



Orange County Board of Education

Interdistrict Appeal Hearing Procedures

The order of the hearing shall be as follows:

1. President of the Board opens hearing
2. Student Services representative makes a brief summary
3. Pupil/Parent/Guardian/Caregiver comments (limited to 3 minutes)
4. District comments (limited to 3 minutes)
5. Closing comments from the Family (limited to 2 minutes) **OPTIONAL**
6. Closing comments from the District (limited to 2 minutes) **OPTIONAL**
7. Board members may ask questions of the family and district
8. Board deliberates (which may include a closed session with counsel)
9. Board makes decision
10. President of the Board concludes hearing

Possible Decisions of the Board

Grant This means that the request for interdistrict attendance transfer has been granted. The decision is in favor of the family.

Deny This means that the request for the interdistrict attendance transfer is denied. The decision is in favor of the school district

Remand This means that if new evidence or grounds for the request are introduced at the hearing, the county board may remand the matter for further consideration by the school district or districts.

Education Code § 46601. Appeal of Denial of Interdistrict Attendance

(a) A parent may appeal a school district's decision regarding a request for interdistrict transfer, within 30 calendar days of the date of the school district's final denial, to the county board of education.

(b)(1) Failure by the parent to appeal within the required time is good cause for rejection of an appeal. An appeal shall be accepted only upon verification by the county board of education's designee that appeals within the school districts have been exhausted within the timelines provided pursuant to [Section 46600.2](#). If new evidence or grounds for the request are introduced, the county board of education may remand the matter for further consideration by the school district or districts. In all other cases, the appeal shall be granted or denied on its merits.

(2)(A)(i) The county board of education shall, unless clause (ii) applies, within 30 calendar days after the appeal is filed, determine whether the pupil should be permitted to attend the school district of proposed enrollment and the applicable period of attendance.

(ii) The county board of education in a class 1 or class 2 county may extend the time period to up to 60 calendar days after the appeal is filed to determine whether the pupil should be permitted to attend the school district of proposed enrollment and the applicable period of attendance, if one or more of the following circumstances apply:

(I) A delay in response by the parent, guardian, educational rights holder, or school district.

(II) A delay due to incompatible availability for the factfinding hearing of the parent, guardian, educational rights holder, or school district.

(III) A request to delay a factfinding hearing or board hearing by the parent, guardian, or educational rights holder, or an inability of the parent, guardian, or educational rights holder to attend a factfinding hearing or board hearing.

(IV) A school district has closed their annual application window and is no longer accepting permit applications for the remainder of the current or future school year.

(B) 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 the school district of proposed enrollment 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 schooldays. The county board of education 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 in accordance with this chapter. The county board of education's rules may provide for the granting of continuances upon a showing of good cause. The county board of education shall render a decision within three schooldays of any hearing conducted by the county board of education unless the parent requests a postponement.

(C) In a class 1 or class 2 county, the county board of education's rules may provide for any hearing pursuant to this section to be conducted by a hearing officer pursuant to Chapter 14 (commencing with [Section 27720](#)) of Part 3 of Division 2 of Title 3 of the Government Code, or by an impartial administrative panel

of three or more certificated persons appointed by the county board of education. [Section 27722 of the Government Code](#) applies to a hearing by an impartial administrative panel and, for purposes of this section, the term “hearing officer” in [Section 27722 of the Government Code](#) includes an impartial administrative panel. A member of the impartial administrative panel shall not be a member of the county board of education, nor be employed by the school district of residence or the school district of proposed enrollment.

(D) If the hearing officer is not authorized to decide whether the pupil should be permitted to attend in the school district of proposed enrollment, the county board of education, within 10 calendar days of receiving the recommended decision pursuant to [subdivision \(b\) of Section 27722 of the Government Code](#), shall render a decision.

(3) The 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.

(4) Pupils who are under consideration for expulsion, or who have been expelled pursuant to [Sections 48915 and 48918](#), may not appeal interdistrict attendance denials or rescissions while expulsion proceedings are pending, or during the term of the expulsion.

Credits

(Added by Stats.1986, c. 742, § 3. Amended by [Stats.1989, c. 853, § 1](#); [Stats.1997, c. 417 \(A.B.259\), § 1](#); [Stats.2011, c. 87 \(A.B.1085\), § 2](#); [Stats.2014, c. 104 \(A.B.1851\), § 1, eff. Jan. 1, 2015](#); [Stats.2017, c. 461 \(S.B.344\), § 1, eff. Jan. 1, 2018](#); [Stats.2018, c. 92 \(S.B.1289\), § 53, eff. Jan. 1, 2019](#); [Stats.2018, c. 550 \(A.B.2826\), § 4, eff. Jan. 1, 2019](#); [Stats.2023, c. 606 \(S.B.413\), § 1, eff. Jan. 1, 2024](#).)

