



SAN JOAQUIN COUNTY OFFICE OF EDUCATION
James A. Mousalimas, County Superintendent of Schools

San Joaquin County Board of Education

**INTERDISTRICT ATTENDANCE APPEAL
HANDBOOK**

To Assist Parents, Guardians, Students
and School Districts in Understanding
the Interdistrict Attendance Appeal Process

SAN JOAQUIN COUNTY BOARD OF EDUCATION INTERDISTRICT ATTENDANCE APPEAL HANDBOOK

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SAN JOAQUIN COUNTY BOARD OF EDUCATION INTERDISTRICT ATTENDANCE APPEAL HANDBOOK

I. INTRODUCTION

The San Joaquin County Board of Education (County Board) has prepared this handbook to provide direction and information to pupils and parents/guardians who wish to appeal a school district's decision not to grant an interdistrict attendance agreement and to school districts who may be involved in the appeal process. The contents in this handbook constitute the procedures followed by the County Board for conducting interdistrict attendance appeals.

The laws regarding pupil attendance, interdistrict transfer agreements and interdistrict attendance appeals are found in California Education Code Sections 46600 – 46611. These laws, as well as local district policy and administrative regulations for interdistrict attendance, apply in these appeals.

The County Board is committed to an objective review of the consideration of appeals for pupils denied interdistrict transfer agreements from local school districts. Parents/guardians and/or school districts may consult and/or engage the services of an advocate or attorney at their own expense.

II. COUNTY BOARD AUTHORITY REGARDING INTERDISTRICT ATTENDANCE APPEALS

The County Board has the legal authority to review the procedures and reasoning followed by the school district(s) after the school district(s) has rejected or failed to rule on a pupil's interdistrict attendance request. The County Board will determine whether to grant or deny an interdistrict attendance appeal 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 may 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.

2. Denial of an interdistrict attendance request by a pupil under consideration for expulsion or who has been expelled, pursuant to Education Code Sections 48915 and 48918 during the term of the expulsion [Education Code 46601(c)(5)].
3. Denial of an **intradistrict** attendance request between schools within the same district [Education Code 35160.5(b)].
4. 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 through the district of attendance through special education laws and procedures.
5. A determination by a school district regarding the validity of a caregiver affidavit [Education Code 48204(a)(1)(B)(4) and Family Code 6550, et.seq.].

County Board Authority in Appeals Involving Two Counties

If the interdistrict attendance appeal involves school districts located in different counties, the appeal will be heard by the County Board 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 [Education Code 46601(c)(4)].

Actions the County Board May Take

The County Board of Education's review of the appeal may result in one of the following actions:

1. Granting the interdistrict appeal, allowing the pupil to enroll in the requested school district.
2. Denying the appeal and ordering the pupil returned to, or to remain in the district of residence.
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.

III. FACTS THE COUNTY BOARD WILL CONSIDER

In its discussion and deliberations regarding an appeal, the County Board will consider the conditions of and the appellant's reasons for the request of 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).

The County Board recognizes a presumption that a pupil is generally required to attend school in the district of residence. However, the County Board also recognizes that certain circumstances necessitate requests for attendance outside the district of residence. It is the County Board's assumption that districts cooperate with each other to provide for such requests when they do not adversely impact the district.

If the appellant is 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 the parent/appellant is able to submit sufficient evidence to justify a transfer, the school district will have an opportunity to rebut the evidence and submit the reasons for denying the transfer, as well as offering any evidence of an adverse impact. The parent/appellant then has 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 may be good cause for deciding against that party. The burden of proof shall rest with the party requesting the interdistrict attendance appeal.

Factors Which May Support Granting an Interdistrict Attendance Appeal **(Ruling in favor of the pupil)**

1. **The pupil's desire to remain in his/her school of current attendance for the balance of the semester or school year, despite the parent's change of residence during the school year.** These appeals may be granted for continuity of education or anticipated graduation by the end of the school year.
2. **The parent's plan to move in the near future and a desire to begin the semester or school year in the new school district.** Appellants are strongly encouraged to provide written documentation supporting their upcoming move, such as a rental agreement, contract to purchase a new property, or similar document.

