

Board Policy 5117 - Interdistrict Attendance Agreements and Permits

The Governing Board recognizes that parents/guardians of students who reside within the geographic boundaries of one school district may, for a variety of reasons, desire to enroll their children in a school in another district. For this reason, the superintendent or designee may enter into an express agreement with any other school district, for a term not to exceed five school years, for the interdistrict attendance of individual students and permit individual students to transfer to a school within the district.

The Governing Board recognizes that such an agreement between districts need not necessarily be an express written agreement, but may also be a verbal agreement or an implied agreement based on past conduct as well.

The Governing Board also recognizes that such transfers are regulated and the pertinent regulations may be found primarily in Education Code sections 46600-46610. The policy and regulations set out herein are intended to comply with the pertinent regulatory and case law requirements and should be understood and interpreted as consistent with such requirements.

In addition, the Governing Board recognizes that Education Code sections 35160 and 35160.1 allow it the flexibility to create its own solutions in order to address both common or unique needs and may act in any manner or initiate any activity that does not violate pertinent regulations or is in conflict with the purposes for which school districts are established in order to address such needs.

The Governing Board recognizes that due to its relatively isolated location and high cost of housing a persistent need of the district is to hire and retain outstanding employees on reasonable terms and that the need can in part be addressed by permitting employees who reside outside of district boundaries to enroll their children in the district. To the extent permitted by the regulations, the Governing Board directs that the children of employees who reside outside the district and who may wish to enroll in a district school be granted priority.

Note: Education Code section [46600](#) requires that the interdistrict attendance agreement specify the terms and conditions under which individual permits may be granted or denied. In addition, pursuant to Education Code section [46600](#), students who have been granted an interdistrict attendance permit must be allowed to continue to attend the school without having to reapply unless the agreement between the two districts contains specific agreed-upon standards for reapplication; see the accompanying administrative regulation. Districts also may include in the agreement the agreed-upon standards for revocation of students' interdistrict attendance. Examples of conditions that may result in revocation include falsification of information stated on the permit application, unsatisfactory attendance, continual disruption, or poor academic achievement.

The express or implied agreement between the district and any other school district regarding interdistrict transfers shall include the terms and conditions under which interdistrict attendance shall be permitted or denied. It shall also contain standards agreed for reapplication and for revocation of the transferring student's enrollment permit. (Education Code section [46600](#)). Those criteria are set forth in the Administrative Regulation which follows.

Note: Pursuant to Education Code section [46600](#), it is the responsibility of the superintendent or designee of the district of residence, subject to board policies of the district of residence and terms of the agreement, to issue an individual permit verifying the district's approval of an interdistrict transfer out of the district. The permit shall become valid when endorsed by the board's designee in the district of proposed enrollment.

Note: See the accompanying administrative regulation for procedures to follow when the permit is denied.

Upon receiving a permit for transfer into the district that has been approved by the student's district of residence, or upon receiving a written request from the parent/guardian of a district student who wishes to enroll in another district, the superintendent or designee shall review the request and may approve or deny the permit subject to the terms and requirements of the regulation which follows.

Transportation Assistance for General Education Students

Note: Districts are not required to provide transportation or transportation assistance to students admitted under an interdistrict attendance permit pursuant to Education Code sections [46600-46610](#), except that Education Code section [46600](#), as amended by AB 1127 (Ch. 781, Statutes of 2019), requires the district of enrollment to provide transportation assistance to a student who is eligible for free or reduced price meals and is either a child of an active military duty parent/guardian or a victim of an act of bullying, as defined in Education Code section [48900](#).

Upon parent/guardian request, the district shall provide transportation assistance to a student receiving an interdistrict transfer who is eligible for free and reduced-price meals and is the child of an active duty military parent/guardian or a victim of bullying, as defined in Education Code section [46600](#). (Education Code section [46600](#).)

In addition, upon request of a student's parent/guardian, the superintendent or designee may authorize transportation for any interdistrict transfer student to and from designated bus stops within the attendance area of the school that the student attends if space is available.

