

Riverside County Office of Education
Board Bylaw 9621 Interdistrict Attendance Appeal Rules of Procedure

BOARD BYLAWS

SUBJECT: K-12 Interdistrict Attendance Appeal Rules of Procedure

I. PURPOSE AND LEGAL BASIS

These rules of procedure are adopted to implement Education Code Section 46601, which states in part:

If, within 30 calendar days after the person having legal custody of a pupil has made a request, the governing board of either school district fails to approve the interdistrict attendance, or, in the absence of an agreement between the districts, fails or refuses to enter into 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 an appeal to the County Board of Education, and shall advise him or her of all the following:

- A. The person having legal custody may appeal, within 30 calendar days of the failure or refusal to issue a permit, or to enter into an agreement allowing the attendance, to the County Board of Education having jurisdiction over the district of residence of the parent or legal guardian or person having legal custody. Failure to appeal within the required time is good cause for denial of an appeal. An appeal shall be accepted only upon verification by the County Board of Education's designee that appeals within the districts have been exhausted. If new evidence or grounds for the request are introduced, the County Board of Education may remand the matter for further consideration by the district or districts. In all other cases, the appeal shall be granted or denied on its merits.
- B. The County Board of Education shall, within 30 calendar days after the appeal is filed, determine whether the pupil should be permitted to attend in the district in which he desires to attend and the applicable period of time. In the event that compliance by the County Board of Education within the time requirement for determining whether the pupil should be permitted to attend in the district in which he or she desires to attend is impractical, the County Board of Education or the County Superintendent of Schools, for good cause, may extend the time period for up to an additional five school days. The County Superintendent shall provide adequate notice to all parties of the date and time of any hearing scheduled and of the opportunity to submit written statements and documentation and to be heard on the matter pursuant to rules and regulations adopted by the County Board of Education. The County Board of Education rules may provide for the granting of continuances upon a showing of good cause.
- C. The county office supervisor of attendance, or other designee of the county superintendent of schools, shall investigate to determine whether local remedies in the matter have been exhausted and to provide any additional information deemed useful to the County Board of Education in reaching a decision.

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- D. If the interdistrict attendance involves school districts located in different counties, the County Board of Education having jurisdiction over the district denying a permit, or refusing or failing to enter into an agreement to allow for the issuance of a permit, shall have jurisdiction for purposes of an appeal. If both districts deny a permit, or refuse or fail to enter into an agreement to allow for the issuance of a permit, the County Board of Education having jurisdiction over the district of residence shall have jurisdiction for purposes of an appeal and, upon granting a pupil's appeal, shall seek concurrence in the decision by the County Board of Education of the other county which shall provide adequate opportunity for the district under its jurisdiction to be heard on the matter before making a decision. If the two County Boards of Education do not then concur, the pupil's appeal shall be denied.

II. DEFINITIONS

Appellant shall mean pupil or person having legal custody of the pupil; respondent shall mean the school district(s) defending against the appeal; the County Board of Education shall mean the Riverside County Board of Education; and the Secretary to the County Board of Education shall mean the Riverside County Superintendent of Schools.

III. LIBERAL CONSTRUCTION

These rules are to be liberally construed in order to accomplish the purpose of providing a fair and impartial review of the proceedings to both the appellant and the respondent(s).

IV. PREHEARING PROCEDURES

- A. Notice of Interdistrict Attendance appeal and Request for Hearing

The pupil or person having legal custody of a pupil requesting an interdistrict attendance appeal may, within thirty (30) calendar days following a denial of their request by either respondent, appeal the decision to the County Board of Education by filing with the Secretary to the County Board of Education a written, "Notice of Interdistrict Attendance Appeal and Request for Hearing Form."

A copy of the County Board of Education's "K-12 Interdistrict Attendance Appeal Rules of Procedure" (BB 9621) and the "Interdistrict Attendance Appeal and Request for Hearing Form" shall be provided to either party upon request (See Attachment A).

The "Interdistrict Attendance Appeal and Request for Hearing Form" must be completed and filed no later than thirty (30) calendar days following the date of the respondent's decision, unless the 30th day falls on the Saturday, Sunday, or holiday in which case the formal written appeal form must be filed no later than the next business day following the 30th day. "Filing" is complete upon receipt of the written appeal form by the Secretary to the Riverside County Board of Education.

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B. Required Information

1. Pupil Name
2. Age
3. Grade
4. Home Address
5. Telephone Number
6. Person Having Legal Custody
7. School District of Attendance
8. Desired District of Attendance
9. Stated reason for requesting transfer. If medical or psychological reasons are stated as a reason for requesting a transfer, a physician's or licensed psychologist's statement in support of the stated reason must be submitted.
10. Evidence of and reasons for denial of request from either respondent.
11. Signature of person having legal custody.

C. Hearing Date

The Secretary to the County Board of Education shall set the date of the hearing within thirty (30) calendar days of receipt of a written notice of interdistrict attendance appeal and request for hearing.

D. Notification of Date, Time, and Place of Hearing

Upon the filing of the notice of interdistrict attendance appeal and request for hearing, the Secretary to the County Board of Education shall notify the appellant and the respondent(s) of the date, time, and place of the hearing. A copy of this regulation shall be provided to the appellant and to the respondent(s).