3. **One or more siblings have been granted interdistrict attendance in the requested district and separating the siblings would create a hardship on the family.** Appellants are strongly encouraged to submit written documentation of the sibling's enrollment and to demonstrate a hardship based on childcare needs, transportation, employment location or other significant factors. The County Board supports keeping siblings in the same district whenever possible.
4. **The pupil's psychological or physical well-being will be adversely impacted by remaining in the district of residence.** Acts of bullying fall under this category. Such appeal requests must be supported with written documentation by a qualified medical, educational or behavioral professional who has a relationship with the pupil and/or family. Documentation may also include information from social services, law enforcement agencies or School Attendance Review Board personnel. Acts of bullying must be documented by personnel of the district of residence.
5. **A substantial danger to the pupil's health or safety exists by remaining in the district of residence.** The danger must be documented by the written statement of a qualified health expert, through police reports, school records or other documentation. Transportation issues may be included under this criterion, if the issues involve the student's safety.
6. **A specialized and specific district academic program or service in grades 7 – 12 is unavailable in the district of residence, available in the requested district, and critical to the educational well-being of the pupil.** Appellants are encouraged to submit written documentation of the need for this particular academic program or service as related to the student's educational pathway.
7. **A severe and demonstrated hardship in obtaining before and/or after-school supervision of the pupil would result if the pupil is required to attend the district of residence.** Documentation should be provided, including efforts the parents have made to obtain child care or supervision.
8. **Whether the district of residence and/or the district of proposed attendance followed the proper procedure, timeline and non-discriminatory practices in consideration of the application for the interdistrict transfer.** Districts must adhere to Education Code Sections 46601 – 46611 and district policy in granting or denying interdistrict transfer requests.

Factors Which May Support Denying an Interdistrict Attendance Appeal **(Ruling in favor of the district)**

1. **The negative financial impact of granting the transfer.** The impacted district(s) are encouraged to provide written documentation that the pupil's transfer would place an undue hardship on the district's operations and/or resident pupils. Excessive costs, reduced services or other negative financial outcomes of granting the transfer request may be offered in support of denying the appeal. A written statement by the Superintendent/designee, verifying the accuracy of the financial impact should be included in the evidence.
2. **The pupil's demonstrated failure to meet reasonable standards relating to behavior, attendance or grades.** Documentation from the student's previous semester(s) in the requested district, or in the previous district of residence must be submitted.
3. **Overcrowding/lack of space for the pupil in the receiving district.** Documentation should be submitted in writing, stating how the pupil's transfer would result in undue hardship on the district's resident pupils 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 size or facilities use.
4. **Acceptance of the interdistrict attendance request would necessitate hiring additional personnel.** Districts should include this documentation in their written Interdistrict Attendance Appeal response.

IV. FILING AN INTERDISTRICT ATTENDANCE APPEAL

An appeal must be filed within thirty (30) calendar days of the refusal or failure of a district to permit interdistrict transfer of attendance. Failure to appeal within the required time is good cause for denial of an appeal. Parents/guardians must first investigate and exhaust any appeals process which exists within the district of denial.

The appellant shall mail, email, fax or hand-deliver the completed, signed, and dated appeal to the Superintendent/designee of the San Joaquin County Office of Education, and shall also provide a copy to the Superintendent/designee of both school districts.

An appeal shall be accepted only upon verification by the County Board's designee that appeals within the school district have been exhausted. Please note that the appeal must be **received** (not postmarked) by the County Office of Education within thirty (30) days of the denial of the Interdistrict Attendance Transfer request.

