

NEVADA COUNTY BOARD OF EDUCATION

Interdistrict Attendance Appeal Handbook

Introduction

The Nevada County Board of Education has prepared this Handbook to provide direction and information to pupils and the parents/guardians who wish to appeal a school district's decision not to grant an interdistrict attendance agreement.

This Handbook constitutes the official procedures adopted by the County Board of Education for conducting interdistrict attendance appeals. *Particular attention should be paid to issues noted in "italics." These issues have been found confusing to those filing appeals in the past.*

The County Board of Education is committed to an objective review of the consideration of appeals for pupils denied interdistrict attendance agreements from local school districts.

The laws on pupil attendance, interdistrict attendance agreements, and interdistrict attendance appeals in the *California Education Code §§ 46600-46611*, as well as the local school district's policies and administrative regulations for interdistrict attendance, also apply in these appeals. Pupils and/or parents/guardians have the right to review pupil records at the school district, and you have the right to consult with and engage the services of an advocate or an attorney.

INTERDISTRICT ATTENDANCE APPEALS

County Board Authority

The 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 pupil's interdistrict attendance request. The County Board of Education will determine whether to grant or deny an interdistrict attendance agreement after reviewing the relevant facts from the pupil, parent/guardian, and local school district(s) involved.

Limitations On County Board Authority

There are limits on the types of appeals the County Board of Education 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 pupil 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 [Ed. Code § 48204(f), commonly referred to as "Allen Bill Transfers"];
3. Denial of an interdistrict transfer request by a pupil under consideration for expulsion or who has been expelled [Ed. Code § 46601(e)];
4. Denial of an *intradistrict* transfer between schools within the same district [Ed. Code § 35160.5(b)];
5. A dispute over the placement of a special education pupil or the services provided to a pupil with disabilities. Such a dispute should be handled by the district of residence through special education procedures [Ed. 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 [Ed. 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 both 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 pupil'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 pupil in the new school district;
2. Denying the appeal and ordering the pupil 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

You must request an appeal hearing **within thirty (30) calendar days** of when your interdistrict attendance request was denied by the school district.

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 to the following address:

**Nevada County Board of Education
C/O Board Secretary
380 Crown Point Circle
Grass Valley, CA 95945
Attention: County Superintendent**

This form must be completed, signed, and returned within the applicable time limits (see above). *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" 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 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.

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 Board Secretary, Assistant to the Superintendent at the Nevada County Superintendent of Schools Office, (530) 478-6400.

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 pupil is subject to expulsion. A parent cannot appeal the denial of an interdistrict attendance agreement if the pupil 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 appropriately filed with 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 thirty (30) calendar days following the effective date of the appeal. The County Board may extend this thirty (30) day period an additional five (5) calendar days for good cause [Ed. 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 (5) calendar days prior to the hearing date, except in an emergency. A postponement by the person who filed the appeal 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, and of the opportunity to submit written statements and documentation and to be heard on the matter pursuant to the rules and regulations adopted by the County Board of Education.

PREPARING 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 pupil records. (See Ed. 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 rely on the written information that you and the school districts provide before the hearing, as well as the verbal presentation that is made at the hearing. You should prepare a brief verbal presentation which focuses on the factors that the County Board will consider in deciding an appeal. You may bring a witness or someone who might make a special statement on behalf of the pupil. Please make sure any witnesses are prepared to make a brief presentation.

Conduct of the Appeal Hearing

The hearing will be conducted in closed session of the County Board of Education unless the appellant requests in writing a public hearing five (5) calendar days in advance of the hearing.

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 impact 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.

The County Board may approve or deny the appeal after considering the facts of the request and the merits of the appeal. 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. Whether good cause otherwise exists; and
4. Information deemed useful to the Board as disclosed by the County Superintendent investigation.

The burden of proof and presenting evidence in the matter of an interdistrict attendance appeal shall rest with the party requesting the interdistrict transfer. The requesting party shall be required to provide clear and convincing evidence that the transfer is necessary for any/or all of the following reasons:

1. To facilitate a student's access to specific, important educational and related opportunities which would not otherwise be available on a comparable basis;
2. To remedy a specific and serious existing or reasonably imminent threat to a student's health, physical safety, or well being; and/or
3. To accommodate a specific, serious family crisis or medical condition for which no reasonable alternative exists.

Documentation from all parties supporting their respective positions regarding the appeal before the County Board must be provided at the hearing.