Legal Reference:

EDUCATION CODE

35160 and 35160.1 - Legislative findings and declarations regarding the authority of governing boards

[46600-46610](#) - Interdistrict attendance agreements

COURT DECISIONS

Walnut Valley Unified School District v. the Superior Court of Los Angeles County (2011) 192 Cal.App.4th 234

Crawford v. Huntington Beach Union High School District (2002) 98 Cal.App.4th 1275

ATTORNEY GENERAL OPINIONS

87 Ops.Cal.Atty.Gen. 132 (2004)

84 Ops.Cal.Atty.Gen. 198 (2001)

Management Resources:

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

Administration Regulation 5117 - Interdistrict Attendance Agreements and Permits

Note: In 87 Ops.Cal.Atty.Gen. 132 (2004), the Attorney General opined that districts could not charge students a fee for processing applications for interdistrict attendance.

I. Posting of Procedures to District Website

The district shall post on its website the procedures and timelines for requesting an interdistrict transfer permit, including a link to the pertinent board policy. The posted information shall include, but is not limited to:

1. The date upon which the district will begin accepting and processing interdistrict transfer requests for the following school year.
2. The reasons for which the district may approve or deny a request, and any information or documents that must be submitted as supporting evidence.
3. If applicable, the process and timelines by which a denial of a request may be appealed within the district before the district renders a final decision.
4. A statement that failure of a parent/guardian to meet any timelines established by the district shall be deemed an abandonment of the request.
5. Applicable timelines for processing a request, including the following statements:
 - a. For an interdistrict transfer request received by the district 15 or fewer calendar days before the commencement of instruction in the school year for which the transfer is sought, the district will notify the parent/guardian of its final decision within 30 calendar days from the date the request was received.
 - b. For an interdistrict transfer request received by the district more than 15 days before the commencement of instruction in the school year for which the interdistrict transfer is sought, the district will notify the parent/guardian of its final decision as soon as possible, but no later than 14 calendar days after the commencement of instruction in the school year for which transfer is sought.
6. The conditions under which an existing interdistrict transfer permit may be revoked or rescinded.

(Education Code sections 46600.1, 46600.2)

II. Priorities

Priority for interdistrict attendance shall be given to a student who has been determined, through an investigation by either the district of residence or district of proposed enrollment, to be a victim of an act of bullying, as defined in Education Code section [48900\(r\)](#), committed by a student of the district of residence. (Education Code section [46600](#).)

Note: Education Code section [46600](#) requires districts to give priority for interdistrict attendance permits to a student who is a victim of an act of bullying.

As amended by AB 1127 (Ch. 781, Statutes of 2019), Education Code section [46600](#) requires districts to ensure that students who are victims of bullying be selected through an unbiased process that prohibits consideration of specified characteristics.

Per the authority of the Governing Board, second level priority shall be given to a student who is a child of a district employee. The Governing Board finds that enrolling the children of employees enhances employee moral and enhances the likelihood that employment candidates will agree to work for the district and continue to work for the district.

Until the district is at maximum capacity, the district shall ensure that such students are admitted through an unbiased process that prohibits an inquiry into or evaluation or consideration of whether or not a student should be enrolled based on academic or athletic performance, physical condition, proficiency in English, family income, or any of the individual characteristics set forth in Education Code section [220](#) including, but not limited to, race or ethnicity, gender, gender identity, gender expression, and immigration status. (Education Code section [46600](#).)

If the transfer request is for a school year that begins within 15 calendar days of the receipt of the request, the superintendent or designee shall notify the parent/guardian of the final decision within 30 calendar days of receiving the request. If the transfer request is for a school year that begins more than 15 calendar days after the receipt of the request, the parent/guardian shall be notified of the final decision as soon as possible, but no later than 14 calendar days after the commencement of instruction during that school year. (Education Code section 46600.2.)

Note: Education Code section 46600.2 requires a district that denies a request for an interdistrict transfer to give written notice to the parent/guardian of the right to appeal to the County Board of Education.

Note: Pursuant to Education Code section 46601, parents/guardians may submit their appeal to the County Board within 30 calendar days of the district's final denial of the permit. The County Board then has 30 calendar days, unless extended by an additional five school days for good cause, to make its determination as to whether the student should be allowed to attend the district of proposed enrollment and the applicable period of attendance. Note: Pursuant to Education Code section [46602](#), if the County Board determines that the student should be permitted to attend the district of proposed enrollment, the district shall admit the student without delay.

If a student's interdistrict transfer request is denied, the superintendent or designee shall, in writing, notify the parents/guardians of their right to appeal to the County Board of Education within 30 calendar days from the date of the final denial. (Education Code section 46600.2.)

