

KERN COUNTY BOARD OF EDUCATION

BOARD BYLAWS

INTERDISTRICT ATTENDANCE APPEALS

Agreements for Admission of Pupils Desiring Interdistrict Attendance

Education Code Section 46600 provides that the governing board of any school district may agree to admit to the schools or classes maintained in the district any pupil who lives in another school district which maintains schools or classes of the grade levels which the pupil desires to attend. An agreement providing for such attendance shall be entered into between that governing board and the governing board of the district in which the pupil lives. The agreement shall stipulate the terms upon which interdistrict attendance shall be permitted or denied. The term of the agreement shall not exceed five school years.

Education Code Section 46603 provides, in part:

“For a period not to exceed two school months, the governing board of a school district may provisionally admit to the schools of the district a pupil who resides in another district, pending a decision of the two boards, or by the county board of education upon appeal, regarding the interdistrict attendance.”

Authority

If the governing board of the district of residence or district of attendance fails to approve interdistrict attendance in the current term or fails to enter into an interdistrict attendance agreement within 30 days after the person having custody of any pupil has requested the board to do so, the district denying the permit or, in the absence of any agreement, the district of residence, shall advise the person making the request of the right to appeal to the County Board of Education.

If, within 14 calendar days after the commencement of instruction in a new term in each of the school districts, respectively, when the person having legal custody of a pupil has so requested separately of each district not later than 30 calendar days prior to the commencement of instruction in that term in that district, the governing board of either district fails to approve interdistrict attendance in that term, or, in the absence of an agreement between the districts to permit that attendance, fails or refuses to enter an agreement, the district denying the permit, or, in the absence of an agreement, the district of residence, shall advise the person requesting the permit of the right to appeal to the County Board of Education. (Education Code Section 46601.)

Policy: Procedure Preliminary to Hearing

1. Any person having custody of any pupil may appeal to the County Board of Education having jurisdiction over the district of residence if any district

refuses to issue a permit or refuses to enter into an agreement for interdistrict attendance.

2. Time Limit for Filing Appeal. This board will not hear an appeal unless the parent or guardian files written notice of appeal with the County Superintendent of Schools within 30 calendar days of the earlier of the following:
 - A. The date on which a school board fails or refuses to enter into an interdistrict attendance agreement for the child in questions; or, if earlier,
 - B. The date on which a school board fails or refuses to issue a permit pursuant to an existing agreement approved by the district.
 - C. Waiver of Time Limits. This time limit may be waived by the County Board if the district required to give notice of the right to appeal fails to do so in the manner prescribed by Education Code Section 46601.
 - D. No appeal will be accepted unless the County Superintendent or designee verifies that district appeals have been exhausted.

3. Time for County Board to Act. When a timely appeal is filed, the County Board will schedule a hearing, conduct and complete the hearing, and render a decision-all within 30 days of the filing of the notice of appeal. If this time line is impractical, it may be extended by up to five school days by the county Board or County Superintendent. The County Board may grant continuances upon a showing of good cause.

The County Superintendent of Schools shall notify all parties concerned of the time and place of the hearing and of their right to submit written statements and documentation and to be heard by the County Board. The hearing, unless otherwise authorized by the Board, shall be held in the Board of Education Room, County Superintendent of Schools Office, on the date and time of the regular meeting of the County Board of Education. An appeal shall be filed in writing with the County Superintendent of Schools not later than 10 calendar days prior to the meeting of the County Board of Education at which time the appeal shall be heard.

When an appeal is filed, the County Superintendent shall notify the district refusing the request, and the superintendent of that district shall file in writing with the County Superintendent, seven days prior to the hearing, a statement giving the reasons for the district's failure or refusal to issue a permit or enter into an agreement for interdistrict attendance.

The County Superintendent of Schools or designee shall conduct an investigation on behalf of the County Board of Education, including a determination of whether local remedies have been exhausted. Copies of the appeal, the reasons for refusal, the position of the district refusing the request, and the results of the

Superintendent's investigation shall be distributed to each board member prior to the hearing.

Hearing Procedures

1. The hearing shall be conducted by the County Board of education and shall be presided over by the presiding officer or the Board president.
2. The presiding office of the Board shall conduct the hearing and shall have the power to issue such orders necessary to maintain the fair, proper, and orderly conduct of the proceedings. Although the Board is not bound by technical rules of judicial procedure, it shall afford the parties appearing before it due process.
3. The written statement of the person making the appeal shall be read aloud by the Secretary of the Board. The chair shall ask the person making the appeal to approve or amend the statement. The chair will not permit major amendments at this time.
4. The written statement of the governing board(s) of the district(s) denying the request shall be read aloud by the Secretary of the Board. The chair shall ask the representative(s) of the governing board(s) to approve or amend the statements. The chair will not permit major amendments at this time.
5. The chair will announce a time allotment for presentations by the parties concerned and will recognize the person making the appeal for any statements supporting the appeal and/or refuting the statements of the other party and for answers to questions from members of the Board. The chair will allow only statements and questions that deal with points raised in the written material filed with the Board. A similar procedure will be followed for the recognition, oral statements, and questions of the governing board(s) representative(s) of the district(s). Irrelevant and unduly repetitious statements shall be ruled out of order by the chair.

Determination of Appeal

1. When an appeal is heard before the County Board of Education, no member who did not hear all the evidence shall vote on the decision.
2. The determination of the Board after the hearing shall consider only that which was introduced at the hearing.
3. The decision of the majority of members voting shall be made a part of the minutes of the regular Board meeting. Notice of the decision shall be mailed to all parties concerned, including the person making appeal, the district governing board of residence, and the district governing board of attendance.

4. If the County Board grants the appeal, it may order admission of the pupil for a period of time not to exceed the school years authorized for interdistrict attendance agreements. In the ordinary course, the County Board will not grant an appeal for longer than the time sought from the local district.

Finality of the County Board Decision

The decision of the County Board is final. The parties must immediately carry out the decision of the County Board.