E. Continuances of Hearing Date

Requests for continuances may be made either by appellant or respondent(s) and shall be directed to the Secretary to the County Board of Education. The Secretary to the County Board of Education shall grant a continuance in the following cases:

1. **Stipulated Continuances.** Where appellant and respondent(s) jointly seek, in writing, a continuance to a later agreed upon hearing date, and file such written request with the Secretary to the County Board of Education, then the Secretary to the County Board of Education shall reset the hearing date to the date specified in the written request or to a date specified in the written request or to a date as soon thereafter as the matter can reasonably be heard by the County Board of Education.
2. **Request by Appellant Alone.** Appellant may request one continuance by means of a written notice at least forty-eight (48) hours in advance of the scheduled hearing. The Secretary to the County Board of Education shall,

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upon receipt of said request, reset the hearing date to a date not more than thirty-five (35) days after originally the scheduled hearing date, and shall immediately notify the respondent(s) and the appellant in writing of the new hearing date.

3. Request by Respondent Alone. Respondent may request one continuance by means of a written notice at least forty-eight (48) hours in advance of the scheduled hearing. The Secretary to the County Board of Education shall upon receipt of said request reset the hearing date to a date not more than thirty-five (35) calendar days after the originally scheduled hearing date, and shall immediately notify the appellant and the respondent in writing of the new hearing date.
4. In all other cases, the County Board of Education may grant a continuance at the request of a party, after notice to the other, should the County Board of Education determine that such continuance is necessary to avoid injustice.

F. Investigation

The Secretary to the County Board of Education or designee may investigate the matter in order to provide additional information if, in his opinion, it would be useful to the County Board of Education.

V. HEARING PROCEDURES

A. Preservation of Record

A record of proceedings shall be preserved by means of stenographic notes electronic recording from which minutes may be transcribed. The minutes of the meeting shall contain a record of all persons present at the hearing and the action of the County Board of Education.

B. Conduct of Hearing

The President of the County Board of Education or a designee shall preside over the hearing. The order of presentation and the time limits for presentations will be regulated at the discretion of the President. Ordinarily, the order of presentation will be as follows:

1. Introduction of case.
2. Presentation by Appellant.
3. Presentation by Respondent(s).
4. Concluding remarks by Appellant.
5. Concluding Remarks by Respondent(s).
6. During and after such presentations, members of the County Board of Education recognized by the President or a designee for the purpose of directing questions

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to any person who appeared before the County Board of Education.

7. At the conclusion of the presentations and the questioning by the County Board of Education Members, the President or a designee will declare the hearing at an end. County Board of Education Members may then commence deliberations. If, during such deliberations, any member of the County Board of Education wishes to ask additional questions of any person who appeared before the County Board of Education, then the President may reopen the hearing for that purpose and both appellant and respondent(s) will be given an opportunity to present additional information in response to the County Board of Education Member's inquiry.
8. At the conclusion of the County Board of Education's deliberations, it shall render its decision and its order accordingly.

C. Open Session

The hearing shall be conducted in closed session unless the person having legal custody of the affected pupil requests, in writing, at least ten (10) days prior to the date of the hearing, that the hearing be conducted in a public meeting.

D. Single Appeal

Although the County Board of Education may hear presentations of two or more appellants simultaneously, if requested and agreed to by both the appellant and respondent(s), the County Board of Education shall deliberate and render separately its decision on each appeal separately.

E. Pupil Attendance

The pupil may or may not be in attendance at the hearing at the discretion of the person having legal custody.

F. Appropriate Evidence

Evidence that is not appropriate or germane, such as a pupil's photograph, shall not be submitted for consideration.

G. Representation

The appellant and respondent(s) may present their case in person or may be represented by others at their discretion.

H. Witnesses

The appellant or respondent(s) may present witnesses to the County Board of Education. The witnesses may make statements relevant to the appeal.

VI. SCOPE OF REVIEW OF COUNTY BOARD OF EDUCATION

The County Board of Education shall determine the appeal based upon the evidence and

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information presented by the appellant, respondent(s), and the Secretary to the County Board of Education.

VII. DECISION OF THE COUNTY BOARD OF EDUCATION

A. The County Board of Education shall determine:

1. Whether or not the pupil shall be permitted to attend school in the district as requested.
2. The period of time that the pupil may attend. Generally the County Board of Education will grant transfers for a period of one (1) year at a time.
3. If new information is presented that was not considered by the district governing board(s), the matter may be remanded back to the governing board(s) for reconsideration.

VIII. FINALITY OF ORDER OF THE COUNTY BOARD OF EDUCATION

A final order of the County Board of Education shall be in writing and copies thereof shall be transmitted to the appellant and to the respondent(s). The order shall be final upon its delivery or mailing, and no reconsideration or rehearing by the County Board of Education shall be permitted.

Attachment: Interdistrict Attendance Appeal and Request for Hearing Form

Legal Reference:

Education Code

46601 - Failure to Appeal Interdistrict Attendance; Appeal; Advice of Rights

46601.5 - Consideration of Child Care Needs for Pupils where Request to Enter into Agreement for Interdistrict Attendance; Duration of Action

46602 - Admission to School without Delay upon Board Approval; Counting Attendance for Revenue Purposes; Notice of Board's Decision

46603 - Provisional Attendance Pending Appeal