Orange County Board of Education (CBE)

Procedures and Timelines for Rules on Interdistrict Attendance Appeal Hearings (Pursuant to Education Code Section 46601)

I. Initiation of Proceedings: Pre-Hearing Procedures

A. Statement of Board Intent and Staff Responsibility

In response to the timely filing of a "Notice of Interdistrict Attendance Appeal" (hereafter "Notice of Appeal") by a person having legal custody of a pupil in transitional kindergarten, kindergarten or any of grades 1 to 12, inclusive, who has been denied an interdistrict attendance permit, the County Board of Education will conduct a hearing to determine whether the pupil should be permitted to attend in the district in which he or she desires to attend. It is the desire of the County Board that interdistrict attendance appeal hearings be completed as quickly as possible consistent with giving the pupil and the school districts a fair opportunity to prepare and present their cases within the time limit set by law. The designated Supervisor of Attendance for the Orange County Department of Education will assist the pupil and the involved school districts (the district of residence and the district of proposed enrollment in complying with the procedures of the County Board for the filing of the Notice of Appeal, scheduling of a hearing date, submission of written statements and documentation).

B. Notice of Appeal: Timely Filing

Within 30 calendar days of the failure or refusal of a school district or districts to issue a permit, or to enter into an agreement to allow the interdistrict attendance, the person having legal custody of a pupil upon whose behalf the request is made may appeal by filing a completed Notice of Appeal. Required forms may be obtained from the County Board through its designee, the County Supervisor of Attendance, Orange County Department of Education, 200 Kalmus Drive, Costa Mesa, CA 92626, contact (714)-966-4000. Failure to appeal within the 30-day period required by law may constitute good cause for denial of an appeal.

C. Pre-Hearing Procedures: Filing of Record

1. An appeal shall be accepted only upon verification by the county supervisor of attendance that other remedies or appeals within the district have been exhausted. If the supervisor determines that there is additional pertinent information that may be useful to the County Board in reaching a decision on the appeal; that information shall be submitted to the Board with copies to the parties.
2. Copies of written statements and documentation relative to the appeal, including reasons or arguments submitted in support of granting the request or in support of

denying the request, shall be submitted with the appeal or the district's response. Such documentation that the pupil may wish to offer in support of the appeal should be attached to the Notice of Appeal, when possible, or submitted by the pupil in accordance with the timelines established for the appeal hearing date.

3. Copies of all documentation submitted in the matter by the pupil shall be provided to other parties by the county supervisor of attendance.
4. The school districts are encouraged to submit written responses to the pupil's appeal and documentation as soon as possible according to the timelines established for the appeal hearing date. Copies of the responses shall be provided by the County Supervisor of Attendance to the other parties.
5. Upon receipt of the completed Notice of Appeal, the county supervisor of attendance shall request the scheduling of a hearing before the County Board at the earliest practicable date but not later than a date, which will permit the County Board to make a determination in the matter within 30 calendar days after the appeal is filed. The CBE can extend this period by 5 school days by EDC.
6. The county supervisor of attendance shall notify the parties in writing of the date and time and place of the scheduled hearing, and of the hearing procedures.
7. For good cause, the Board may grant continuances.

II. Hearing Procedure

A. Type of Hearing

The hearing will be conducted in an open or closed session at a regular or special meeting of the Board.

B. Procedure

1. The hearing will be presided over by the President of the County Board, or, in the absence of the President, by the Vice President. The presiding officer, in ruling on matters of procedure or questions of law, may consult with the Board's legal advisor.
2. The usual order of oral presentation will be:
 - A. Three minute statement from the pupil/parent/guardian/caregiver and witnesses presenting facts relevant to the appeal
 - B. Three minute statement from the district of residence and/or proposed enrollment and any witnesses
 - C. Two minute closing comments from the pupil/parent/guardian/caregiver
 - D. Two minute closing comments from the district of residence and/or

proposed enrollment

Following the presentations, members of the Board may direct questions to the parties or to staff members representing the County Department of Education.

3. At the conclusion of presentations and questioning the Board shall enter into deliberations. The presiding officer shall announce the Board's decision..

III. Extension or Termination of Hearing: Decision

A. Extension

In the event that compliance with 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 deemed impractical, or for other good cause, the County Board may extend the time for up to an additional five school days. An extension may be imposed by the Board prior to the hearing or at the time of the hearing, or by the County Superintendent of Schools designee, prior to the hearing.

B. Termination of Hearing: Dismissal

Failure of the pupil to appear at the scheduled hearing or to pursue the appeal in a timely manner may be deemed an abandonment of the appeal and the County Board may dismiss the matter.

C. Decision: Notice

1. The Board shall grant the appeal upon a determination that the pupil should be permitted to attend in the district in which he or she desires to attend and the pupil shall be admitted to school in the district without delay. In granting an appeal, the Board shall stipulate the applicable period of enrollment.
2. The Board shall deny the appeal upon a determination that the pupil should not be permitted to attend in the district he or she desires to attend.
3. If new evidence of grounds for the request are introduced, the County Board may remand the matter for further consideration by the district or districts. If a permit is again denied, following such reconsideration, the pupil shall be entitled to a hearing on the new evidence or grounds before the County Board.
4. The county supervisor of attendance shall provide written notice of the decision to all parties.

References: Education Code Section 46601