All notices to parents/guardians regarding the district's decision on any request for interdistrict transfer shall conform to the translation requirements of Education Code section [48985](#), and may be provided by regular mail, electronic format if the parent/guardian provides an email address, or by any other method normally used to communicate with parents/guardians in writing. (Education Code 46600.2.)

Pending a decision by the two districts or by the County Board on appeal, the superintendent or designee may provisionally admit a student who resides in another district for a period not to exceed two school months, provided the district is the district of proposed enrollment. If the decision has not been rendered by the conclusion of two school months and the districts or County Board is still operating within the prescribed timelines, the student shall not be allowed to continue attending the district school to which the student was provisionally admitted. (Education Code section [46603](#).)

Students who are under consideration for expulsion or who have been expelled may not appeal interdistrict attendance denials or rescissions while expulsion proceedings are pending or during the term of the expulsion. (Education Code section 46601.)

Once a student is admitted to a school on the basis of an interdistrict attendance permit, the student shall not be required to reapply for an interdistrict transfer and shall be allowed to continue to attend the school of enrollment, unless reapplication standards are otherwise specified in the interdistrict attendance agreement or related enrollment permit.

Upon the agreement of the Governing Board and the board of another district, a permit authorizing a transferring student of either district to enroll in the other district may be issued.

III. Reasons for Approving Request

The superintendent or designee may approve an interdistrict attendance permit for a student for any of the following reasons:

1. To meet the child care needs of the student, only as long as the student's child care provider remains within district boundaries.
2. To meet the student's special mental or physical health needs as certified by a physician, school psychologist, or other appropriate school personnel.
3. When the student has a sibling attending school in the receiving district, to avoid splitting the family's attendance.
4. To allow the student to complete a school year when the student's parents/guardians have moved out of the district during that year.
5. To allow the student to remain with a class graduating that year.
6. When the parent/guardian provides written evidence that the family will be moving into the district in the immediate future and would like the student to start the school year in the district.
7. When the student will be living out of the district for one year or less.

8. When recommended by the school attendance review board or by county child welfare, probation, or social service agency staff in documented cases of serious home or community problems which make it inadvisable for the student to attend the school of residence.

9. When there is valid interest in a particular educational program not offered in the district of residence.

10. To provide a change in school environment for reasons of personal and social adjustment.

Note: In 84 Ops.Cal.Atty.Gen. 198 (2001), the Attorney General opined that a lack of school facilities is a justifiable reason for denial of the interdistrict attendance permit request. However, according to the Attorney General, once the student is admitted, the district may not later deny the student continued attendance at a district school because of overcrowding. Although Attorney General opinions are not binding on the courts, they are generally afforded deference in the court when there is no specific statutory or case law to the contrary.

IV. Reasons for Denying a Request

The superintendent or designee may deny initial requests for interdistrict attendance permits due to limited district resources, overcrowding of school facilities at the relevant grade level, or other considerations that are not arbitrary including any ground listed as a bases for revocation. However, once a student is admitted, the district shall not deny continued attendance because of overcrowded facilities at the relevant grade level.

V. Reasons for Revoking an Existing Interdistrict Transfer

Even though initially approved, an interdistrict transfer may be revoked by the superintendent immediately and without further cause if:

1. An earlier interdistrict permit was revoked for any reason other than class size;
2. The pupil was under consideration for expulsion or was expelled from a prior school district at any time during the previous two years;
3. Parent/guardian has no apparent means of arranging for or providing for timely transportation to and from school;
4. The individual pupil needs a particular service or program in order to receive an appropriate public education and the district does not offer that necessary service or program;
5. The program or service provided by the district is full and the student requires such a program or service in order to receive an appropriate public education;
6. The staff who provide a service necessary for the pupil to receive an appropriate public education already has a full case load;
7. Continued enrollment the student would require the district to create a new program, provide a new service, or hire additional staff;

8. The pupil's parent or guardian is a "registered sex offender" as defined by Penal Code section 290 or a "specified drug offender" as defined by Penal Code section 626.85.

