- 3. Any other supporting documentation you want the County Board to consider.

The County Board will accept a date-stamped copy of your request for an interdistrict attendance agreement filed with the district as evidence that you have complied with district procedures in the event that the district fails to act on your original request. (see page e)

The reason(s) for your appeal must be the same as those stated on your original request for an interdistrict permit or agreement. If the reasons on the appeal are substantially different, you may be asked to reapply for an interdistrict transfer with your district of residence.

If you have any questions about completing the form, you may contact the Executive Assistant to the Superintendent at the Yolo County Office of Education, (530) 668-3702.

The effective date of the appeal is the date on which the completed and signed appeal document is received by the County Superintendent of Schools.

Processing the Request for an Appeal

County Superintendent or Designee Will Verify Information

After receiving your appeal request, the County Superintendent's office will review it and seek to verify certain information before a hearing date is scheduled. The County Superintendent will verify whether the student is subject to expulsion. A parent cannot appeal the denial of an interdistrict attendance agreement if the student is up for expulsion or is currently serving an expulsion term.

The County Superintendent's office will also check to see if you have exhausted any appeal processes in the local school districts. If you have not used the local appeal channels you will be asked to complete the local appeal process before going forward.

The County Superintendent's office will review the case to determine that all time lines have been honored prior to setting a hearing. Misinformation and/or falsification of information may cause rejection of an appeal.

Setting a Hearing Date

If the written appeal is complete and appropriate before the County Board of Education, the County Superintendent will place the matter on the County Board of Education's agenda for a regular or special meeting to be held no later than 30 calendar days following the effective date of the appeal. The County Board may extend this 30 day period an additional five calendar days for good cause (Education Code 46601(b)). The County Superintendent has discretion to approve a request for postponement filed by you or by the school district for good cause provided the request is filed in writing at least five calendar days prior to the hearing date, except in an emergency. A postponement by a party extends the time line for the County Board of Education to make a decision.

Notification of Hearing Date

The County Superintendent's office will notify you and the district(s) involved of the date, time, and place of the appeal hearing. Normally, the notice will be sent at least 15 calendar days before the date of the hearing. If the circumstances dictate notice of less than 15 calendar days, the time lines for written argument will also be adjusted.

Other Issues

After you have filed your appeal, you may also be contacted by the County Superintendent's office for the following reasons:

1. To explain your rights and the procedures for your case.

2. To request that you make certain documents available to assist the County Board of Education in making its determination.

Preparing For the Hearing

Filing A Written Argument Is Important:

The County Board recommends that the parent/guardian or a representative file a pre-hearing written statement with the County Board of Education (please submit a typewritten argument if at all possible). Any written argument must be filed at least 10 calendar days prior to the date set for the hearing before the County Board of Education. Send or deliver copies of the argument to the school district of residence and the school district of requested attendance when you file with the County Board.

District Written Response:

The school district(s) denying the transfer may submit a written reply argument. The school district's argument must be filed at *least five calendar days prior to the hearing date*. The school district (s) shall deliver a copy to the parent and the other district no later than the date upon which the argument was filed with the County Board of Education.

You may employ an attorney or other advocate, at your expense, to prepare your written argument for the hearing.

Attach Documentation To Your Written Argument:

Adequate documentation is helpful when presenting your case. You will find that evidence is most effective when it is provided in writing, related to the issue(s) at hand and is the type of evidence upon which reasonable persons can rely in the conduct of serious affairs.

Some examples of documentary evidence include:

- 1. A copy of your original request for an interdistrict attendance permit or agreement and any written denial(s) (*if not already provided with your appeal form*).
- 2. Documents to support your request for an interdistrict transfer. For example, when you review the factors that the County Board will consider, you will see that certain documents may support your position. Those documents could be professional recommendations by doctors, educators, psychologists, or others. Verifications of participation or non-availability of child care providers, transportation providers, teachers, or others could be helpful. Brochures or written information about special programs in the school district or community of requested attendance may be supportive evidence.

Waiver of Privacy of Documents Provided:

There are numerous laws which protect the release of confidential records. For example, there are certain laws regarding the privacy and confidentiality of student records. (See Education Code 49060, et seq.) There are also laws regarding the confidentiality of juvenile court records and medical records. If you wish to have the County Board consider material from confidential records, you must understand that turning the records over to the County Board for the purpose of the interdistrict attendance hearing is a waiver of the privacy rights in those records. In other words, you consent for the County Board to review and comment on the records in a public meeting. You may wish to consult legal counsel regarding such documents.

Multiple Appeals:

Families with multiple appeals may have the appeals heard separately or as one. If you have all the appeals heard as one, there will be a separate vote on each child, but only one written decision.

Legal Advocate at the Hearing:

Although the hearing is informal, you may bring legal counsel or a legal advocate. The use of any legal counsel will be at your expense.