Procedures for Filing an Interdistrict Attendance Appeal

1. Complete, sign and date the San Joaquin County Office of Education Interdistrict Attendance Appeal Form (*pages 12 and 13 of this handbook*). Attach as many additional pages as you need to fully respond to each of the information items listed.
2. Attach a copy of your original request for Interdistrict Attendance Transfer (IDA Form 1 from your district of attendance) along with a copy of the denial (IDA Form 2 from the denying district). In the event the district has not responded to your request for transfer within thirty (30) days of your request, the Board will accept the date-stamped copy of your request filed with the district in order to proceed with the appeal. Also attach any documentation (i.e., letters from the district, doctors, teachers, pending house contracts, etc.) you wish the Board to consider when hearing your appeal.
3. Make three (3) copies of the complete appeal. You must provide one (1) copy to the Superintendent/designee of the school district of residence **and** one (1) copy to the Superintendent/designee of the school district of requested attendance. Keep one (1) copy for your records.
4. You must mail, email, fax or hand-deliver the Interdistrict Attendance Appeal Form, along with the above mentioned documents to:

Janine Kaeslin, Assistant Superintendent

Or

Nancy Hopple, Project Administrator

**San Joaquin County Office of Education
County Operated Schools and Programs
Physical Address: 2707 Transworld Drive
Mailing Address: P.O. Box 213030
Stockton, CA 95213-9030
Phone: (209) 468-9265 or (209) 468-9215
Fax: (209) 468-4951 or (209) 468-4984
Email: nhopple@sjcoe.net**

V. PROCESSING THE INTERDISTRICT ATTENDANCE APPEAL

Administrative Review

Upon receipt of appeal, the matter will be reviewed by the Assistant Superintendent of County Operated Schools and Programs or Administrator/designee. The Administrator will, as soon as possible, confer with the appellant and representatives of both school districts to gather information and confirm that district avenues for appeal have been exhausted. After doing so, the Administrator will prepare a written summary with all appeal documents to the County Board.

Setting a Date for Hearing Before the County Board

1. If the written appeal is complete and appropriate, the Superintendent/designee will set a hearing on the matter at a regular or special meeting of the County Board to be held no later than thirty (30) days following receipt of the appeal. If it is impractical to schedule the hearing within thirty (30) days, the Superintendent or County Board may extend the time period for up to five (5) additional school days. The Superintendent/designee may approve a request for postponement filed by the appellant or school district for good cause, provided the request is filed in writing at least five (5) calendar days prior to the scheduled hearing date.
2. The Superintendent/designee will notify the appellant and the appropriate personnel of both school districts of the date, time, and place of the hearing, and the nature of the matter to be heard.

VI. PREPARING FOR THE INTERDISTRICT ATTENDANCE APPEAL HEARING

Filing a Written Statement

1. The appellant, appellant's attorney or representative may file additional written statements and/or documents to support the original appeal. These statements and documents should be submitted no later than ten (10) calendar days before the appeal is to be heard. Copies must also be submitted to both districts.
2. Each school district may submit, no later than four (4) school days prior to the hearing, a statement clearly describing the school district's response/position on the matter. The denying district is strongly encouraged to provide a written response. Documentation to support the denial should be provided with the district's written statements, such as contract provisions

for class size, student transcripts, attendance or discipline data, etc. Copies should be submitted at the same time to the appellant and the other district.

3. All parties to the appeal are urged to attend the hearing. The student may participate in the hearing at the parent's discretion. Non-attendance by either party may constitute grounds for ruling against that party.

VII. HEARING BEFORE THE SAN JOAQUIN COUNTY BOARD OF EDUCATION

Hearings are normally conducted during regular or special San Joaquin County Board of Education meetings held at the following location:

**San Joaquin County Office of Education
Gaylord A. Nelson Educational Center - Board Room
2922 Transworld Drive
Stockton, CA 95206**

The hearing before the County Board will be conducted in closed session unless open session is requested by the parent, as these hearings involve consideration or presentation of protected pupil records.

It is the intent of the County Board to conduct the hearing in a fair and sufficiently informal manner to encourage open communication and understanding of the appeal. No special legal expertise is necessary, although parents may employ the services of an attorney or advocate at their own expense. Strict rules of evidence as required in court proceedings will not be applied.

