

# **Administrative Regulation**

## **Interdistrict Attendance**

AR 5117  
**Students**

### OPTION 1: Interdistrict Attendance Permits

\*\*\*Note: Option 1 below is for use by districts that accept transfers into the district through interdistrict attendance permits pursuant to Education Code 46600-46611. (See Option 1 in the accompanying Board policy.) Districts selecting this option should delete Option 2 below and Option 2 in the accompanying Board policy. 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.\*\*\*

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

\*\*\*Note: Education Code 46601.5, which had encouraged districts to consider child care needs when evaluating a parent/guardian's request for an interdistrict transfer, sunsetted on June 30, 2007, and thus is no longer law. The provision of the law which specified that a district could not require students to reapply for such transfers as long as the child care needs continued to be met in that district also sunsetted. Districts have the option to authorize interdistrict permits based on child care needs under the general interdistrict transfer provisions, as specified below.\*\*\*

\*\*\*Note: Optional items #1-11 below should be deleted and/or revised to reflect district practice.\*\*\*

1. To meet the child care needs of the student

Such students may be allowed to continue to attend district schools only as long as they continue to use a child care provider 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

(cf. 6159 - Individualized Education Program)

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 his/her parents/guardians have moved out of the district during that year

5. To allow the student to remain with a class graduating that year from an elementary, junior, or senior high school
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 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

(cf. 5113.1 - Chronic Absence and Truancy)

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: Education Code 46600 specifies that the interdistrict attendance permit shall stipulate the terms and conditions under which the permit may be granted, rejected, or revoked. As amended by AB 2444 (Ch. 263, Statutes of 2010), Education Code 46600 now requires that, once an interdistrict permit is granted and the student is enrolled in the new school, the district of enrollment (1) may not require the student to reapply; (2) must allow the student to continue to attend the school, unless the permit contains specific standards for reapplication; and (3) along with the district of residence, may not revoke the student's existing permit if he/she is entering grade 11 or 12. Therefore, it appears that, even if a permit has expired, the student may be allowed to continue attending the school to which he/she has transferred, unless the permit document itself contains specific language requiring reapplication.\*\*\*

\*\*\*Note: 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.\*\*\*

#### Revocations:

Conditions that may result in revocation include: falsification or withholding of information at the time of enrollment.

An interdistrict attendance permit shall not exceed a term of five years. Each permit shall stipulate the terms and conditions established by both districts under which interdistrict attendance shall be permitted, denied, or revoked, and any standards for reapplication. (Education Code 46600)

Once a student is enrolled in a school, he/she shall not be required to reapply for an interdistrict transfer and shall be allowed to continue to attend the school in which he/she is enrolled, unless reapplication standards are otherwise specified in the permit. Existing interdistrict attendance permits shall not be rescinded for students entering grade 11 or 12 in the subsequent school year. (Education Code 46600)

\*\*\*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, including a request based on the child care needs of the student. 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. The following paragraph is based on this Attorney General opinion.\*\*\*

The Superintendent or designee may deny initial requests for interdistrict attendance permits if school facilities are overcrowded at the relevant grade level or based on other considerations that are not arbitrary. However, once a student is admitted, the district may not deny him/her continued attendance because of overcrowded facilities at the relevant grade level.

\*\*\*Note: Education Code 46601 requires that, within 30 days of a request for an interdistrict permit, parties whose permit application was rejected must be informed about their right to appeal to the County Board of Education and about the appeal process involved. This notice shall be provided by the district denying the request, or, in the absence of an agreement between the districts, by the district of residence. Pursuant to Education Code 46603, the district may provisionally admit a student for two school months pending the outcome of the student's appeal of the denial of the request.\*\*\*

Within 30 days of a request for an interdistrict permit, the Superintendent or designee shall notify the parents/guardians of a student who is denied interdistrict attendance regarding the process for appeal to the County Board of Education as specified in Education Code 46601. (Education Code 46601)

(cf. 5145.6 - Parental Notifications)