A Brief Verbal Presentation:

The County Board of Education will mostly rely on the written information that you and the school districts provide before the hearing. However, you should prepare a brief verbal presentation which focuses on the factors that the County Board will consider in deciding an appeal. It may also be helpful to bring a witness or someone who might make a special statement on behalf of the student. Please make sure any witnesses are prepared to make a brief presentation.

Facts the County Board Will Consider

In its discussion and deliberations on your appeal, the County Board of Education will consider the conditions of, and your reasons for, your request for a transfer.

In deciding whether to grant or deny an appeal, the County Board weighs the facts which support the criteria favoring a transfer against the adverse impacts presented by the school district(s). If you are unable to present sufficient evidence to justify a transfer, the County Board may rule against the appeal request without considering the school district's evidence of an adverse impact.

If you are able to submit sufficient evidence to justify a transfer, the school district will have an opportunity to rebut the evidence and submit evidence of an adverse impact. You then have an opportunity to respond and offer evidence as to how some or all of the adverse impacts on the school district (s) could be alleviated.

Misinformation and/or falsification of information provided by either party shall be good cause for deciding against that party.

- 1. Factors Which Support Granting an Appeal:
 - a. The student's desire to remain in his/her school of current attendance for the balance of the semester or school year despite his/her or parent's change of residence. The student's desire may be based on his or her anticipated graduation from the school of current attendance at the end of the semester or school year, or on a need for educational continuity for the remainder of the semester or school year.
 - b. The student's plan to move in the near future and desire to begin the semester or school year in his or her new school district. The student and his or her parent or guardian must offer written proof of their plan to move into the district of proposed attendance. Such written proof may be a rental agreement, a contract to purchase new property, or a similar document.
 - c. The acceptance of a sibling of the student for attendance for the current school year by the district of requested attendance when requiring the students to attend different districts would cause a hardship on the family. The student and/or parent must submit written documentation of the sibling's enrollment and demonstrate a hardship based upon child care needs, transportation issues, employment location, or other significant factors.
 - d. The student's psychological or physical well-being will be seriously adversely impacted by remaining in the district of residence. Problems with a student's psychological or physical well-being must be supported by the written statement of a qualified medical or behavioral professional having a professional relationship with the student.
 - e. A substantial danger to the student's health or safety exists by remaining in the district of residence. A danger to the student's health or safety must be supported by the written statement of a qualified health expert, by police reports, by school records, or by other documentation. Substantial danger based upon transportation issues may be included under this criteria.

- f. A specialized and specific district academic program or service in grades 712 is unavailable in the district of residence, and is essential to the student's career or academic objectives. Such a district program or service must be directly related to and be essential to achieve the student's career objectives or academic advancement and not be based solely on the student's interests or desires, or on extracurricular activities or athletics. An academic program is defined as a series of classes in a single subject or in related subjects extending over more than one year in grades 7-12, which has a specific occupational or educational objective.
- g. The student previously has been granted an interdistrict attendance agreement specifically based on that student's child care needs, and the student must be allowed to continuously enroll in the school district pursuant to Education Code 46601.5. The parent or guardian must provide evidence of the previous interdistrict attendance agreement, the current and prior child care location(s), and any documentation from the school districts regarding the prior agreement and current request. You must demonstrate that the school district's denial was based on an arbitrary, discriminatory or otherwise inappropriate reason under Education Code 48204(f).

(Please note: In this situation, a school district has general authority to deny an interdistrict attendance request for the reasons listed under Education Code 48204(f). Under that law, the school district's reason cannot be based upon race, ethnicity, sex, parental income, scholastic achievement or any other arbitrary consideration. However, the school district may deny the request: (1) if the transfer would negatively impact the district's court-ordered or voluntary desegregation plan; (2) if the additional cost of educating the student would exceed the amount of additional state aid received from the transfer; (3) if the transfer results in a net transfer of students out of a district that exceed the statutory amounts in Education Code 48204(f)(6)(A)-(C); or (4) for any non-arbitrary or non-discriminatory reason. You should be prepared to address these reasons when asserting this criteria in the appeal.

h. A need to change the student's social environment, as recommended by juvenile authorities, such as School Attendance Review Board, county child welfare, and/or social service agency staff. You must provide written documentation from a social services agency/staff or a law enforcement agency/staff that, due to documented cases of serious home or community problems, it is inadvisable for the student to remain in the school district of residence.

