

# **Board Policy**

## **Interdistrict Attendance**

BP 5117  
**Students**

\*\*\*Note: The Education Code authorizes several different methods under which a student can attend school in a district other than the district where he/she resides. Under an "interdistrict attendance permit," pursuant to Education Code 46600-46611, a student can attend a different district when both the district of residence and the district of proposed attendance agree (Option 1 below). Under the "school district of choice program," pursuant to Education Code 48300-48316, the Governing Board may declare the district to be a "district of choice" willing to accept a specific number of interdistrict transfers into the district (Option 2 below).\*\*\*

\*\*\*Note: In addition, Education Code 48204 authorizes a student to be declared a "resident" to attend a school in the district where his/her parent/guardian is employed (Allen bill transfer); see AR 5111.12 - Residency Based on Parent/Guardian Employment. A student attending a "low-achieving" school on the state's Open Enrollment List may transfer to a school in any other district in the state pursuant to Education Code 48350-48361; see BP/AR 5118 - Open Enrollment Act Transfers.\*\*\*

The Governing Board recognizes that students who reside in one district may choose to attend school in another district and that such choices are made for a variety of reasons.

(cf. 0520.3 - Title I Program Improvement Districts)  
(cf. 5111.12 - Residency Based on Parent/Guardian Employment)  
(cf. 5116.1 - Intradistrict Open Enrollment)  
(cf. 5118 - Open Enrollment Act Transfers)

### **OPTION 1: Interdistrict Attendance Permits**

\*\*\*Note: The following section is for use by districts that accept transfers through interdistrict attendance permits pursuant to Education Code 46600-46611. Districts selecting this option should also select Option 1 and delete Option 2 in the accompanying administrative regulation.\*\*\*

Upon request by students' parents/guardians, the Superintendent or designee may approve interdistrict attendance permits with other districts on a case-by-case basis to meet individual student needs.

\*\*\*Note: Education Code 46600 provides that an interdistrict permit may not exceed a term of five years. As amended by AB 2444 (Ch. 263, Statutes of 2010), Education Code 46600 specifies new terms and conditions for the permit; see the accompanying administrative regulation.\*\*\*

The Superintendent or designee shall ensure that interdistrict permits specify the terms and conditions agreed to by both districts for the granting, denial, or revocation of the permit as well as the standards for reapplication.

\*\*\*Note: The following paragraph is optional.\*\*\*

The Superintendent or designee may deny the granting of an interdistrict attendance permit because of overcrowding within district schools or limited district resources.

Upon receiving the Superintendent's recommendation, the Board shall determine the number of students that will be accepted into the district through this program. This number shall be reflected in the minutes of the Board's meeting.

(cf. 9324 - Minutes and Recordings)

#### Transportation

\*\*\*Note: The following optional section is for use by all districts and should be revised to reflect district practice. Districts are not required to provide transportation or transportation assistance to students admitted under an interdistrict attendance permit pursuant to Education Code 46600-46611 or through the school district of choice program pursuant to Education Code 48300-48316.\*\*\*

The district shall not provide transportation outside any school attendance area. However, upon request, the Superintendent or designee may authorize transportation for students living outside an attendance area to and from designated bus stops within the attendance area if space is available. Priority for such transportation shall be based on demonstrated financial need.

#### Limits on Student Transfers out of the District to a School District of Choice

\*\*\*Note: The following optional section is for use by all districts.\*\*\*

\*\*\*Note: Pursuant to Education Code 48307, a district with an average daily attendance (ADA) of more than 50,000 may annually limit the number of students transferring out of the district to other districts that have designated themselves as school districts of choice to one percent of its current year estimated ADA. A district with less than 50,000 ADA may limit the number of students transferring out under the program 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. Because the statute is unclear as to the meaning of "duration of the program," districts with questions should consult legal counsel.\*\*\*

The Superintendent or designee may limit the number of student transfers out of the district to a school district of choice based on the percentages of average daily attendance

specified in Education Code 48307.

\*\*\*Note: Education Code 48307 authorizes a district of residence that has a negative status on the most recent budget certification made by the County Superintendent of Schools to limit the number of student transfers out of the district during that fiscal year to other districts that have designated themselves as a school district of choice. In addition, when a County Superintendent has determined that the district would not meet the state's standards and criteria for fiscal stability for the subsequent fiscal year exclusively as a result of the impact of student transfers under the district of choice program, Education Code 48307 allows the district of residence to limit the number of transfers out of the district. The limitation is based on the number of additional transfers that the County Superintendent has identified that would exclusively result in a qualified or negative fiscal certification. However, Education Code 48307 provides that these limitations do not apply to students who, prior to June 30, 2009, had already transferred out and were already attending a school district of choice.\*\*\*

In addition, transfers out of the district may be limited during a fiscal year when the County Superintendent of Schools has given the district a negative budget certification or when the County Superintendent 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. (Education Code 48307)

(cf. 3100 - Budget)

(cf. 3460 - Financial Reports and Accountability)

\*\*\*Note: Pursuant to Education Code 48301, the district may prohibit a transfer 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. Crawford v. Huntington Beach Union High School District, a California appellate court held that a district's intradistrict open enrollment policy, which contained a racial and ethnic balance component as authorized by Education Code 35160.5, was unconstitutional. The court did not consider whether a policy based on a court-ordered or voluntary desegregation plan would be constitutional. According to the court, the constitutional provisions added by Proposition 209 in 1996 prohibit a district from adopting a policy containing different admission criteria on the basis of race.\*\*\*

\*\*\*Note: Although the provisions in Education Code 48301 relative to racial and ethnic balance remain in law, because of the continuing legal uncertainty, the following paragraph does not reflect those provisions of Education Code 48301. Districts that choose to deny interdistrict transfers on that basis should consult legal counsel.\*\*\*

\*\*\*Note: The following optional paragraph is for use by districts with either court-ordered or voluntary desegregation plans.\*\*\*

The district may deny a transfer of a student out of the district to a school district of choice if the Board determines that the transfer would negatively impact a court-ordered or voluntary desegregation plan of the district. (Education Code 48301)

Legal Reference:

EDUCATION CODE

41020 Annual district audits

46600-46611 Interdistrict attendance agreements

48204 Residency requirements for school attendance

48300-48316 Student attendance alternatives, school district of choice program

48350-48361 Open Enrollment Act

48915 Expulsion; particular circumstances

48915.1 Expelled individuals: enrollment in another district

48918 Rules governing expulsion procedures

48980 Notice at beginning of term

52317 Regional Occupational Center/Program, enrollment of students, interdistrict attendance

ATTORNEY GENERAL OPINIONS

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

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

COURT DECISIONS

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

Management Resources:

WEB SITES

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

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

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**Gravenstein Union School District  
Sebastopol, California**

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