If new evidence or grounds for request are presented at the appeal hearing, the Board may remand the case for further consideration by the district denying the transfer request.

THE HEARING

Hearings are conducted during regular or special Nevada County Board of Education meetings held at the:

**NEVADA COUNTY SUPERINTENDENT OF SCHOOLS OFFICE
380 Crown Point Circle
Grass Valley, CA 95945**

The County Board will hold a hearing within twenty (20) school days following receipt of the transcript and supporting documents unless the Parent or the district requests a postponement.

Either the Parent or the local school district may request a postponement by submitting a written request, including the reason, to the County Office of Education at least five (5) calendar days prior to the hearing. The request shall be acted upon by the County Superintendent of Schools within two (2) days after determining whether the request is based upon good cause. Any request for postponement made less than five (5) calendar days prior to the hearing will be considered by the Board of Education at the hearing. The request will be granted only upon a finding that a compelling reason or an emergency exists.

Both the Parent and the school district will be sent notice of the hearing date by mail before the hearing. The notice will specify the date, time, and place of the hearing. The County Board of Education holds regular meetings generally on the second Wednesday of each month at the Nevada County Superintendent of Schools Office, 380 Crown Point Circle, Grass Valley. Interdistrict attendance appeals are normally scheduled to commence between 3:00 and 4:00 p.m. The County Board of Education may be required to schedule a special meeting on a different date to hear the appeal depending upon its regular business.

The hearing will be held in closed session unless the Parent has requested public session in writing filed with the County Office of Education at least five (5) calendar days prior to the hearing date.

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. Strict rules of evidence as required in court proceedings will not be applied. Persons to be heard will be limited to the student(s), his/her parent(s) or guardian(s) or other representative, representatives of the districts involved, and the County Superintendent and/or designee(s). 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 pupil (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 (3) members of the County Board of Education must be present for a quorum to conduct the hearing.
2. After introduction of all parties, the president of the County Board of Education, who will serve as a facilitator for the hearing, will explain the procedures to be followed during the hearing.
3. The pupil, the parent or guardian, or a representative of the pupil will present the reasons for requesting the pupil attends the district of requested attendance. The speaker will have a specified amount of time (normally fifteen (15) minutes) to summarize his/her position. During this time, the speaker will also respond to questions from the County Board, if any.

4. If applicable, 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 fifteen (15) minutes). During that time, the district representative will respond to questions from the County Board, if any.
5. If applicable, 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 fifteen (15) minutes). During that time, the district representative will respond to questions from the County Board, if any.
6. You will be given additional time to present any rebuttal information to the information presented by the school district(s) and give any closing remarks. Each district will also have additional time for closing and/or response.
7. Members of the County Board or County Superintendent may ask questions to clarify the issues. The County Board and County Superintendent may also ask questions of the staff and/or legal counsel if appropriate.
8. The County Superintendent or designee may, at this time, present any factual information or other consideration not already covered by others present.
9. Deliberation and Decision: Following the hearing, the Appellant and Respondent shall be excused and the County Board shall convene to a closed deliberation.

The decision by the County Board of Education may only be to *(1) approve the appeal, (2) deny the appeal, or (3) remand the case back to the district.* A written statement of the County Board of Education's action will be mailed to the person appealing and to each of the districts involved in the request.

AFTER THE HEARING

Following action by the County Board, a written decision incorporating the County Board's rationale will be mailed to all parties within three (3) school days of the hearing unless the person who filed the appeal requested a postponement.

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

Nevada County Board of Education
380 Crown Point Circle, Grass Valley, CA 95945

APPEAL OF DENIAL OF INTERDISTRICT ATTENDANCE

(Please print or type all material except signature)

In accordance with Education Code § 46601, and the Nevada County Board of Education Policy, we hereby request a hearing for the purpose of an Appeal of an Interdistrict Transfer Denial. [**Note:** This request for Appeal shall be communicated to the County Board of Education within thirty (30) calendar days following the date of denial of request for interdistrict transfer.]

Date _____

Appellant (Parent(s)) _____

Residence Address _____

Residence Telephone _____ Business Telephone _____

I am / we are requesting that the Nevada County Board of Education hear an appeal of the denial by _____ 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: _____

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

I understand that the Nevada 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 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 Board when your appeal is considered.

Please attach to a copy of this form any documentation denying the interdistrict request:

- (1) your transfer request;
- (2) any letters from your district of residence regarding your request;
- (3) any letters from the denying district regarding your request; and
- (4) any additional documentation that is pertinent to your request.