Additional Revocation Criteria

In addition to criteria set forth above, the superintendent may revoke an interdistrict permit at any time for one or more of the following reasons:

1. The commission of misconduct prohibited by the Education Code;
2. The commission of misconduct prohibited by the Penal Code;
3. Five or more unexcused absences;
4. Ten or more unexcused tardies;
5. Suspension from school totaling more than five days during a school year;
6. More than two negative entries during a single school year in the pupil's discipline file;
7. Parent/guardian unwillingness to provide or arrange for transportation to and from school at no cost to the District;
8. The commission of a violation of the Penal Code on or within 1000 feet of school grounds by a pupil's parent or guardian;
9. The commission of a violation of the Vehicle Code on or within 1000 feet of school grounds by a pupil's parent or guardian;
10. Parent/guardian makes a threat to inflict physical harm directed at a pupil or staff at any time or anywhere;
11. Parental/guardian use of offensive words or engaging in a course of conduct directed at students or staff which are likely to cause substantial emotional distress or provoke a violent response;
12. When a parent or guardian has at any time been directed to leave school grounds or other District property pursuant to either Penal Code sections 626.4, 626.6, 626.7, 626.8 or 626.85;
13. The commission of conduct tantamount to that described in Penal Code § 415 (disturbing the peace) by a parent or legal guardian against another adult including, but not limited to, school staff or another parent or legal guardian with a child enrolled in the District, and that conduct is perpetrated on or within 1000 feet of school grounds. Such conduct includes:
 - Fighting or challenging another to a fight;
 - Maliciously and willfully disturbing another by loud and unreasonable noise; and
 - The use of offensive words which are inherently likely to provoke an immediate violent reaction.

VI. Transfers Out of the District

A student whose parent/guardian is in active military duty shall not be prohibited from transferring out of the district, provided the school district of proposed enrollment approves the application for transfer. (Education Code sections [46600](#), [48307](#).)

Note: Pursuant to Education Code section [46600](#), as amended by AB 1127, the district cannot prohibit a transfer out of the district for a victim of bullying if the district has only one school offering the student's grade level and thus is unable to grant an intradistrict transfer.

If the district is unable to provide an intradistrict transfer to a student who is a victim of an act of bullying, as defined in Education Code section [46600](#), the district shall not prohibit the student from transferring out of the district if the district of proposed enrollment approves the application for transfer. (Education Code section [46600](#).)

The district may limit transfers out of the district to a school district of choice under any of the following circumstances (Education Code section [48307](#)):

Note: Even if a district has not designated itself as a school district of choice, it has the authority pursuant to Education Code section [48307](#) to limit the number of students transferring out of the district into other districts that have designated themselves as school districts of choice. A district with an ADA of more than 50,000 may annually limit the number of such transfers to one percent of its current year estimated ADA. A district with an ADA of 50,000 or less may limit the number of such transfers to three percent of its current estimated ADA and may limit the maximum number of such transfers for the duration of the program to 10 percent of the ADA for that period. In Walnut Valley Unified School District v. Superior Court of Los Angeles County, the appellate court held that the 10 percent cap on outbound transfers "for the duration of the program" should be based on the district's ADA over the entire life of the district of choice program (i.e., from the program's inception in 1994 until the present day). The district may revise item #1 to reflect the applicable percentage in Education Code section [48307](#) based on its ADA.

1. The number of student transfers out of the district to a school district of choice has reached the limit specified in Education Code section [48307](#) based on the district's average daily attendance.
2. The County Superintendent of Schools has given the district a negative budget certification or has determined that the district will not meet the state's standards and criteria for fiscal stability in the subsequent fiscal year exclusively as a result of student transfers from this district to a school district of choice.

Note: Item #3 is optional and should be revised to reflect district practice. Education Code section [48307](#) authorizes the district to prohibit a transfer out of the district under the school district of choice program if the Board determines that the transfer would negatively impact a court-ordered desegregation plan, a voluntary desegregation plan, or the racial and ethnic balance of the district. Education Code section [48307](#) provides that denial of transfers on the basis of a voluntary desegregation plan or the racial and ethnic balance of the district must be consistent with the constitutional provisions added by Proposition 209 in 1996 (California Constitution, Article 1, Section 31). It is recommended that districts

consult legal counsel before adopting policy to allow denial of transfers on either of these bases.

3. The Board determines that the transfer would negatively impact any of the following (Education Code section [48307](#)):

- a. A court-ordered desegregation plan;
- b. A voluntary desegregation plan of the district, consistent with the California Constitution, Article 1, Section 31; or
- c. The racial and ethnic balance of the district, consistent with the California Constitution, Article 1, Section 31.