

VENTURA COUNTY BOARD OF EDUCATION

BOARD POLICY NO. 5117.1

ADOPTED: 2/24/97

CLASSIFICATION: Students

**REVISED: 12/9/02
01/09/08
10/25/10
03/28/11
09/24/12**

SUBJECT: Interdistrict Attendance Appeals

The County Board of Education is the body charged by law to act on interdistrict attendance appeals. The County Board is authorized to consider an appeal of a person having legal custody of a student against any school district within the county for its failure or refusal to issue an interdistrict attendance permit or to enter into an interdistrict attendance agreement with another school district for the student's attendance pursuant to Education Code sections 46600-46611, 48204, and 48300-48316.

The appeal shall be filed in writing, by a person having legal custody of the student, within 30 calendar days of the school district's 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. Misinformation and/or falsification of information provided by either party shall be good cause for deciding against that party.

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

If the request for an interdistrict attendance permit 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 if the school district within the county is the student's district of residence. If the County Board grants the appeal, it shall seek concurrence in the decision by the county board of education of the other county, which shall provide adequate opportunity for the school district under its jurisdiction to be heard on the matter before making a decision. If the two county boards do not concur, the student's appeal shall be denied.

Education Code Section 46600

If an appeal is granted for an interdistrict permit under Education Code Section 46600, pupils shall not need to reapply for an interdistrict transfer, and the pupil shall be allowed to continue to attend the school in which he or she is enrolled, except as specified below.

If the district of residence and district of attendance have entered into an agreement for interdistrict attendance, the agreement may contain standards for reapplication that may not allow continued attendance. The agreement may also stipulate terms and conditions under which the interdistrict permit may be revoked. If the district of attendance revokes the interdistrict permit based on such terms and conditions, the revocation may not be appealed to the County Board of Education for the remainder of that school year.

Neither a district of residence nor a district of attendance may rescind existing transfer permits for pupils entering grade 11 or 12 in the subsequent school year.

Education Code Section 48204

A pupil may comply with the residency requirement of a school district if at least one parent or legal guardian is physically employed within the boundaries of that school district. Unless approved by the sending school district, a net transfer of these students out of the district, calculated as the difference between the number of students exiting and the number of pupils entering, is not authorized in a fiscal year in excess of the following:

- a. 5% of the average daily attendance (“ADA”) of the district for that fiscal year, if the district has less than 501 students.
- b. 3% of the average daily attendance (“ADA”) of the district for that fiscal year, if the district has between 501-2,500 students, or 25 pupils, whichever is greater.
- c. 1% of the average daily attendance (“ADA”) of the district for that fiscal year, if the district has 2,501 or more students, or 75 pupils, whichever is greater.

School districts of residence shall be required to provide documentation that substantiates their calculations as identified above. All calculations will be verified by the county superintendent or designee.

Education Code Sections 48300-48318, “School District of Choice”

A school district which has a resolution in effect as a “school district of choice” (“DOC”) may accept transfer students. A school district of residence may limit these types of transfers as follows:

- a. A school district of residence with an ADA greater than 50,000 may limit the number of DOC pupils transferring out each year to 1% of its current year average daily attendance (“ADA”). Only pupils requesting transfers to DOC schools during the current school year may be counted.

- b. A school district of residence with an ADA of less than 50,000 may limit the number of DOC pupils transferring out each year to 3% of its current year average daily attendance (“ADA”). Only pupils requesting transfers to DOC schools during the current school year may be counted.
- c. A school district of residence with an ADA of less than 50,000 may limit the total number of DOC transfer pupils to 10% of the average daily attendance for the duration of the District of Choice program.
- d. A school district of residence that has a “negative status” on the most recent budget certification completed by the county superintendent of schools or designee may limit the number of DOC students transferring out in that same fiscal year.
- e. If the county superintendent of schools determines that a school district of residence will not meet the standards and criteria for fiscal stability for a subsequent school year solely due to the impact of additional DOC student transfers in that year, the school district of residence may limit the number of DOC transfers for that subsequent school year. The county superintendent or designee shall identify a number beyond which additional DOC transfers would result in a qualified or negative certification for that school year exclusively due to those additional DOC transfers.

School districts of residence shall be required to provide documentation that substantiates their calculations as identified above. All calculations will be verified by the county superintendent or designee.

Limitations to the County Board’s Authority

The County Board’s authority in the appeal process does not extend to the following:

- a. A determination of the actual school within the district where the pupil will be enrolled. This authority is reserved for the school district of attendance.
- b. Appeals resulting from denials of intra district transfers between schools within the same district, pursuant to Education Code section 35160.5(b).
- c. Appeals resulting from denials of inter district transfer requests for pupils under consideration for expulsion or who have been expelled, pursuant to Education Code section 46601(e).
- d. Appeals resulting from the Open Enrollment Act, Education Code sections 48350-48361.
- e. Appeals resulting from district of choice or charter school enrollment lotteries, or when documentation verifies that the district has reached the 3% and/or 10% threshold, respectively.

- f. Appeals resulting for the revocation of an interdistrict permit by the district of attendance, based on the terms and conditions stated on the transfer agreement. Such revocations may not be appealed for the remainder of the current school year.

Hearing

The County Board or County Superintendent shall provide adequate notice to all parties of the date and time of any scheduled hearing and of the opportunity to submit written statements and documentation specific to the written request for transfer and/or denial by the school district.

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 school district of his/her choice and the applicable period of time. If it is impractical for the County Board to comply with the time requirement for the hearing, the County Board or the County Superintendent, for good cause, may extend the time period for up to an additional five school days.

The County Board may grant a continuance upon a showing of good cause.

Decision of the County Board

The County Board shall render its decision within three school days of the hearing unless the person who filed the appeal requests a postponement.

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 school district(s).

The County Board shall make its decision based on its deliberations concerning the merits, or lack thereof, of the various factors identified by the parent or guardian in their written request for transfer and by the school district(s) in their written denial of the transfer request. The County Board will also take into consideration the educational advantages that would be obtained by the student, and the dilution or diminution of the educational program(s) at the affected school district(s). The County Board may also consider any additional factors that are set forth in Administrative Regulation No. 5117.1.

All parties shall be notified in writing of the decision of the County Board.

Administrative Regulation No. 5117.1 shall define the procedures to be followed in filing, hearing and ruling on Interdistrict Attendance Appeals.

Legal References:

EDUCATION CODE

1040-1042	Duties of the county boards of education
35160-35161	Authority of the governing boards of education
46600-46611	Interdistrict attendance
48204	Residency requirements for school attendance
48300-48316	School district of choice
48350-48361	Open Enrollment Act
49073-49079	Privacy of student records

GOVERNMENT CODE

54950-54962	Ralph M. Brown Act
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COURT DECISIONS

Walnut Valley USD v. Superior Court of Los Angeles County,
192 Cal. App. 4th 234 (2011)