- i. By reason of transfer of territory between districts, the residence of the student is no longer in the district which maintains the school where the student has previously attended. You must show location of residence and the negative impact, if any, due to the transfer of territory.
- j. The student's residence is located such that entrance and exit on streets or sidewalks in all directions require travel through the district of requested attendance, and by virtue of topography, street pattern, and location of homes in the neighborhood, the area is land-locked. You must provide written documentation of the land-locked situation and how such a situation makes a change in school districts advisable.
- k. Other exceptional or extraordinary circumstances which would weigh heavily in favor of the student. You must specify and describe the type of exceptional or extraordinary circumstance and its effect on the student.
- 2. **Adverse Impacts upon District**. The County Board, in its discretion, may determine that evidence provided by the affected district(s) to justify one of the adverse impacts listed below outweighs facts supporting one or more of the above criteria justifying granting the appeal.
 - a. The negative financial impact of educating the student (district of desired attendance) or of losing the student (district of residence). In either case, the impacted district(s) must demonstrate in writing that the student's transfer would place an undue hardship on the district's operations and/or resident students in terms of costs, reduced services or other unacceptable outcomes.
 - b. The student's demonstrated failure to meet reasonable standards relating to behavior, attendance, or diligence to studies. The demonstration of such failure by the district of proposed attendance must be based on a written explanation of the district's previous experience with the student under an interdistrict attendance agreement or on other documented evidence of behavior or attendance in the prior district of attendance.
 - c. Lack of space for the student in the receiving district. The district of proposed attendance must demonstrate in writing that the student's transfer would result in an undue hardship on the district's resident students in terms of overcrowding or priority for enrollment in a specific program and/or would be a violation of law, district policy or a collective bargaining agreement regarding class sizes or facilities use.

- d. The negative impact of the student's transfer on a court ordered or voluntary desegregation plan of either district. The district must provide details about the court ordered or desegregation plan and provide written evidence of the anticipated negative impact of the student's transfer.
- e. The transfer of the student would violate the Education Code, a state department regulation, or some other law governing school districts. The district(s) must provide written documentation of the specific law which would be violated and how it would be violated.
- f. The student previously has been granted an interdistrict attendance agreement specifically based on the student's child care needs, but the school district has rejected the current request because of one (1) or more of the reasons under Education Code 48204(f). The school district must identify its specific reason(s) for the denial and demonstrate whether that reason is appropriate under 48204(f)(1)-(6).
- g. Other exceptional or extraordinary circumstances which would weigh heavily in favor of the affected school district. The school district must specify and describe the type of exceptional or extraordinary circumstance.
- 3. **Mitigation of Adverse Impacts**. You may, but are not required to, provide evidence of the following in order to mitigate adverse impacts of the transfer upon the district.

Your willingness to pay an amount equivalent to extra taxes, fees, and assessments that the district of requested attendance imposes upon residents of that district. You must specify and commit willingness in writing, including your understanding of the cost of extra taxes.

The Hearing

Hearings are conducted in open session during regular or special Yolo County Board of Education meetings held at the:

Yolo County Office of Education 1280 Santa Anita Court, Suite #100 Woodland, CA 95776-6127

It is the intent of the County Board of Education to conduct the hearing in a fair and sufficiently informal manner to encourage open communication and understanding of the system. The hearing will also be conducted in such a manner that no special legal expertise is necessary and so that all parties have the opportunity to present their case fairly and completely. The law provides that you may have legal counsel or an advocate present if you wish. A record of the hearing will be made.

During your appeal hearing, you, the student (optional), and the representatives of the districts, will take seats at a table in front of the County Board.

The hearing is conducted as follows:

- 1. Three members of the County Board of Education must be present for a quorum to conduct the hearing.
- 2. After introduction of all parties, the County Board President will conduct the proceedings. All testimony will be taken under oath.
- 3. The student, the parent or guardian, or a representative of the student will present the reasons for requesting the student attend the district of requested attendance. The speaker will have a specified amount of time (normally 15 minutes) to summarize his/her position based upon the written argument previously submitted. During this time, the speaker will also respond to questions from the County Board, if any.
- 4. A representative of the district of residence will be given the opportunity to describe its position and the action(s) taken by that district (normally 15 minutes). During this time, the district representative will respond to questions from the County Board, if any.
- 5. A representative of the district of requested attendance will be given the opportunity to describe its position and the action(s) taken by that district (normally 15 minutes). During that time, the district representative will respond to questions from the district County Board, if any.
- 6. You will be given an additional five minutes to present any evidence of how to alleviate or mitigate any of the problems raised by the school district (s) and give any closing remarks. Each district will also have an additional five minutes for closing and/or response.
- 7. Members of the County Board may ask questions to clarify the issues. The County Board may also ask questions of the staff and/or legal counsel if appropriate.
- 8. The County Superintendent may, at this time, present any factual information or legal consideration not already covered by others present.
- 9. The hearing will be closed by a motion approved by three members of the County Board.

- 10. Following the closing of the hearing, the County Board will publicly deliberate the matter.
- 11. When the County Board President determines that deliberations are complete, he/she will then call for a vote regarding the following question: "Shall (name of student) be permitted to attend the (school district) for the _____ school year?"
- 12. A majority of the County Board members present must vote "yes" for the appeal to be granted. If a majority of the members present do not vote to grant the appeal, it will be denied.

After the Hearing

Adopted: August 25, 2015

Following action by the County Board, a written decision incorporating the County Board's rationale will be mailed to all parties.

If the County Board determines that the interdistrict attendance appeal should be approved, the student will be admitted to the school district of requested attendance without delay (Education Code 46602). The County Board may order attendance in a district, but not in a specific school.

YOLO COUNTY OFFICE OF EDUCATION

Woodland, California