Waiver of Privacy of Documents

There are numerous laws which protect the release of confidential records. If you wish to have the County Board consider material from confidential records, you must understand that turning over the records to the County Board for the purpose of the interdistrict appeal hearing is a waiver of the privacy rights for those records. You may wish to consult legal counsel regarding such documents.

Brief Verbal Presentation

The County Board will rely on the written information that the appellant and districts have provided, as well as the verbal presentation that is made at the hearing. Persons to be heard will be limited to the pupil, parent/guardian or counsel for the pupil. One person should be designated to present the appeal arguments.

The Superintendent/designee or district's counsel may present the district's arguments. The district's representative may present, but is not required to present the results of any staff investigation of the matter. Members of the County Board may question any of the parties at the hearing.

Decision

The County Board shall grant or deny the appeal, or if any new information is presented that has not been considered at the local level, the matter may be remanded to the school districts for reconsideration.

Following the close of the hearing, the County Board will deliberate and vote in open session. The vote will be on the following question: "Shall the pupil, (name), be permitted to attend in the school district of desired attendance, (school district name), for the (year) school year. If the County Board determines that the appeal should be granted, the County Board may order any of the following options:

1. The attendance is for any school (at the district's discretion), not at a specific school.
2. The student's attendance in the requested district is for the duration of the present school year, or subsequent school year, depending on the appeal request.
3. The student shall be admitted to the school district of requested attendance without delay.

The Superintendent shall notify in writing all parties to the matter of the decision of the County Board. The decision of the County Board shall be final and binding, unless either party appeals to the court of competent jurisdiction.



SAN JOAQUIN COUNTY OFFICE OF EDUCATION
James A. Mousalimas, County Superintendent of Schools

SAN JOAQUIN COUNTY OFFICE OF EDUCATION
INTERDISTRICT ATTENDANCE APPEAL FORM

Refer to Interdistrict Attendance Appeal Handbook for complete instructions. Mail, email, fax or hand-deliver the Interdistrict Attendance Appeal Form, with copy of IDA request, denial and supporting documentation to: Janine Kaeslin, Assistant Superintendent or Nancy Hopple, Project Administrator; San Joaquin County Office of Education; County Operated Schools and Programs; P.O. Box 213030, Stockton, CA 95213-9030 (mailing address) or 2707 Transworld Drive, Stockton, CA 95206 (physical address). Provide both districts with a copy. Keep a copy for your records. Appeals may be emailed to: nhopple@sjcoe.net

Appellant's (Parent's) Name

Appellant's Signature

Residence Address (Street, City, Zip)

Mailing Address (*if different from Residence Address*)

Email Address

Preferred Telephone Number

Alternate Telephone Number

Pupil's Name

Pupil's Date of Birth

Grade in School

School District of Residence

School District of Requested Attendance

Date You Applied for Transfer This Year

Date(s) of Action by School District to Deny
Interdistrict Attendance

The hearing before the County Board will be conducted in closed session unless open session is requested by the parent, as these hearings involve consideration or presentation of protected pupil records.

If you prefer the hearing be conducted in open session, check the box below:

Open Session Hearing

Provide and attach responses to each question on page 2 of appeal form. You may attach additional pages to fully answer each question. Please write on one side of page only.

SJCOE INTERDISTRICT ATTENDANCE APPEAL FORM (PAGE 2)

Pupil's Name _____

1. **What reasons did you give for interdistrict transfer in your application to the school district?** *Attach a copy of your application for Interdistrict Attendance Transfer*

2. **Summarize the content and the result of all meetings or phone calls you had with local school district personnel to discuss alternatives for your child.** *(These alternatives may have included transfer to another school or program in the district; modification of existing program; identifying and resolving points of disagreement or misunderstanding; reconsideration of the school district's decision).*

3. **State your understanding of why the school district(s) denied your request for interdistrict attendance.** *Attach a copy of the district's denial of your Interdistrict Attendance Transfer request*

4. **State why you believe the decision(s) of the school district(s) should be changed, to approve your interdistrict transfer appeal.**