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

(cf. 5119 - Students Expelled from Other Districts)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 6173.2 - Education of Children of Military Families)

The Superintendent or designee shall ensure that any communication sent to

parents/guardians is factually accurate and does not target particular neighborhoods or individual parents/guardians on the basis of a child's actual or perceived academic or athletic performance or any other personal characteristic. (Education Code 48301)

The district shall give priority for attendance to siblings of students already in attendance in the district. (Education Code 48306)

\*\*\*Note: The following optional paragraph is for use by districts that have chosen to give attendance priority to children of military personnel pursuant to Education Code 48306.\*\*\*

The district shall give priority for attendance to children of military personnel.

\*\*\*Note: Pursuant to Education Code 48305, if the district chooses to use existing entrance criteria for specialized schools or programs, then the criteria must be uniformly applied. The following optional paragraph is for use by districts that choose to use existing entrance criteria.\*\*\*

Any existing entrance criteria for specialized schools or programs shall be uniformly applied to all applicants. (Education Code 48305)

\*\*\*Note: The following two paragraphs are optional and should be revised to reflect district practice.\*\*\*

Not later than 90 days after the district receives an application for transfer, the Superintendent or designee shall notify the parent/guardian in writing whether the application has been provisionally accepted or rejected and of the student's position on any waiting list.

Whenever the number of applicants exceeds the number of interdistrict transfers that may be accepted as determined by the Governing Board, students accepted for transfer shall be selected by a random drawing of the provisionally accepted applications.

Final acceptance or rejection of applications shall be made by May 15 preceding the school year for which the student may be transferred. (Education Code 48308)

However, if an application is submitted for a student who is residing with a parent/guardian enlisted in the military and that parent/guardian was relocated by the military 90 days prior to the submission of the application, then the district shall make a final decision to accept or reject the application within 90 days of its receipt. If the student's application has been submitted less than 90 days prior to the beginning of the school year, then the district shall accept or deny the application before the school year begins. Upon his/her acceptance, the student may immediately enroll in a district school. (Education Code 48308)

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

The Superintendent or designee shall notify the student's district of residence of the district's decision.

Students admitted through the school district of choice program are deemed to have fulfilled district residency requirements pursuant to Education Code 48204. (Education Code 48301)

(cf. 5111.1 - District Residency)  
(cf. 5116.1 - Intradistrict Open Enrollment)

Final acceptance of the transfer is applicable for one school year and shall be renewed automatically each year unless the Board, by adoption of a resolution, withdraws from participation in the program and no longer accepts transfer students from other districts. (Education Code 48308)

The district may accept any completed coursework, attendance, and other academic progress credited to an accepted student by any district(s) he/she has previously attended and may grant academic standing to the student based upon the district's evaluation of the student's academic progress. (Education Code 48309)

(cf. 6146.3 - Reciprocity of Academic Credit)

The district may revoke a student's enrollment if he/she is recommended for expulsion pursuant to Education Code 48918. (Education Code 48309)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

\*\*\*Note: Pursuant to Education Code 48301, the district may prohibit a transfer under the school district of choice program if the Governing 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. In *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 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 legal uncertainty surrounding this issue, 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.\*\*\*

The district may deny a transfer into the district under the school district of choice

program if:

1. The Board determines that the transfer into or out of the district would negatively impact a court-ordered or voluntary desegregation plan of the district. (Education Code 48301)

\*\*\*Note: Education Code 48303 provides that a district may not deny a transfer because the additional cost of educating the student would exceed the amount of additional state aid to be received. This section is intended to ensure that special education students, English learners, and other special needs students are able to participate in the program. However, pursuant to Education Code 48303, a transfer may be rejected if it would require the district to create a new program to serve the student, as specified below.\*\*\*

2. The transfer into the district would require the district to create a new program to serve that student, except that the district shall not reject the transfer of a student with disabilities or an English learner. (Education Code 48303)

**Adopted: March 14, 2012**

**Gravenstein Union School District  
Sebastopol, California**

(11/07 11/09) 11/10